



2019 LEGISLATION

End of Session Wrap Up

Summary

This document summarizes the key bills OBI tracked during the 2019 session

2019 END OF SESSION WRAP UP

The 2019 legislative session may go down as one of the strangest in Oregon history. Democrats held super majorities in both the House and Senate, giving them the votes to pass tax measures without Republican support, leaving the minority party with little leverage – except the power to control a quorum. Exercising that power just a week before the constitutional deadline for adjournment, Senate Republicans left the state to prevent a quorum in a successful effort to kill HB 2020, the massive cap and trade bill designed to make Oregon a national leader in carbon reduction efforts. The Oregon Legislature made national headlines because of this walk out, as timber workers and environmental activists all protested on the Capitol steps. Finally, on Saturday, June 29, Republican senators returned to the Capitol after being assured that HB 2020 was dead, and work resumed. Scores of bills saw last-minute action until, finally, on Sunday, June 30, at 5:24 p.m., just 6.5 hours before the constitutionally required deadline, the Legislature declared its work done and adjourned. At this point, it is unclear whether Gov. Kate Brown will call lawmakers back for a special session to revisit the carbon issue. What we do know for sure is that several significant bills passed this session that will impact Oregon Business & Industry members in a variety of ways. Below is a summary of what passed, what didn't and what we expect to see again.

But first, a thank you, to our members, our Board, and our steering committees for guiding our work this session and, especially, to our business association partners, whom we worked very closely with this legislative session on the issues listed in the following pages. There were many challenging issues in the 2019 legislative session, but by standing together we made sure business had a voice, was at the table and made an impact. This is how we work best.



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Policy Areas: Healthcare; Education & Workforce



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Policy Area: Energy and Environment



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Policy Areas: Labor and Employment; Retail



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TABLE OF CONTENTS

THE BIG ONES	3
EMPLOYMENT	6
Employment Bills That Passed.....	6
Employment Bills We Supported That Did Not Pass	7
Employment Bills That Did Not Pass	8
Employment Bills That We Expect to See Again	9
TAX AND FISCAL	10
Tax Bills That Passed	10
Tax Bills That Did Not Pass	11
Tax Bills That We Expect to See Again.....	12
ENERGY AND ENVIRONMENT	14
Energy and Environment Bills That Passed	15
Energy and Environment Bills That Did Not Pass.....	16
HEALTHCARE	16
Healthcare Bills That Passed.....	16
Healthcare Bills That Did Not Pass	18
Healthcare Bills That We Expect to See Again	18
EDUCATION	19
Education Bills That Passed.....	19
Education Bills That Did Not Pass	20
Education Bills That We Expect to See Again	20
RETAIL COUNCIL	21
Retail Bills That Passed.....	21
Retail Bills We Supported That Did Not Pass	22
Retail Bills That Did Not Pass	22
Retail Bills We Expect to See Again.....	23
WHAT'S NEXT	23

THE BIG ONES

While many bills passed this session, much of the session focused on a few major policy proposals. In a normal session, passing just one of these bills would be considered significant. But the 2019 Legislature, with the solid Democratic super majorities, decided to take on multiple “big ones,” putting organizations like OBI in a position of trying to influence and mitigate proposals we knew were likely to muster the votes they needed to become law. Here are the “big ones” we were engaged in during the 2019 legislative session.

Student Success Act

HB 3427 – The Student Success Act consists of a series of new investments in education and a new tax on business receipts to fund those investments. In general, OBI opposes taxes based on gross receipts, but as it became clear that this was the policy route the legislative tax writers planned to take, we fought hard to ensure our members would be able to at least deduct a portion of their cost of goods sold or their labor costs to offset the impact of the new tax. We also ensured the tax conversation took into account other costly bills being considered in 2019, such as a proposal to create a mandatory paid family leave program, and we negotiated an agreement that some of those bills would be killed or amended to reduce the impact to Oregon’s employers.

As it passed, HB 3427 creates a 0.57% gross receipts tax – also referred to as a commercial or corporate activity tax – on a business’ sales sourced to Oregon. The tax only applies to businesses with more than \$1 million in annual sales sourced to Oregon. Under the law, a flat \$250 tax is applied to a business’ first \$1 million in annual sales, and the 0.57% rate is applied to sales that exceed the \$1 million annual threshold.

As negotiated by OBI and partner business associations, a business may subtract 35% of either its apportioned-to-Oregon cost of goods sold or labor costs from its taxable gross receipts, whichever is higher. Receipts from the sale of several goods and services are exempt from the tax including sales of SNAP-eligible groceries, farmer sales to agricultural cooperatives, sales of agricultural cooperatives and receipts from certain medical services provided by hospitals and residential care facilities.

The Student Success Act also includes a 0.25 percentage point reduction in all but the highest personal income tax rate (moving the rates from 5%, 7%, 9% and 9.9% to 4.75%, 6.75%, 8.75% and 9.9%). This is effectively a \$400 million per year reduction in personal income revenue. On net, the legislation raises approximately \$1 billion per year. Gov. Brown signed the bill into law on May 16, 2019, and it takes effect on Jan. 1, 2020.

The bill represents a \$2 billion biennial investment in Oregon’s K-12 public schools and early learning programs. The revenue generated through the tax will be placed into three accounts, separate from the general fund: \$400 million into the Early Learning Account for early childhood education programs (Preschool Promise, early childhood special education, relief nurseries, etc.); \$1 billion into a Student Investment Account, for which districts across the state can apply to receive noncompetitive grants to lengthen the school year, reduce class sizes, enhance health and wellness programs, improve science, technology, engineering and math (STEM), music or physical education programs, among other allowable uses. The third fund is a Statewide Education Initiatives Account, which notably includes full funding for Measure 98 (career technical education and youth re-engagement) which has long been a priority for OBI

and the business community, as well as universal meals and innovative district accountability programs. Many of these investments align with our adopted education principles. While OBI had hoped to see more dollars for postsecondary institutions included in this package, the Legislature did make needed investments for those students through the Higher Education Coordinating Commission budget, which OBI advocated for.

In return for a broad set of agreements related to the tax language in this bill and other potential costly proposals, OBI ultimately took a neutral position on the tax provisions of HB 3427. A group of advocates that filed an initiative to refer the new taxes to voters has abandoned their effort. If others choose to refer the measure it would go to the voters in January 2020.

Technical Changes and Tax Credits

[HB 2164](#) – HB 2164 extends several expiring tax credits and makes technical tax changes to the \$2 billion Student Success Act ([HB 3427](#)) that became law in May. The technical changes – many of which were made at the request of OBI – include clarifying which receipts are taxable for the banking and insurance sectors and ensuring these sectors are able to utilize the 35% subtraction for cost inputs or labor costs, exempting receipts from certain hedging transactions, clarifying the definitions of wine and distilled liquor, exempting restaurant receipts that are attributable to local excise taxes on meals or tips passed on to employees, allowing vehicle dealers to list the estimated amount of the tax on an invoice to a customer, clarifying that certain telecommunications and utility fees are not subject to the tax, expanding the definition of “cost inputs” to allow all businesses to use the 35% subtraction regardless of how they calculate cost of goods sold and excluding from the tax 15% of labor payments from a general contractor to a subcontractor for residential construction projects.

