



2019 Legislative Session Final Report

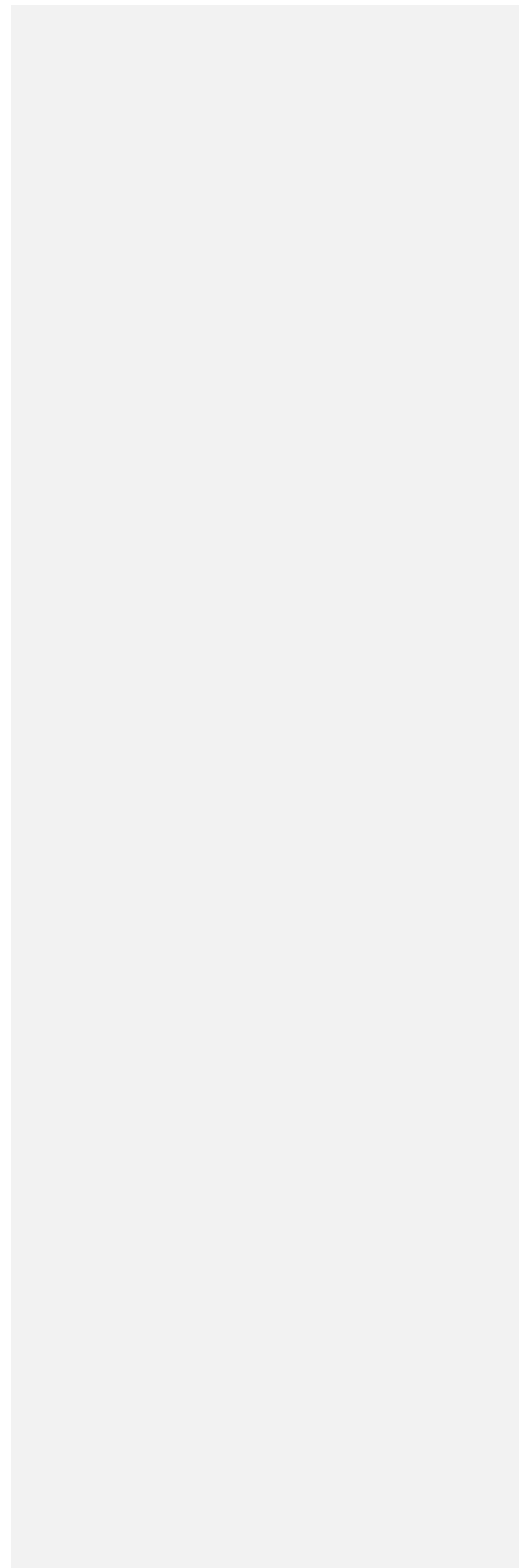
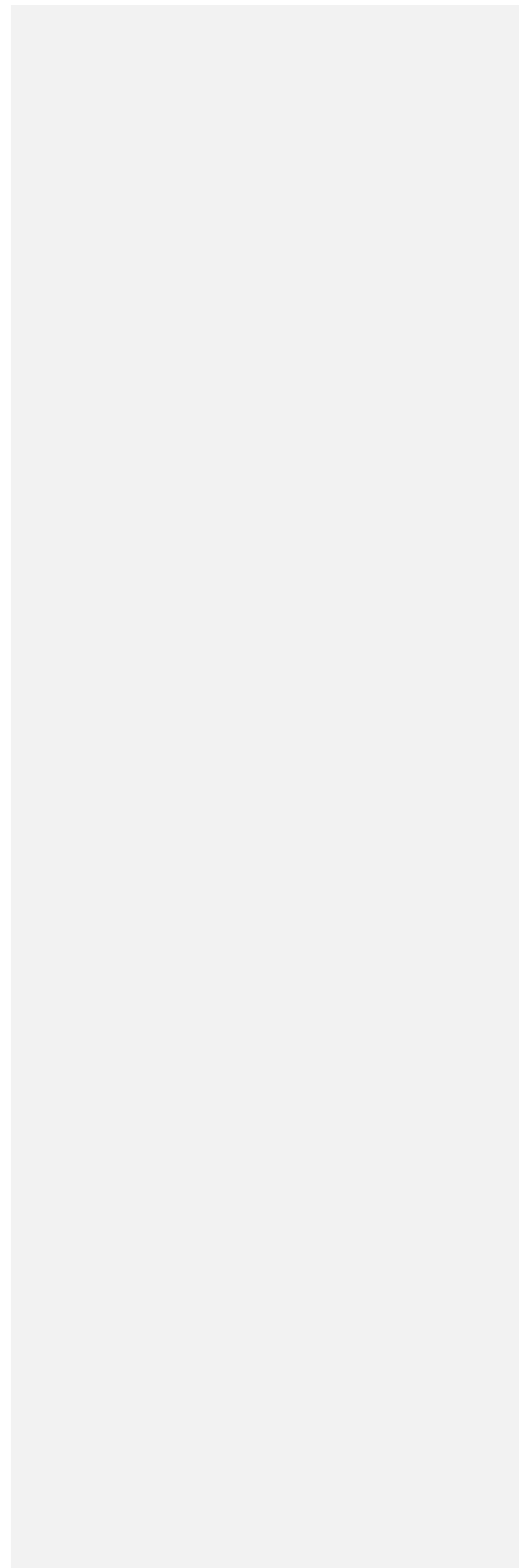


