TESTIMONY ON LC 53
BEFORE JOINT INTERIM COMMITTEE ON THE FIRST SPECIAL SESSION OF 2020

June 22, 2020

Co-Chairs Kotek and Courtney and Members of the Committee:

Oregon Business & Industry (OBI) is the largest statewide business organization representing approximately 1,600 businesses that employ nearly 300,000 Oregonians. Our members cover virtually every industry in Oregon, and more than 80 percent of them are small businesses with fewer than 100 employees.

The corporate activity tax imposes a 0.57% tax on a business' gross receipts above $1 million in Oregon. In order to mitigate some of the effects of pyramiding – where the tax compounds upon itself at each step in a business' supply chain – a business is able to subtract 35% of its cost inputs or labor costs from its taxable gross receipts. The law requires businesses to apportion their cost inputs or labor costs to Oregon using the same single sales factor businesses use to apportion their income to Oregon for income tax purposes.

OBI worked closely with the Revenue committee chairs during the 2020 session on the language in LC 53. The language in LC 53 reflects the extensive work on these issues from the 2020 session. These fixes are essential in the Department's ongoing work to implement the 2019 corporate activities tax.

Business only selling in Oregon are not required to apportion their income as it is all subject to tax in Oregon. Under current law, those businesses would simply subtract 35% of their cost inputs or labor costs – whichever is greater – from their taxable commercial activity. Initial rules developed by the Department were inconsistent with that principal. Under those rules, the same business may be required to "apportion" their subtraction to Oregon. If that business has any exclusions from commercial activity, it will have a commercial activity ratio of less than one and would therefore not be able to take full advantage of the 35% subtraction. For example, if a business has $8 in taxable commercial activity and $2 of non-taxable commercial activity, its commercial activity ratio would be 0.8 ($8/($8+$2)). The business would calculate its subtraction by multiplying 0.8 by 35% of its cost inputs or labor costs instead of the current law formula of 1.0 times 35% of its cost inputs or labor costs. The changes in LC 53 are needed to provide clear guidance to the Department on this issue.

LC 53 also contains several provisions related to farming and dairy operations:

- Clarifies that crop insurance payments are not gross receipts for the purposes of the CAT;
- Gives parity for dairy farmers with other agricultural cooperatives; and
- Allows farmers to access deductions consistent with existing statutory definitions and tax forms.

OBI urges your support of LC 53. Thank you for your consideration.

Sincerely,

Paloma Sparks
Oregon Business & Industry