With respect to expiring tax credits, the bill renews and expands the Earned Income Tax Credit (EITC). Specifically, it raises the percentage of the federal credit that can be claimed for Oregon personal income tax purposes from 8% to 9% and from 11% to 12% for families with children under three years old. OBI is a member of the Renew and Raise Coalition, which advocates for an expanded EITC in Oregon. The bill takes effect on Jan. 1, 2020. OBI negotiated that a technical fix bill would move forward in 2019 as part of the overall tax agreement.

Public Employee Retirement System Reform

[SB 1049](#) – The Legislature took an important first step on the road to reforming the Public Employees Retirement System (PERS) with the passage of SB 1049. OBI long argued that any new revenue had to be accompanied by efforts at cost control. PERS reform was imperative if new tax revenue was to actually result in sustainable education investments.

While not as much reform as we hoped for, we were happy to see SB 1049 pass. The bill redirects 2.5% of Tier One and Tier Two and 0.75% of OPSRP members’ Individual Account Program contributions to the pension system, re-amortizes the Tier One and Tier Two unfunded actuarial liability over a longer period of time, removes limitations on PERS retirees’ work after retirement, caps the final average salary dollar amount used to calculate an individual’s pension payments and uses sports betting revenue to match a portion of lump sum payments public employers make to pension side accounts. Most of the bill’s savings – roughly \$600 million per year – are achieved through the re-amortization of the PERS unfunded liability and not through slowing the growth of future benefits. We expect that future legislatures may need to take additional steps to ensure the system remains on sound financial footing and does not draw limited state resources away from other programs, such as education. Additionally, OBI will continue to work with our partners at [PERS Solutions for Public Services](#) to evaluate the necessity of pursuing one or more ballot measures, as well as the potential for success when

those measures are put to Oregonians for a vote. Gov. Brown signed SB 1049 into law on June 11, 2019, and it takes effect on July 1, 2020.

Paid Family and Medical Leave

HB 2005 – As we entered the 2019 session, it was clear a paid family and medical leave (PFML) proposal would pass within the next year or so, either on the ballot or by the Legislature. Several bills were introduced during the session, and we were advised by leaders that, absent a bill passing in 2019, a ballot measure was expected in 2020, likely with terms that would be more costly to employers. OBI worked with partners to poll the issue and the results showed that a paid family leave proposal would likely pass, particularly if the cost burden was on employers. The cost estimate for a PFML program ranged as high as \$1.5 billion per biennium.

With this reality in mind, as part of the overall tax agreement mentioned above, OBI, working with partners, negotiated an agreement with legislative leaders that the 2019 Legislature would enact PFML legislation similar to Washington’s law, which strikes a balance between employer and employee concerns and costs. Ultimately, the PFML bill that passed on the final day of the session was a vast improvement over bills that had been introduced earlier, and a fairer compromise than what we expected to see in a ballot measure.

HB 2005 provides that:

- Employees can take up to 12 weeks of paid leave. Some employees would be eligible for an additional two weeks of paid leave for medical conditions related to pregnancy or childbirth;
- Employees who are eligible for unpaid leave under the Oregon Family Leave Act will have their OFLA leave capped;
- Premiums will be no more than 1% of the employee’s wages, of which employees will pay 60% and employers will pay 40%;
- Employers with fewer than 25 employees won’t be required to contribute to premiums;
- Employers with fewer than 25 employees may be eligible for grants if they do choose to pay the employer portion of premiums;
- Employers will be permitted to opt out if they have an equivalent employer-provided plan;
- The Employment Department will administer the program and can contract with private entities to provide third-party administration;
- Contributions begin Jan. 1, 2022; benefits begin Jan. 1, 2023; and
- Private rights of action are delayed until Jan. 1, 2025.

Cap and Trade

HB 2020 – The cap and trade bill was a focal point in the 2019 session as the result of its being high priority for Gov. Brown and the Democratic leadership. Following introduction of the bill in early February, the Joint Committee on Carbon Reduction held statewide listening sessions as well as many public hearings and work sessions, building a record for passing a bill and hearing considerable concern about the potential costs. More than 100 amendments were drafted prior to moving the bill out of committee.

Proponents of the bill were eager to see carbon reduction legislation passed this session, while opponents expressed concern that the bill would take a serious toll on Oregon’s economy, with particular impacts on manufacturing and transportation. OBI had many members impacted by the bill who took a range of differing positions on the bill. The OBI Board issued a statement in

June that more needed to be done to address the impacts to manufacturing and transportation if the bill was moved forward in the 2019 legislative session.

Although stakeholder and legislator working groups were convened to address these issues, the parties failed to find an acceptable compromise. With three Democratic senators indicating they would vote no and the Republican senators refusing to give a quorum to allow a vote, Senate President Peter Courtney announced on June 25 that HB 2020 did not have the votes to pass and the bill died.

Cap and trade is sure to be the subject of future legislation or regulation. The day after the Legislature adjourned, Governor Brown announced she was evaluating her executive powers options to implement carbon reduction policies administratively but noted a preference for a legislative solution.

Campaign Finance

[HB 2716](#), [HB 2983](#), [SJR 18](#) – Three bills related to campaign finance were passed in the last days of session. HB 2716 requires that campaign advertising disclose the funder of the communication, including the names of the five persons that have made the largest aggregate donations of \$10,000 or more. HB 2983 requires certain organizations that make political expenditures disclose donors to the organization. And SJR 18 refers a constitutional amendment to the voters. Only with the adoption of SJR 18 can limits on campaign contributions and expenditures pass constitutional review. Another bill, [HB 2714](#) passed the House but was successfully defeated in the Senate. That bill would have put campaign contribution limits in place for most individuals and business organizations but not for unions and other special interest groups. OBI worked to narrow the scope of SJR 18 and to ensure HB 2714 did not move forward in 2019. We expect efforts in the interim to define how campaign limits will work in Oregon should SJR 18 pass.

EMPLOYMENT

Positions and engagement around labor and employment-related legislation were made according to the OBI Board's adopted policy principles. The OBI Executive Committee and our Employment Practices Steering Committee were kept in the loop as issues developed, providing direction to staff. If you have any questions, or would like to join the steering committee, please contact Paloma Sparks at 503-576-4871 or by email at palomasparks@oregonbusinessindustry.com.

Employment Bills That Passed

Pregnancy Accommodation

[HB 2341](#) – Requires employers with six or more employees to provide accommodations to employees who have limitations related to pregnancy, childbirth or related medical conditions. OBI worked with the sponsor to align the bill with existing reasonable accommodation requirements under Oregon's disability accommodation law. OBI was neutral on the bill. Effective Jan. 1, 2020.