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2019 LEGISLATIVE SESSION IN REVIEW

The 80th Oregon Legislative Assembly convened a three-day “organizational session” on January 14, 2019 and adjourned for eight days and reconvened in full session on January 22nd. During the organizational days nearly 1,500 bills were printed. Those measures were referred to various policy committees during the following week, which enabled committees to conduct hearings on bills on the first day of the legislative session. This was the fifth full Legislative Session that was constitutionally limited to 160 days under Ballot Measure 71 (2010). Leadership outlined an ambitious legislative calendar under HCR 19, which established session deadlines, and set a target date of June 21st for *Sine Die* (151 days). However, due to two “walkouts” by Senate Republicans that resulted in denial of a quorum (no business could be conducted), one of which lasted nearly 9 days, the legislative session ended on June 30th at 5:24 pm, only 6 and a half hours before the constitutional requirement to adjourn *Sine Die*. As a result, the session lasted the maximum 160 days permitted under Oregon’s Constitution.

During the November election House Democrats increased their previous majority to 38-22 providing them two more seats than necessary to achieve a super-majority (3/5ths or 36 votes) required to increase taxes without Republican support. The majority party re-elected Tina Kotek (D-Portland) as the House Speaker (the first Speaker to serve four consecutive sessions in several decades) and Jennifer Williamson (D-Portland) as the Majority Leader. This marked the second session in a row, and the second time in Oregon history, the majority party was composed primarily of women (22 of the 38).

Carl Wilson (R-Grants Pass) was elected as the House Minority Leader, replacing Rep. Mike McLane (R-Powell Butte) who served as the Minority Leader since 2012. Six of the 22 members in the Republican caucus were women. In addition, there were 10 freshman legislators in the House this session (5 Democrats and 5 Republicans).

The Senate Democrats, gained one seat after the General Election resulting in 18 Democrats and 12 Republicans, thereby giving the democrats a super-majority as well. The Senate elected Peter Courtney (D-Salem) to an unprecedented 9th term as President of the Senate and Ginny Burdick (D-Portland) as the Majority Leader for her second full term in that position. Herman Baertschiger Jr. (R-Grants Pass) was elected as the Senate Minority Leader for his first session in that position. There were three freshman Senators entering this session, all three are Democrats.

Governor Brown was elected to serve a four-year term after beating Knute Buehler in Oregon’s most expensive gubernatorial campaign in the state’s history. In all, a combined \$36 million was spent – nearly double what was spent in 2010 between Governor Kitzhaber and Chris Dudley. Brown captured 50 percent of vote compared to Buehler’s 44 percent. Additionally, Val Hoyle beat Lou Ogden in the May primary by securing more than 50% of the votes cast to become the new Bureau of Labor and Industries (BOLI) Commissioner.