Language Correction in Disability Law

[HB 2589](#) – Removes discriminatory language in Oregon’s disability law related to gender identity and sexual orientation. The change merely corrects outdated language and does not change the meanings in the law. OBI worked with the sponsor and supported bill. Effective May 6, 2019.

Breaks for Nursing Mothers

[HB 2593](#) – Expands the requirement to provide breaks for expression of milk and breast feeding for nursing mothers to all employers. Employers with 10 or fewer employees may be exempted due to undue hardship. Effective Oct. 1, 2019.

Pay Equity Fix

[SB 123](#) – Makes several clarifications and corrections to the Pay Equity law that passed in 2017. The bill clarifies provisions around bona fide reasons for pay differentials, the pay equity analysis process and court judgments. OBI has been working on this effort since last fall. Perhaps the greatest benefit that will come from the bill is the opportunity to revisit administrative rules related to the Pay Equity law. OBI will continue to engage in that effort. Effective Jan. 1, 2020.

Expansion of Employment Discrimination

[SB 726](#) – Extends the statute of limitations for employment discrimination complaints for certain claims from one year to five years. It limits the use of non-disclosure agreements and no-rehire provisions. As introduced, this bill was much more expansive and included personal liability for owners, presidents, partners and corporate officers and contained a seven-year statute of limitation for a long-list of employment claims. OBI pushed hard against the bill, but the issue was framed by proponents as a bill addressing workplace harassment. Given the issues in the Legislature and in the media, this was a tough fight for OBI and partners representing the employer community. We were successful in substantially narrowing the bill, but it remains a bad bill for employers even though we got the best we could out of it. OBI opposed the introduced bill and was neutral on the final bill. Effective Oct. 1, 2019 and operative Oct. 1, 2020.

Employment Bills We Supported That Did Not Pass

Manufacturing Overtime Reform

[HB 2175](#), [SB 110](#) – Identical bills that would have removed the limit on the maximum hours an employee could work in manufacturing. These bills were intended to address the flawed approach that was adopted in 2017 legislation that severely limited the ability of employees to work in excess of 60 hours in a week. OBI remains committed to reforming manufacturing overtime in future sessions.

Reform Wage and Hour Penalties

[HB 2223](#) – Would have clarified under which circumstances an employer may be liable for certain penalties for wage and hour claims. OBI will try again in a future session.

Statewide Regulation of Transportation Network Companies

[HB 3023](#) – Would have created a statewide regulatory process for licensing transportation network companies. This bill was supported by OBI member Uber and we supported it. HB 3023

would have created a more simplified and consistent standard across the state rather than the current patchwork system of regulations.

Employment Bills That Did Not Pass

Employer Assessment

[HB 2269](#) – Would have imposed a fee on all employers with over 50 employees, with a price tag of \$500 million per biennium. The bill was introduced and supported by the Gov. Brown and the Oregon Health Authority. While not clear in the bill, proponents argued for a \$0.50 per hour per employee fee. Employers would not have to pay the fee if they could show that they spent more than that amount on employees for health insurance or healthcare costs. OBI negotiated that this bill would not move forward as part of the general tax agreement.

[HB 3262](#) – Similar to HB 2269 but pushed by the United Food and Commercial Workers (UFCW). This bill required employers with 100 employees worldwide in retail, food service, hospitality and distribution and call centers to pay a tax to cover the cost of employees on the Oregon Health Plan. The bill died in committee but UFCW later filed three ballot measures. OBI opposed the bill and will work to defeat the ballot measures.

Employment Contracts

[HB 2489](#) – Would have required all employment agreements to be codified in writing. Limited agreements to two years. Required certain other notice requirements. OBI opposed.

Independent Contractors

[HB 2498](#) – Would have invalidated independent contractor status if the contractor was providing services to a business that was in the normal course of the business's regular activities. This bill was patterned after a California court ruling. OBI opposed.

Liquidated Damages for Age Discrimination

[HB 2818](#) – Would have expanded claims for age discrimination, including adding theories of discrimination into statute. The bill required courts to impose liquidated damages in the amount of twice the economic damages or \$25,000 whichever was greater. OBI led the opposition and successfully defeated the bill.

Workers' Compensation Reform

[HB 3022](#) – This bill, as introduced at the request of the Oregon Trial Lawyers Association (OTLA), made drastic changes to the workers' compensation system. The initial version of the bill would have rolled back many of the 1990 reforms which have resulted in a more stable and functional system. OBI opposed the initial bill and negotiated for significant changes to the bill. As amended the bill would have made modifications to diagnostics and pre-existing conditions. We supported the amended bill. Ultimately, the bill did not go forward because of recent court rulings and discussions are expected to continue in the interim.

Various Paid Family Leave bills

[HB 3031](#) – Established a paid family and medical leave program providing employees with up to 32 weeks of paid leave per year. All employers and employees would be covered under the program. The Employment Department would administer the program. Employer-provided plans

would be in addition to the public program and would not allow employers to opt-out of the public program. Employers would pay 50% of the premium.

HB 3140 – Expanded the Oregon Family Leave Act (OFLA) to apply to all employers, regardless of the number of employees employed. The bill would have required employers to provide paid leave for all OFLA leave. Most employees would be eligible for 24 weeks of leave in a year, but in some circumstances employees would be eligible for up to 48 weeks.

Neither of these bills passed as efforts focused on compromise legislation.

Overtime Exemption Threshold

HB 3374 – Increased the salary threshold for the executive, professional and managerial exemption from overtime. The bill would have set the threshold at twice the minimum wage. Washington has adopted a similar standard by administrative rules. We will keep an eye out for possible rulemaking in Oregon that would do the same.

Marijuana Use by Employees

SB 379 – Prohibited employers from disciplining or terminating employees for testing positive for marijuana. Proponents argued that employees should not be terminated for using a substance that is legal. OBI and a broad coalition of business interests fought against the bill arguing in part that testing simply does not exist yet that makes the distinction clear between use and intoxication from marijuana use. Until such testing technology is available, such a law would be unreasonable and create safety hazards. The bill passed out of committee, but our coalition was successful in preventing it from having the votes on the Senate floor.

Trial Lawyer Bounty Hunter

SB 750 – Allowed individuals or organizations to sue on behalf of employees for a wide variety of alleged violations. The bill would essentially allow anyone to designate themselves as a “private attorney general” who could sue on behalf of individuals or the state. Attorneys would be eligible for attorney fees if they secured penalties as low as \$200. The result of this bill would be to circumvent the class certification process and to undermine the agency investigation function. OBI opposed.

Employment Bills That We Expect to See Again

Employer Assessment

We expect to see this return in a future legislative session, as the Medicaid/Oregon Health Plan funding issues have not been resolved.

Independent Contractors

We expect that Rep. Paul Holvey and other advocates will continue to bring this issue forward until or unless they are satisfied that they have found a solution to the issue of misclassification of workers.

Liquidated Damages for Age Discrimination

The sponsor of the bill, Rep. Carla Piluso has indicated she will continue to work on the issue. Speaker Kotek has also indicated this is a priority for her. We expect to see this issue again in a future session.

Statewide Regulation of Transportation Network Companies

A comprehensive, statewide regulatory scheme is needed for transportation network companies. The current system of patchwork city-by-city regulation leaves holes in the network. We expect to see a similar bill again.

Marijuana Use by Employees

We expect to see this again, as the chief proponent, Sen. Floyd Prozanski feels very strongly about wanting this policy change.

Trial Lawyer Bounty Hunter

A variation on this concept has been a perennial issue. We expect to see it again in a future session.

TAX AND FISCAL

Positions and engagement around tax and fiscal policy-related legislation were made according to the OBI Board's adopted policy principles and at the direction of the OBI Executive Committee and our Tax and Fiscal Policy Steering Committee. If you have any questions, or would like to join the steering committee, please contact Mike Stober at 503-576-4863 or by email at mikestober@oregonbusinessindustry.com.

Tax Bills That Passed

Cigarette Tax Increase Referral

HB 2270 – Pending voter approval, this bill will increase the cigarette tax by \$2/pack (raising it from \$1.33 to \$3.33) and subject vaping products to a tax equal to 65% of their wholesale price. Funds raised by the legislation – approximately \$350 million per biennium – will be dedicated to Oregon's Medicaid program. The bill also includes a provision referring the measure to the November 2020 ballot where voters will determine whether or not it takes effect. If voters approve the measure, it will go into effect on Jan. 1, 2021.

Gigabit Tax Exemption Repeal

HB 2684 – HB 2684 repeals the gigabit tax exemption. The exemption allows a business that builds, maintains and operates gigabit communication services infrastructure to exclude certain property from taxation. The exemption was initially passed to encourage Google to construct such infrastructure in Oregon, but the company declined to do so. Gov. Brown signed HB 2684 into law on May 28, 2019, and it goes into effect on Sept. 29, 2019.

Cutting the Kicker

HB 2975 – As part of the 2017-2019 budget process, legislators scheduled \$108 million to be transferred in May 2019 from several sources, including a state insurance fund and settlements won by the Department of Justice, to the general fund to meet the needs of programs funded by the general fund. However, revenues in the 2017-2019 budget window exceeded projections, and the \$108 million was no longer needed in the general fund. Instead of allowing the funds to be transferred anyway – and therefore be paid out as part of the 2020 personal income tax kicker – legislators passed HB 2975, which prevented the May 2019 transfer of the \$108 million

to the general fund. HB 2975 became effective when Gov. Brown signed the bill on April 10, 2019.

Special Election for Student Success Act Referral Vote

SB 116 – SB 116 sets a special election date of Jan. 21, 2020 if the Student Success Act is referred to the ballot for a vote. Absent this legislation, the measure would appear on the November 2020 general election ballot. The bill also allows the legislature to establish a committee to write the ballot title and explanatory statement for the measure. The bill will be effective once it is signed by Gov. Brown.

Preparing for a Potential Student Success Act Ballot Defeat

SB 212 – SB 212 prevents the Student Success Act from going into effect if the commercial activity tax component of the Student Success Act is struck down by voters at the ballot through a referral. Legislators are concerned that, if the commercial activity tax is defeated, they will need to find alternative means of funding the \$2 billion in new education spending and personal income tax cuts in a short amount of time. Effective Sept. 29, 2019.

Rolling Reconnection

SB 213 – SB 213 maintains Oregon’s rolling, automatic reconnection to federal taxable income and updates the date on which other provisions of Oregon’s tax code are connected to the federal tax code to Dec. 31, 2018, from Dec. 31, 2017. An earlier version of the legislation contained a change in the way Oregon connects to the federal tax code moving from a rolling reconnection to a static reconnection that requires affirmative action by the legislature in order to connect to provisions passed at the federal level each year (or more frequently, if the legislature chooses). It is very possible that the legislature considers this change again in future legislative sessions. Effective Sept. 29, 2019.

Global Intangible Low-Taxed Income

SB 851 – The 2017 federal tax reform law included a provision to ensure a minimum level of tax is paid on overseas income that the law refers to as global intangible low-taxed income (GILTI). SB 851 requires GILTI to be included in Oregon taxable income and allows Oregon taxpayers to apply the 80% Oregon dividends received deduction (DRD) to that income. Effective Sept. 29, 2019.

Tax Bills That Did Not Pass

Diverting the Kicker

HB 3440 – Speaker Tina Kotek introduced HB 3440 following a record revenue forecast from the Office of Economic Analysis. Revenue projections in the May 2019 forecast were up significantly from the March 2019 forecast resulting in roughly double the projected personal income tax kicker – up to \$1.4 billion from \$748 million. HB 3440 would have diverted a portion of the projected personal income tax kicker to widen and repair the Abernethy Bridge on I-205 between West Linn and Oregon City (\$260 million), to the state’s Clean Diesel Engine Fund (\$220 million) and to the Zero Emission Fund designed to transition the state to zero-emission cars and trucks (\$220 million). The legislation would have required a two-thirds majority support for passage in both the House and the Senate, meaning Republican yes votes would have been necessary to get the bill to the governor’s desk for signature. The bill was referred to the House Revenue Committee but was not given a public hearing.

Tax Bills That We Expect to See Again

Further Student Success Act Tax Modifications

In addition to the technical changes made in [HB 2164](#) before the end of the legislative session, the expectation is that the legislature will make additional modifications to the tax provisions of the Student Success Act ([HB 3427](#)) in next year's short session. Conversations regarding the taxation of food and agricultural products are already underway. OBI has begun discussions with partners about potential changes to the new tax law. Additionally, OBI and our partners in the business community will be engaged in the rulemaking process for the bill at the Department of Revenue. That process will begin late summer/early fall.

Tax Havens

[HB 2143](#) – Required income earned in certain “tax havens” to be included in Oregon taxable income when calculating corporate income tax liability. The tax havens are a list of countries with relatively low corporate tax rates. This provision was part of Oregon's tax code but was repealed in 2018 as part of the process of conforming to the 2017 federal tax reform law. The legislation was referred to the House Revenue Committee but was not given a public hearing.

Opportunity Zones

[HB 2144](#) – Required taxpayers – for Oregon tax purposes – to add to their taxable income any gain deducted from their federal return as a result of an investment in a qualified opportunity zone. Opportunity zones were established as part of the 2017 federal tax reform law to allow taxpayers that invest in designated low-income areas to defer or eliminate their capital gains on those investments. The House Revenue Committee held a public hearing on the bill on March 11, 2019, but did not hold a work session to advance the bill out of the committee.

Corporate Tax Rate Increases

[HB 2145](#), [HB 2156](#) – [HB 2145](#) and [HB 2156](#) are identical bills that increased corporate income tax rates from 6.6% and 7.6% to 7% and 8%, respectively. Both bills were referred to the House Revenue Committee but were not given a public hearing.