There were several ballot measures that impacted the session. In a special election held in January of 2018, voters overwhelmingly upheld a key health provider tax enacted in the 2017 session that had been referred by petition to the ballot. Its failure would have put the entire 2017-2019 budget out of balance. Although Oregonians decided on the fewest number of ballot measures since the 1980s, the results of each of them were symbolic of an increase in democratic control. Oregonians also rejected four measures sponsored by conservatives. One of those measures would have blocked the ability of the state to tax groceries. Another measure would have required a 3/5ths majority vote to raise revenue (“revenue” was very broadly defined). The other two measures would have prohibited the use of public funds for abortions and eliminated the state’s sanctuary status.

In late November, the Legislative Fiscal Office announced that entering the upcoming biennium the state faced a \$623 million shortfall in meeting current service levels for the upcoming budget cycle, despite having more than \$1 billion extra to spend than the previous biennium. Governor Brown’s proposed budget, which was released in early December, outlined her policy and budget priorities for the upcoming session. Those priorities included campaign finance reform, investments in affordable housing, shoring up the state’s Medicaid system, boosting Oregon’s low high school graduation rate, and a \$2 billion increase in new revenue to eliminate “structural deficits in public education system.” The Governor’s budget made no mention of any cost cutting or savings to the Public Employees Retirement System (PERS) despite an expected \$4 billion increase in the unfunded actuarial liability (UAL) of the fund, nor did it identify how the additional \$2 billion ought to be raised.

During the interim, two joint committees were convened and met over the course of several months to formulate proposals to improve Oregon’s K-12 education system and address global climate change by limiting carbon emissions in the state. The Joint Committee on Student Success conducted an extensive statewide tour examining various challenges facing school districts, teachers, and students. By the end of their work the committee had identified more than \$3.5 billion in recommended school improvements. Some of those improvements included but were not limited to lengthening the school year by 10 days, decreasing class sizes in grades 1 through 4, providing art, music, physical education, library, counselors and improving training and recruitment of teachers.

Meanwhile, the Joint Committee on Carbon Reduction met almost monthly during the interim in order to refine a proposed cap and trade bill. The legislation had failed to pass in the two prior sessions and was a priority of the majority party as well as the environmental community even though a similar measure was defeated in the State of Washington at the ballot the previous November. These two issues, education funding and carbon reduction, became incredibly divisive by mid-June.

With the recent sexual harassment scandal of former Senator Jeff Kruse (R-Roseburg) fresh in the rearview mirror, BOLI Commissioner Brad Avakian issued a scathing report finding the legislature to be “a hostile work environment” and that there was “substantial evidence” sexual

harassment had been a problem at the Capitol for years while legislative leaders did little to crack down on it. Most of the criticism was directed at President Courtney, but Speaker Kotek was also implicated in the report. Several former legislative staffers filed a multi-million-dollar lawsuit that was ultimately settled. Before the session began, legislators, staff, and lobbyists were all required to undergo training on workplace and sexual harassment. The scandal had come to a full boil by the time the session began. An example of this came in late February, when long-time Chair of the House Health Care Committee, Rep. Mitch Greenlick (D-Portland), berated a pharmaceutical lobbyist during a public hearing by calling him “stupid.” In response, Republicans demanded that he be stripped of his chairmanship because he created “an inflammatory and disrespectful atmosphere.” Shortly afterwards, Speaker Kotek removed him as chair of the committee.

As the session began both parties outlined broad agendas. The majority party made clear that quality education, carbon reduction and the environment, health care funding, and affordable housing were their top priorities. The Republicans, on the other hand, faced super-majorities in both chambers and looked to some moderate democrats in the Senate as the best chance to slow what was deemed an overly ambitious and very liberal agenda. As a result of increased criticism of President’s Courtney’s willingness to only allow bi-partisan bills to reach the Senate floor, he committed that he would allow bills to reach the floor that were “critical to helping Oregonians.” The Senate President acknowledged that they needed Republicans simply to reach a quorum.