Joyce to Finnigan Apportionment Change

[HB 2147](#), [HB 2162](#), [SB 207](#) – Would move Oregon from the Joyce to the Finnigan method of calculating the numerator used in the apportionment of business income for purposes of the corporate income tax. Under Joyce, each corporation of the unitary group is considered separately when determining whether it is taxable in the state. Under Finnigan, the unitary group is considered as a whole. If one member of the group is taxable in the state, the entire unitary group is taxable in the state. This can have the practical effect of making more of a unitary group's income taxable in Oregon. [HB 2147](#) and [HB 2162](#) were referred to the House Revenue Committee but were not given a public hearing. The Senate Finance and Revenue Committee held a public hearing for [SB 207](#) on March 5, 2019, but did not hold a work session to advance the bill out of the committee.

Unitary Relationship Determination

[HB 2149](#), [HB 2165](#), [HB 2697](#) – These bills would allow corporations in foreign countries to be included when determining the unitary relationship among corporations for purposes of Oregon's corporate income tax. Currently, only U.S. companies can be included in making this determination. The bills could have the practical effect of making more corporations taxable in

Oregon. The bills were referred to the House Revenue Committee but were not given a public hearing.

Small Business Tax Increases

[HB 2153](#), [SB 211](#) – Oregon’s tax code provides preferential tax rates for small businesses with less than \$5 million in taxable income. HB 2153 and SB 211 lowered the threshold for the preferential tax rates to \$415,000 from \$5 million. This would increase small business taxes by roughly \$130 million over the next two years. The Senate Finance and Revenue Committee held a public hearing on SB 211 on Feb. 19, 2019, but did not hold a work session to advance the bill out of the committee. OBI submitted [testimony](#) in opposition to SB 211. HB 2153 was referred to the House Revenue Committee but was not given a public hearing. Lawmakers have indicated they will bring this issue back in 2020.

Taxing Companies Selling into Oregon

[HB 2160](#), [SB 206](#) – HB 2160 required out-of-state corporations making sales into Oregon to pay the corporate minimum tax even if they are not currently filing an Oregon corporate income tax return. SB 206 required all companies with \$100,000 or more in Oregon sales to file an Oregon income tax return. HB 2160 was referred to the House Revenue Committee but was not given a public hearing. SB 206 was referred to the Senate Finance and Revenue Committee but was not given a public hearing.

Corporate Minimum Tax Increase

[HB 2163](#), [HB 2636](#), [SB 208](#) – HB 2163 increased the corporate minimum tax from \$100,000 to 0.1% of Oregon sales for corporations with more than \$100 million in sales. HB 2636 increased the corporate minimum tax to 0.3% of Oregon sales for corporations with \$500,000 or more in sales. SB 208 increased the corporate minimum tax by varying amounts depending on a corporation’s sales. For corporations with \$100 million or more in sales, SB 208 increased the minimum tax from \$100,000 to \$115,000. HB 2163 and HB 2636 were referred to the House Revenue Committee but were not given a public hearing. SB 208 was referred to the Senate Finance Committee but was not given a public hearing.

Carried Interest

[HB 2171](#), [HB 2172](#) – HB 2171 and HB 2172 effectively required individuals to treat carried interest as wage income instead of a capital gain for Oregon income tax purposes. Wages are taxed at a higher rate than capital gains. Carried interest is a portion of the income earned by the general partners of private equity and hedge funds for their role in improving the companies in their portfolios. The House Revenue Committee held a hearing on HB 2171 and HB 2172 on Feb. 19, 2019, but did not hold a work session to advance the bills out of committee.

Mortgage Interest Deduction

[HB 3349](#) – Disallowed the use of the mortgage interest deduction for any home other than an individual’s primary residence and phases out the mortgage interest deduction for individuals or families making between \$200,000 and \$250,000 per year. Under the legislation, the deduction is eliminated for those with income above \$250,000. The bill required any revenue raised to be directed to promoting affordable home ownership and preventing homelessness. The House Revenue Committee held a public hearing on the bill on April 15, 2019, but did not hold a work session to advance the bill out of the committee.

Property Tax Reform

[HJR 1](#), [HJR 3](#), [HJR 4](#), [SJR 2](#), [SJR 21](#) – HJR 1 and SJR 2 proposed to amend the Oregon Constitution to require the ratio of maximum assessed value to real market value of a property be at least 0.75. Property taxes are tied to the assessed value of a property, so this requirement would have the effect of increasing property taxes on several properties throughout the state. HJR 3 and HJR 4 proposed to amend the Oregon Constitution to set the maximum assessed value of property held for commercial or industrial purposes equal to the real market value of the property. SJR 21 proposed to amend the Oregon Constitution by repealing Measure 50 and requiring the legislature to enact laws to place the provisions of Measure 50 into statute. Measure 50 limits the rate of growth of the assessed value of a property to 3% per year. SJR 21 had the practical effect of allowing the legislature to make changes to the state's property tax system without having to get approval from the voters. HJR 1, HJR 3, and HJR 4 were referred to the House Revenue Committee but did not receive a public hearing. The Senate Finance and Revenue Committee held a public hearing on both resolutions on Feb. 20, 2019, but did not hold a work session to advance the resolutions out of committee.

Itemized Deductions

[SB 214](#) – Changed the point at which Oregon connects to the federal tax code from federal taxable income to federal adjusted gross income. The bill effectively eliminated Oregon taxpayers' ability to itemize deductions and established a new standard deduction equal to 33 percent of the federal standard deduction. The Senate Finance and Revenue Committee held public hearings on the bill on Feb. 6, 2019, and March 21, 2019, but did not hold a work session to advance the bill out of the committee.

Corporate Disclosure

[SB 642](#), [SB 663](#), [SB 677](#) – SB 642 and SB 663 required the Department of Revenue to disclose corporate excise and income tax returns to chairpersons and vice chairpersons of legislative committees related to revenue. SB 677 required publicly traded corporations that are required to file tax returns to file annual disclosure statements with the Secretary of State listing information including federal taxable income, Oregon taxable income, additions, subtractions, credits, tax liability, wages and compensation and sales. SB 677 also requires the Secretary of State to make the information in the statements publicly available. All three bills were referred to the Senate Finance and Revenue Committee but were not given a public hearing.

Eliminating the Personal Income Tax Kicker

[SJR 3](#), [SJR 23](#) – SJR 3 and SJR 23 proposed amending the Oregon Constitution to eliminate the personal income tax kicker. The kicker provides a tax credit to individual income taxpayers if revenues to the state exceed projections by 2% or more. If the resolutions were enacted and the Constitution amended, the excess revenue would be directed to the current Education Stability Fund (SJR 3) or a newly created Personal Investment in Education Fund (SJR 23). SJR 3 and SJR 23 were referred to the Senate Finance and Revenue Committee but were not given a public hearing.