Democrats moved aggressively out of the gate. On the House side, negotiations led to a quick deal eliminating half of the nearly \$900 million shortfall needed to fund the state’s Medicaid budget. The deal extended a six percent hospital tax and a two percent tax on insurance for a total of six years. On the Senate side, the majority party rapidly moved a very controversial bill prohibiting landlords from terminating month-to-month leases without cause and imposing state-wide rent control, the first of its kind in the nation.

In early March, the seventh of the quarterly revenue forecasts was issued showing that revenues far exceeded the 2017 close of session forecast by nearly \$1.5 billion, thereby triggering a personal “kicker” of approximately \$750 million. Several legislative members, including the Speaker, proposed diverting the kicker for other priorities. This forecast was used by the Co-Chairs of the Ways and Means Committee to issue their preliminary balanced budget plan and paved the way for the various budget sub-committees to act on several of the state agency budgets.

In May, after they visited 77 schools to hear from teachers, administrators, students and parents from across the state, the Joint Committee on Student Success proposed a 0.57% tax on corporate revenue over \$1 million which was projected to generate more than \$1 billion annually for public schools. Republicans complained that there were no plans to constrain the escalating costs of the PERS system and argued that the revenue generated under the Student Success Act should be constitutionally dedicated to education. After intense last-minute negotiations with the state’s largest private sector employer trade association, Oregon Business

and Industries, the House passed the bill. When the bill made it to the other chamber, Senator Betsy Johnson, the critical 18th vote needed to pass the new tax, sided with some of her more conservative colleagues and insisted on PERS reforms. Leadership provided a commitment that a PERS reform bill would be imminent in order to secure passage of the corporate activities tax package.

Before the new tax was approved, the Senate Republicans walked out of the Capitol and denied a quorum in the chamber for four days. This was the first of two walk outs by Senate Republicans during the session. In order to convince the Republicans to return to the chamber, leadership killed two controversial bills, one related to guns and another bill that would have eliminated non-medical exemptions to vaccinations in order to attend school. After more than a decade of democratic attempts to secure new revenue for education, HB 3427, the new *corporate activity tax* anticipated to bring in over \$1 billion per year, was finally passed by the Senate. Interestingly, its passage occurred 2 days before the final revenue forecast was released to the public.

The May revenue forecast, used to balance the upcoming biennial budget, brought some unexpected news and shattered all expectations. Not only did personal and corporate tax revenues far exceed anticipated levels, the personal income tax kicker had nearly doubled from the previous forecast to \$1.4 billion, the largest ever. This was due to more than \$900 million in additional resources than officials had predicted just three months earlier. Despite talks by the majority party about using some of the kicker for other purposes, Republicans made it clear that they would not provide the necessary votes, a 2/3rds majority in this case, to redirect the kicker. This final forecast, and the passage of the new corporate activity tax, set the stage for the legislature to complete the remaining budgets and enact the measures projected to have budgetary impacts. It also set the stage for other big policy proposals including the Clean Energy Jobs or “cap and trade” bill (HB 2020).

After years of discussion, and at times heated debate, legislative leadership made it clear that they intended to pass a carbon measure during the session. The Joint Committee on Carbon Reduction was formed with the primary duty of negotiating a bill that could pass both chambers. Armed with a Legislative Counsel opinion that stated that placing a price on carbon did not require a 3/5th majority to do so, and the long-anticipated bill was introduced in early February. The committee held 9 public hearings, some of which took place in communities outside of Salem, 12 work sessions, and introduced 116 amendments. The bill was finally debated on the House Floor on June 17th and passed without any republican votes.

The bill was scheduled for second reading on the Senate floor June 19th. The Republican caucus cited rural community devastation if the bill passed due to high energy costs, increasing gas prices, and job killing expenditures for industry. Bolstered by some of the largest protest rallies in the history of the capitol, Senate Republicans made the decision to walk out for the second time. This time President Courtney asked the Governor to enlist the help of the Oregon State Police to compel them to return to the Senate Chamber for business. However, Senate Republicans left the state and were able to deny the Senate a quorum which prevented the

legislature's ability to advance or pass any bills, for 9 consecutive days. This tactic was also used by House Democrats in 2001 during a redistricting fight. Governor Brown threatened to call a special session on July 2nd to address any business left unfinished due to the absence of the 12 Republicans. In a surprising turn of events, President Peter Courtney announced that HB 2020 did not have the needed support in his own caucus to pass during the session. When the Republicans returned on June 29th, HB 2020 was moved to the Rules Committee to die and the Senate passed over 100 bills along with the House to complete the remaining business before the assembly.

In the end, the Legislative Assembly was able to close the pre-session continuing service level funding gap of \$623 million without acting at all. Greater than predicted revenue was realized with each forecast. With the passage of several new taxes and increased fees, the legislature was able to balance the budget with relative ease compared to some of the previous recent sessions. The final Legislatively adopted budget amounted to nearly \$23.7 billion (compared to \$20.9 in the 2017-19 biennium) in General Fund and Lottery resources, an increase of 12.1% over the previous biennium. Democrats declared that the legislative session was a resounding success with the one notable exception; the cap and trade proposal failed rather spectacularly during the final weeks of the session. Meanwhile, Republicans complained bitterly that the legislature's urban centric agenda only created a bigger urban/rural divide in the state. There is little doubt that relationships, particularly in the Senate, were strained during the session. However, unlike the previous long session, the House and Senate adjourned concurrently this session, as per custom, rather than separately.

In the later part of February, Secretary of State Dennis Richardson, the only Republican to be elected state-wide in two decades, succumbed to his fight against brain cancer, thereby placing the Governor in a position of having to appoint his Republican successor. The Governor chose Bev Clarno, a highly respected former state legislator and Speaker of the House from Central Oregon. Only days later after Secretary Richardson's death, former Secretary of State Norma Paulus, the first woman in Oregon to be elected to state-wide office, also died. In May, Senator Jackie Winters, a moderate Republican from the Salem area, also lost her battle with cancer, thereby leaving the Senate Republican caucus with only 11 members. Rep. Denyc Boles (R-Salem) was appointed to fill the vacant seat with only a few days remaining in the session.

NOTABLE ACTIONS TAKEN THIS SESSION

- Passage of a corporate activity tax (CAT) dedicated to education:
 - Requires companies to pay 0.57% on sales over \$1 million while permitting the deduction of up to 35% of labor costs or capital costs from total sales
 - Groceries, gas, hospitals and long-term care are exempt
 - Cuts personal income tax rates by 0.25% for the lowest three of the state's four tax brackets

- Revenue generated by the new tax this biennium is estimated to be \$952 million, but will amount to over \$2 billion in the next biennium and is legislatively dedicated to K-12 education programs
- \$9 billion budget for K-12 schools, the largest school budget in state history, which is 9.7 percent higher than the previous biennium. Combined with the newly passed Student Success Act it is hoped that Oregon's K-12 education system will be transformed and produce better student outcomes.
- A record \$2.2 billion to support community colleges and public universities including assisting an additional 2,500 more students through the Oregon Promise Grant.
- A new paid family and medical leave insurance program that allows every working Oregonian to be eligible for 12 weeks of paid leave for family purposes.
- Dedicated portion of certain sports betting to fund PERS unfunded liability
- A state-wide ban on single-use plastic bags at groceries, restaurants, retail establishments.
- A state-wide policy requiring an ask-first approach to dispensing plastic straws.
- New prohibitions on the use of diesel engines in mid and heavy-duty trucks in Multnomah, Washington and Clackamas Counties.
- New requirements banning no-cause evictions after 12 months and a state-wide limit on how much a landlord may increase rent from one year to the next – the first statewide limitation in the country.
- SJR 18 – Campaign Finance Reform – voters will be asked to amend the state's Constitution paving the way to place campaign limitations in local and state-wide races.
- New requirements that expand protections against workers who have been harassed or discriminated against; this new law extends the statute of limitation for discrimination, harassment and sexual assault, and greatly limits the use of non-disclosure and no-rehire agreements.
- New juvenile justice reforms to ease sentencing guidelines and eliminated life without parole for offenders under the age of 18.
- New requirements for public employees to adopt policies with specific standards to prevent and promptly investigate cases of unlawful discrimination as well as greatly limit the use of non-disclosure agreements.