ENERGY AND ENVIRONMENT

Positions and engagement around energy and environment-related legislation were made according to the OBI Board's adopted policy principles and at the direction of the OBI Executive

Committee and our Energy and Environment Steering Committee. If you have any questions, or would like to join the steering committee, please contact Sharla Moffett at 971-940-7432 or by email at sharlamoffett@oregonbusinessindustry.com.

Energy and Environment Bills That Passed

Diesel Engines

HB 2007 – Phases out older diesel engines in medium- and heavy-duty trucks registered in Multnomah, Clackamas and Washington Counties. OBI opposed the bill. As introduced, the bill originally applied statewide, but amendments narrowed the focus to the retrofitting and replacement of older diesel engines in the Portland tri-county area according to a schedule. Companies carrying out state contracts of more than \$20 million will be required to replace 80% of fleets and nonroad diesel engines for projects advertised or solicited after Jan. 1, 2022. Funds from the Volkswagen Environmental Mitigation Trust Agreement are authorized for performing replacement, retrofits and repowers of school buses, medium- and heavy-duty trucks and concrete mixers. The bill contains provisions to consider and assist disadvantaged business enterprises, minority- and women-owned businesses, businesses owned by service-disabled veterans, and emerging small businesses in complying with the new law. The bill also authorizes a new task force to find ways to incentivize and encourage businesses statewide in reducing diesel emissions through the replacement, repower and retrofitting of medium- and heavy-duty trucks. The task force sunsets on December 31, 2020. Effective upon signing by Gov. Brown, operative on Jan. 1, 2020.

Response to Federal Standards

HB 2250 – Establishes “baseline federal standards” equating to federal regulations in place on Jan. 19, 2017 relating to the Clean Air Act, Clean Water Act and Safe Drinking Water Act. The bill, requested by Gov. Brown, requires both the Department of Environmental Quality and the Oregon Health Authority to assess changes to federal regulations and determine whether the changes are less protective of human health, the environment or natural resources than the baseline federal standards. If changes in federal regulations become less protective, the department must make recommendations to the Environmental Quality Commission to maintain the baseline standards protections. OBI opposed the bill as it was introduced and was neutral on the compromise version. Effective Jan. 1, 2020.

Department of Environmental Quality Budget

HB 5017 – Provides funding for the Department of Environmental Quality’s numerous programs. The Governor’s budget request for DEQ included sizeable fee increases for permit holders, including a 90% increase in Air Contaminant Discharge Permits (ACDP) and a 35% increase for water quality permits. Smaller fee increases for ACDPs and water quality permits (70% and 17%, respectively) were ultimately approved by the Legislature. A 2018 Secretary of State audit found that nearly half of permits were not renewed on time and more staff was needed to address the air and water permit backlogs. Effective July 1, 2019.

DEQ Fees

HB 5018 – Authorizes fees for implementing the Cleaner Air Oregon and Underground Injection Control permits. These fees were previously approved by the Environmental Quality Commission, but required ratification by the Legislature. There are both annual fees associated with Cleaner Air Oregon as well as steep fee assessments for facilities being called into the program and conducting the required risk assessments. Effective July 1, 2019.

Energy and Environment Bills That Did Not Pass

Oregon Climate Authority

SB 928 – Would have established the Oregon Climate Authority and created the Oregon Climate Board to implement the cap and trade legislation expected to pass this session. The bill transferred carbon reduction regulatory activities from the Department of Environmental Quality to a newly-created Oregon Climate Authority. The bill failed and HB 2020 was amended to shift administration of the cap and trade bill to the Governor’s Carbon Policy Office.

Pesticide Ban

HB 2619, HB 3058, SB 853 – Would have banned the sale, purchase and use of pesticide chlorpyrifos. Would have put neonicotinoids on restricted-use list. The bill was amended to be a study of chlorpyrifos and neonicotinoids but ultimately died in Ways and Means.

HEALTHCARE

Positions and engagement around health care-related legislation were made according to OBI Board’s adopted policy principles and at the direction of the OBI Executive Committee and our Health Care Steering Committee. If you have any questions, or would like to join the steering committee, please contact Nathaniel Brown at 503-576-4879 or by email at nathanielbrown@oregonbusinessindustry.com.

Healthcare Bills That Passed

Medicaid Funding Package

HB 2010 – Will generate about \$400 million for Oregon’s Medicaid program in the fiscal biennium, the Oregon Health Plan (OHP), through an increase in the hospital assessment (to 6%), an increase in the health insurance premium tax (from 1.5% to 2.0%) and adds a stop-loss insurance assessment of 2%. Throughout this session, Gov. Brown and the Legislature worked to find sustainable funding for the OHP, which was facing a roughly \$800 million shortfall. The revenue from HB 2010 will cover about half of the OHP funding gap and secures funding for the program through the coming biennium. OBI supported, after negotiations involving several members. Effective Jan. 1, 2020.

Pharmacy Benefit Managers

HB 2185 – Places regulations on pharmacy benefit managers (PBMs), prohibiting them from requiring network pharmacies to require mail delivery of prescriptions, and limits the ability of the PBM to require use of specialty pharmacies as a condition of reimbursement. Among other transparency requirements, the bill also prohibits PBMs from penalizing network pharmacies for disclosing pricing information. Applies to contracts entered into, renewed or extended on or after Jan. 1, 2021.

Opioid Epidemic Response

HB 2257 – Establishes programs based on the recommendations of Gov. Brown’s Opioid Epidemic Task Force, created in 2017 to explore best practices in addressing the deadly crisis in Oregon. The bill is a product of task force activity. Among other provisions, the bill establishes a pilot program to treat pregnant individuals suffering from substance use disorders (SUDs) and enhances access for individuals receiving treatment for SUD services that are publicly funded. It

also directs the Department of Corrections to study how best to support individuals in custody suffering from SUDs. OBI supported. Effective upon signing by Gov. Brown.

CCO Improvement

[HB 2267](#) – Requires coordinated care organizations (CCOs) to conduct community health needs assessments and adopt improvement plans in collaboration with hospitals and public health authorities. This bill is in coordination with the CCO 2.0 effort, undertaken by the Oregon Health Authority to enhance health care delivery for the nearly 1 million Oregonians on the Oregon Health Plan. The intent with CCO 2.0 is to select providers who can: improve the behavioral health system, increase value and pay for performance, focus on social determinants of health and health equity, and maintain sustainable cost growth. Effective Jan. 1, 2020.

Nonprofit Healthcare Delivery

[HB 2447](#) – Requires the Oregon Health Authority to provide some sort of forum for all vertically integrated nonprofit health care systems to work together to envision a new system of health care delivery in Oregon, bypassing antitrust laws. The intent behind this bill is an entire system change, which could have significant impacts on the cost and delivery of Oregonians' health care. OBI will monitor the discussions in the interim. Effective Jan. 1, 2020.

Drug Price Disclosure

[HB 2658](#) – Requires disclosure of drug price increases 60 days in advance of the increase, if a brand-name drug is increasing by more than 10% or by \$10,000 from the previous 12 months and if a generic drug is increasing by 25% or by \$300 from the previous year. OBI did not take a position on the bill, but increased transparency is one of our adopted health care policy principles. Applies to drug increases on or after July 1, 2019.

Health Care for All Oregon Task Force

[SB 770](#) – Establishes a 20-member Health Care for All Oregon Task Force, charged with designing and evaluating cost estimates for universal healthcare in Oregon. The bill was also amended in the final weeks of the session to also include language from [HB 2012](#), which directs the Oregon Health Authority to design a plan for a public option or Medicaid buy-in program in Oregon. The task force must be selected by May 2020, with a report to the 2021 Legislative Assembly. OBI will be monitoring this discussion closely in the interim and will likely be heavily engaged in the 2021 session. Effective upon signing by Gov. Brown.

Health Care Cost Growth Benchmark

[SB 889](#) – Establishes a Health Care Cost Growth Benchmark implementation committee that will recommend a growth rate cap that private and public health care providers would be encouraged not to exceed. The committee is looking to Massachusetts for a model system, a state that has set a 3.6% cap on health care cost growth. While the committee is not necessarily charged with considering a penalty should an entity exceed the cap, that conversation could happen in future sessions. OBI did not take a position on this bill, but many industry partners were in support. Effective upon signing by Gov. Brown.

CCO Financial Reporting

SB 1041 – Establishes a new financial reporting requirement for CCOs similar to the Insurance Division’s regulation on insurance carriers. It also gives the Oregon Health Authority tools to audit and assist CCOs that become financially stressed. Effective Jan. 1, 2020.

Healthcare Bills That Did Not Pass

Damage Caps

HB 2014 – Would have removed the \$500,000 cap on noneconomic damages to claims in actions for wrongful death. OBI joined a large coalition opposed to the bill, concerned that removing the cap could have negative impacts on medical costs and could make Oregon unattractive to providers and practitioners. Additionally, the Legislature first limited noneconomic damages to bring predictability to Oregon’s liability system. The bill died on the Senate floor.

Drug Price Transparency

SB 872 – Would have applied overly broad price transparency and reporting requirements to drug manufacturers, pharmacies, PBMs, providers and insurers. The requirements go far beyond what was recommended through a Prescription Drug Price Transparency program established by HB 4005, which passed in the 2018 session in an effort to publicize information on pricing throughout the supply chain – the results of which have not been reported or analyzed at this time. Serious concerns were raised around the process, and ultimately OBI joined a large coalition opting to delay any changes to reporting requirements until the results of HB 4005 can be analyzed. OBI opposed.

Healthcare Bills That We Expect to See Again

OBI expects the conversation to continue around drug price transparency across the supply chain, as SB 872 didn’t make it across the finish line this session. This is a bipartisan issue, and one of OBI’s policy principles; however, we will watch to ensure it does not put undue burden on our members (and their customers) in these industries.

We also are keeping an eye on the CCO 2.0 effort, as Oregon Health Plan providers will be working with their communities to conduct a needs assessment and the business community has an opportunity to engage with them and with the Oregon Health Authority in that process, ensuring a livable and healthy environment for all.

Additionally, now that task forces will be established to look into universal health care and Medicaid buy-in (SB 770), and a cost growth rate cap (SB 889), OBI will be working to ensure the voice of business is represented in those discussions. These conversations could fundamentally alter the way health care is delivered in this state, with huge ramifications to the private market.

EDUCATION

Positions and engagement around education-related legislation were made according to the OBI Board's adopted policy principles and at the direction of the OBI Executive Committee and our Education & Workforce Steering Committee. If you have any questions, or would like to join the steering committee, please contact Nathaniel Brown at 503-576-4879 or by email at nathanielbrown@oregonbusinessindustry.com.

Education Bills That Passed

Textbooks and Instructional Materials

HB 2023 – As passed, this bill directs school boards, the State Board of Education and committees or officers responsible for adoption of textbooks and other instructional materials, to ensure those materials adequately address roles in and contributions to economic, political and social development of Oregon and United States by underrepresented communities. OBI supported. Effective Jan. 1, 2020.

K-12 Funding

HB 5015 – The Oregon Department of Education (ODE) budget included continued funding for several important programs: The regional Science, Technology, Engineering and Math (STEM) Hubs, STEM Innovation Grants and the For Inspiration and Recognition of Science and Technology (FIRST) Robotics program are all funded at current service levels. Although we had advocated for an increase in funding to the STEM Hubs, due to the fact the funding was allocated when there were just six in the state – there now are 13 – OBI was pleased to see the hubs at least maintain funding. Additionally, this budget includes roughly \$170 million for Measure 98 implementation, which, coupled with the new investment from the Student Success Act, fully funds the measure for the first time since voters approved it in 2016. Full funding for Measure 98 has long been a priority of OBI and the business community. OBI will continue to be a strong advocate for STEM and career technical education investments. Effective July 1, 2019.

HB 5016 – The State School Fund, this bill appropriates \$9 billion for K-12 education in the 2019-21 cycle. This represents a 9.7% increase in the fund from the previous cycle, but because of increasing employee costs and other factors, the funds simply maintain current service levels. Effective July 1, 2019.

Higher Education Funding

HB 5024 – The Higher Education Coordinating Commission (HECC) budget bill included significant investments that OBI advocated for in order to minimize tuition increases and avoid cuts to programs across the state. The Public University Support Fund received a total of \$836 million for the 2019-2021 fiscal biennium, which is a nearly \$100 million increase from 2017-19 levels. The Community College Support Fund received an additional \$50 million from the previous cycle, totaling the fund at \$640 million. While these new investments aren't quite to the levels requested by the institutions, they do represent progress and will mitigate tuition increases. The Engineering Technology Sustaining Fund (which supports engineering education on campuses across the state) received funding at current service levels, along with other Public University State Programs. These programs had been considered for reduction in funding or perhaps elimination, and OBI successfully advocated, alongside our partners, for continued investments. The Oregon Opportunity Grant, which provides low-income students a path to college, saw an additional \$12.5 million in this year's budget – another high priority for OBI.

Unfortunately, an important issue for the business community was maintaining the STEM Investment Council Director position in the HECC budget, which ultimately did not get approved. The Council will continue to set long-term strategy for STEM education in the state and facilitate partnerships between students and the private sector in local communities but will be without a director. Overall, the HECC budget reflected much of what OBI and our partners had advocated for throughout the session, but we will continue to encourage lawmakers to make additional investments in the future. Effective July 1, 2019.

Education Bills That Did Not Pass

Common Assessment

HB 2318 – Would have banned districts from adopting or administering a common assessment for children in Pre-K through second grade. Reliable and valid assessments are needed in order to ensure public investments are targeted and effective, and to inform instruction. OBI opposed.

Class Size as Mandatory Subject of Bargaining

SB 764 – Would have required class size and caseload to be mandatory subjects of collective bargaining across the state. Current state law already allows these items to be optional bargaining subjects, as each district has different needs and priorities, and the bargaining process should reflect that. OBI opposed.