- Permanent ban to offshore oil or natural gas drilling.
- New requirements regarding oil train safety plans.
- Permission for community colleges to offer bachelor's degrees in fund for schools.
- New public worker protections for performing union activities while on the job.
- Paid postage for voter return envelopes.

The Governor received the \$2 billion in education funding that she challenged the assembly to approve at the beginning of session. There were substantial investments made in affordable housing, Medicaid, child welfare services and some modest cost containment for PERS. However, the dramatic failure of the Cap and Trade bill and the two Senate Republican walkouts are likely what the session will be remembered for.

LOOKING AHEAD

After the session ended it did not take long for Democrats to announce that they fully intend to pursue the recently defeated Cap and Trade proposal during the 2020 session. As mentioned previously, the bill did not have the necessary democratic support during the long session. As it turns out it was only one vote short. That vote was Senator Laurie Monnes Anderson from Gresham who had concerns with the bill due to the impact on a large manufacturer in her district. It is very likely that those concerns will be addressed, and the measure will get a second chance. The real question is whether the majority party will allow further consideration of Republican concerns and modify the bill accordingly and if not, will the Republicans deny the assembly a quorum again during the 35-day session.

Voters will also decide the fate of a couple of referrals that could prove contentious and expensive. The first legislatively referred measure would amend the Oregon Constitution authorizing adoption of state and local laws requiring campaign finance-related disclosures. The amendment would also authorize limiting – to the extent permitted under the United States Constitution – political donations and expenses. The second referral would increase tobacco taxes in the state by the equivalent of nearly \$2 a pack and will tax other tobacco products including e-cigarettes and vaping products. It is estimated that that if the measure is passed it would generate approximately \$340 million in the 2021-2023 biennium, 90% of which would go to Oregon' Medicaid program and the other 10% dedicated to tobacco cessation programs. Each of these measures will be on the November 2020 ballot.

In order to qualify a statutory measure for the ballot 112,020 signatures must be collected; constitutional measures will require 149,360 signatures. The deadline to turn in signatures is July 2, 2020. With the state's mounting PERS unfunded actuarial liability that is approximately \$26 billion it is also possible that voters could be asked to make further modifications to the retirement system. Former Democratic Governor Ted Kulongoski and former Republican Senator Chris Telfer (Bend) have submitted several initiative petitions to the Secretary of State's

office to make additional reforms to the program. So far there have been more than 44 petitions submitted, and there is nearly a year to go before signatures need to be submitted for verification.

Commented [JJ]: 44 initiatives, 2 referendums, and 2 referrals (SJR 18 and HB 2270)

There is a big question as to whether President Peter Courtney will be able to maintain his current leadership position. Several county democratic central committees have passed resolutions urging the President to step down, but what counts is whether he has the necessary support within his own caucus. There have been signs of cracks, including his nearly two-week absence during the session due to health concerns and a less than unanimous vote by his own caucus for him to become President. Another thing to keep an eye out for is whether the public unions will punish any members of the democratic party after the passage of PERS reforms by withholding campaign support in the upcoming election.

Governor Brown, for the first time in four years, will not face an election. Her previous victory last November guarantee her four years in office. Treasurer Tobias Read will seek a 2nd term as State Treasurer. When Governor Brown sought a Republican to replace Secretary Richardson, she made it clear that she wanted someone who did not intend to run for the office in 2020. Assuming that commitment is honored, current Secretary of State Bev Clarno will not run, and that seat will be hotly contested – particularly because the Secretary of State will likely play an integral role in redistricting in 2021. Finally, current Attorney General Ellen Rosenblum will have completed her 2nd term resulting in another state-wide open seat that will be up for grabs, although she intends to run for a 3rd term. Not surprisingly, Rep. Jennifer Williamson, who is widely believed to be eyeing the position, has already been replaced as Majority Leader in order to free her time up for this pursuit. She was replaced by Rep. Barbara Smith Warner (Portland).