Statewide Assessment Reform

SB 157 – Directed ODE to administer a nationally recognized assessment (SAT/ACT) should school districts decline to implement statewide summative assessments (like Smarter Balance). OBI joined a coalition of education advocates in asking legislators to consider the impact removing statewide assessments would have on underserved students, as these evaluations typically have better accommodations for students with learning disabilities, language barriers, or other challenges.

Essential Skills Assessment

SB 456 – Eliminated the requirement of passage of an Essential Skills assessment for high school students to receive a diploma. The Essential Skills assessment evaluates high school students on their proficiency of adapting skills learned in the classroom to real-world situations. This proficiency in critical thinking is important from a workforce perspective.

Education Bills That We Expect to See Again

OBI expects the conversation to continue around two issues in the interim and into the 2020 short session: Student Success Act implementation and accountability, and assessment reform. OBI will be working with a coalition of education advocates during the interim to make recommendations on how the Oregon Department of Education can best work with school districts and their communities to utilize these new resources in the classroom. Additionally, the Education and Workforce Development Steering Committee is committed to ensuring that every district throughout the state, as well as ODE, remain accountable with the new money and make targeted, outcomes-based investments in students.

On assessment reform, when SB 456 had a hearing at the Joint Committee on Ways and Means in May, Co-chair Smith Warner announced that the bill would not move forward this session but that the conversation around assessment reform would continue in the interim and is likely to be addressed in the short session in 2020. OBI will continue to advocate for

balanced, equitable and comprehensive assessments that allow the state to prioritize investments and develop a skilled workforce.

RETAIL COUNCIL

Positions and engagement around legislation impacting retailers were made according to the OBI Board's adopted policy principles and at the direction of the OBI Executive Committee and our Retail Council Steering Committee. If you have any questions, or would like to join the steering committee, please contact Paloma Sparks at 503-576-4871 or by email at palomasparks@oregonbusinessindustry.com.

Retail Bills That Passed

Internet of Things

HB 2395 – As introduced, this bill would have made retailers, as well as manufacturers, responsible for ensuring that devices are equipped with reasonable security features. OBI worked with the Attorney General's office to remove liability for retailers. The law will require manufacturers to install security features into devices capable of connecting to the internet. These products include tech products and household products equipped with tech features. Compliance will be enforced by the AG. There is no private right of action. Effective Jan. 1, 2020.

Plastic Bag Ban

HB 2509 – This bill prohibits the use of plastic checkout bags and imposes a 5-cent fee on paper bags used at checkout. OBI negotiated for certain exemptions for plastic bags provided to consumers separate from checkout bags. Effective Jan. 1, 2020.

Bottle Redemption Changes

SB 93 – This bill formally recognizes Bottle Drop Express locations in law. These sites are hosted by retailers and provide a convenient option for customers to return bottles and cans for redemption. The bill provides that a retailer who participates in, is served by, and pays the cost of participating in a dealer redemption center may refuse to accept and pay refund value for more than 24 empty containers returned by any one person in a day. OBI worked closely with retailers and the Oregon Beverage Recycling Cooperative to craft the bill. While not the all-out exemption from the bottle return process that we wanted, this will go a long way to lighten the burden on retailers. Effective Jan. 1, 2020.

Data Breach

SB 684 – This bill expands and clarifies obligations for reporting and consumer protection when a data breach occurs. Covered entities must provide notices to consumers affected by a breach and to the Attorney General. Compliance will be enforced by the AG. There is no private right of action. This bill was the result of an interim workgroup organized by Sen. Prozanski and Rep. Holvey. OBI participated in the workgroup. Effective Jan. 1, 2020.

Retail Bills We Supported That Did Not Pass

Minimum Age Restrictions

[HB 3329](#) – This bill would have permitted retailers to limit gun sales to individuals 21 or older. Current Oregon law prohibits discrimination in places of accommodation on the basis of age for individuals over the age of 18. The bill died because it was combined into a comprehensive gun reform bill that was negotiated away.

Retail Bills That Did Not Pass

Right to Repair

[HB 2688](#) – Would have required manufacturers to make devices and manuals broadly available to the public for the purpose of diagnosing, maintaining or repairing digital equipment. The sponsor of the bill generally meant to apply this to cellphones, but it would have broad and sweeping impacts on all manufacturers. Of particular concern was the fact that this would make equipment much more vulnerable to security violations. The bill never advanced out of the House.

Household Hazardous Waste

[HB 2772](#) – Proposed the creation of a product stewardship program for household hazardous waste. Retailers and manufacturers would have been required to label all products sold and would have been imposed civil penalties of up to \$25,000 per day per violation if they failed to participate. Manufacturers would have been assessed a fee to fund the stewardship program. The bill died in Ways and Means.

Privacy Act

[HB 2866](#) – This bill was modeled after a recent bill passed in California creating expansive privacy protections and liability for businesses. The bill would have prohibited collecting, using, storing, analyzing, deriving inferences from, selling, leasing or otherwise transferring geolocation information or audiovisual data without first obtaining express permission. The bill posed a whole host of logistical challenges. OBI and a broad coalition opposed. The bill died but the Attorney General agreed to have an interim workgroup to study the issues. OBI is participating in the workgroup and will update members as it progresses.

Pesticide Ban

[HB 2619](#), [HB 3058](#), [SB 853](#) – Would have banned the sale, purchase and use of pesticide chlorpyrifos. Would have put neonicotinoids on restricted-use list. The bill was amended to be a study of chlorpyrifos and neonicotinoids but ultimately died in Ways and Means.

Styrofoam Ban

[HB 2883](#) – Would have banned all food containers made with polystyrene (known by most by its brand name of Styrofoam), encompassing a wide array of products, many of which are coated with polystyrene. OBI worked with partners to defeat the proposal due to potential damage to many businesses that produce and recycle polystyrene containers. The bill was amended in the Senate to narrow the ban to polystyrene containers for food products but ultimately died on the Senate floor.

Retail Bills We Expect to See Again

We anticipate that retailers will take another run at fixing the age restriction issue for gun sales. That bill failed almost exclusively because it got caught up in other, more controversial, legislation.

Some version of a broad privacy act will come back again. The interim workgroup that the attorney is hosting is intended as a process to identify possible legislative language for the 2021 session.

Environmental activists fought hard for the pesticide and polystyrene bans that ultimately did not pass. We expect both of these bills will come back again in future sessions.

WHAT'S NEXT

Adjournment of the 2019 legislative session is just the beginning for the many bills that passed this year. Next, we have rulemakings for every single one of them, and many of them will be complex, taking years. OBI will remain engaged, making sure our members' interests are considered. Additionally, the 2020 elections will undoubtedly include initiative proposals from interest groups working outside of the legislative process. OBI will work with our partners to engage in matters that affect Oregon as a place to do business. And, lastly, there is the 2020 legislative session next February. As discussed above, we expect a number of issues to be back again and we are already preparing to be at the table, making an impact.

Thank you.