The vacancy created by Rep. Mike McLane (R-Prineville) when he was appointed as a Circuit Court Judge by the Governor has been filled by Vikki Breese-Iverson. Furthermore, Rep. Jeff Barker (D-Beaverton) who is the longest serving democratic House member recently announced his intention to not seek re-election to the House.

Finally, HCR 38, which was passed by the Assembly establishes limits on the number of measures that may be drafted for the 2020 legislative session by each Senator, Representative and interim committee, the Governor and the Chief Justice of the Supreme Court. Each Senator will be allowed to introduce one bill, each Representative will be allowed to introduce two bills, each committee will be permitted to introduce 3 bills and the Governor and Chief Justice will be permitted to introduce five bills each.

DYNAMICS OF THE 80th LEGISLATIVE ASSEMBLY

Session Length:	160	Bills Introduced:	2,768
Date Convened:	January 22, 2019	Bills Signed by Governor: (26 th of Aug)	700
Date Adjourned:	June 30, 2019	Bills Vetoed:	2

OREGON SENATE

Democrats: 18
Republicans: 12

Senate Caucus Leadership:

Senate President Peter Courtney (D-Salem)
Senate Majority Leader Ginny Burdick (D-Portland)
President Pro Tempore Laurie Monnes Anderson (D-Gresham)
Deputy Majority Leader Elizabeth Steiner Hayward (D-Portland)
Majority Whip Mark Hass (D-Beaverton)
Majority Whip Rob Wagner (D-Lake Oswego)
Assistant Majority Leader Michael Dembrow (D-Portland)
Assistant Majority Leader Chuck Riley (D-Hillsboro)

Senate Republican Leader Herman Baertschiger Jr. (R-Grants Pass)
Republican Leader Chuck Thomsen (R-Hood River)
Deputy Republican Leader Alan Olsen (R-Canby)
Deputy Republican Leader Cliff Bentz (R-Ontario)
Republican Whip Dennis Linthicum (R-Klamath Falls)

OREGON HOUSE OF REPRESENTATIVES

Democrats: 38
Republicans: 22

House Caucus Leadership:

Speaker of the House Tina Kotek (D-Portland)
Majority Leader Jennifer Williamson (D-Portland)
Speaker Pro Tempore Paul Holvey (D-Eugene)

Majority Whip Barbara Smith Warner(D-Portland)
Deputy Majority Whip Rob Nosse (D-Portland)
Assistant Majority Leader John Lively (D-Springfield)
Assistant Majority Leader Julie Fahey (D-Eugene)
Assistant Majority Leader Janelle Bynum (D-Clackamas)

Republican Leader Carl Wilson (R-Grants Pass)
Deputy Republican Leader Greg Barreto (R-Cove)
Republican Whip Sherrie Sprenger (R-Scio)
Deputy Republican Whip Denyc Boles (R-Salem)
Assistant Republican Leader Duane Stark (R-Grants Pass)
Assistant Republican Leader Ron Noble (R-McMinnville)

I am grateful to CRSOA for their support and guidance through this latest Legislative Session. Staff has been outstanding, and our success could not have been achieved without their hard work and dedication. It is an honor represent CRSOA. Mark Landauer – MJL Consulting, LLC.

SUMMARY OF WAYS & MEANS EXPENDITURES

HB 5030 - Lottery Bond Bill

Chapter 671, Effective August 9, 2019

This bill provided over \$273 million in Lottery Bonds for a wide array of community-based projects and programs. The major disappointment was that no new allocations were made to the Connect Oregon program. Lottery bond revenues are not available right away as the bonds are not scheduled to be issued until the spring of 2021. A couple notable appropriations:

Port of Cascade Locks received \$2.4 million – for business park expansion
Port of Coos Bay received \$5 million - for Coos Bay Rail Line Repairs and Bridge Replacement
Port of Coos Bay received \$15 million – for their channel deepening project

HB 5050 - Budget Reconciliation

Chapter 644, Effective August 9, 2019

This budget bill implements the final pieces of the state budget for the 2019-21 biennium and is commonly referred to as the Christmas Tree bill. The bill establishes appropriations for the Emergency Board (\$75 million), finalizes the General Fund components of the statewide budget, implements budgetary changes tied to other legislation, makes community project allocations (\$30 million), and makes technical adjustments to agency budgets previously approved. The bill also includes agency expenditure limitation authority for various bond-funded projects. A couple of notable appropriations include:

\$1,600,000 for Port of Port Orford - Port of Port Orford Cannery Redevelopment

ENVIRONMENT - PASSED

HB 2007 – Diesel Engine Regulation

Chapter 645, Effective August 9, 2019

This bill creates new “clean diesel” standards for medium and heavy-duty trucks (weighing more than 26,000 pounds) registered in Washington, Clackamas and Multnomah counties. The requirements are as follows:

Beginning on January 1, 2025 - the Oregon Department of Transportation (ODOT) may not issue a certificate of title for model year 2009 or older diesel engines for medium duty trucks (weighing between 14,000 – 26,000 pounds) and model year 2006 or older engines for heavy-duty trucks (defined as weighing greater than 26,000 pounds).

Beginning on January 1, 2023 - ODOT may not issue a registration or renewal of registration in Washington, Multnomah and Clackamas counties for medium-duty trucks or heavy-duty trucks with diesel engines that are model year 1996 or older.

Beginning on January 1, 2029 - ODOT may not issue a registration or renewal of registration in Washington, Multnomah and Clackamas counties for: Medium-duty trucks with 2009 or older diesel engines; Heavy-duty trucks with 2006 or older diesel engines (unless the heavy-duty truck is owned by a public body); Heavy-duty trucks that are owned by a public body that are powered by a model year 2009 or older diesel engine. The bill includes several exemptions from the requirements, including an exemption for emergency vehicles. Finally, the bill also permits the expenditure of the remaining money the state received in the Volkswagen emissions settlement.

HB 2076 – Aquatic Invasive Species

Chapter 154, Effective January 1, 2020

This bill requires a person to drain water from a boat removed from state waters before transporting the boat within the state. Punishes failure to remove or open device with a maximum fine of \$250. It also authorizes the Department of Fish and Wildlife, State Marine Board (Board), or Department of Agriculture to order the decontamination of any recreational or commercial watercraft that is inspected at a check station and requires a boat operator to cooperate with an ordered decontamination process. The bill also authorizes peace officers to stop persons transporting commercial or recreational watercraft and order them to return to an aquatic invasive species check station if the peace officer has probable cause and there is an open check station within five miles of the stop. The bill also clarifies that the Aquatic Invasive Species Prevention Fund may be used for costs associated with the aquatic invasive species prevention permit program, to award grants, and for related purposes of Board.

HB 2250 – Oregon Environmental Protection Act

Chapter 138, Effective January 1, 2020

This bill requires the Oregon Department of Environmental Quality (DEQ) and the Oregon Health Authority (OHA) to regularly assess final changes to federal environmental law to determine whether the changes are significantly less protective of public health, the environment, or natural resources than baseline federal standards. The bill directs the DEQ to recommend actions to the Environmental Quality Commission (EQC) to maintain baseline federal standards, and would direct OHA to take actions necessary to maintain standards that meet or exceed environmental protections in effect on January 19, 2017 if the federal government proposes regulations that are less protective of environmental or health standards.

HB 2436 – Removal Fill

Chapter 652, Effective August 9, 2019

Currently, wetlands and waterways are protected through permits issued by the Department of State Lands (DSL) and the US Army Corps of Engineers. Oregon has pursued assuming more of the permitting responsibilities for 25 years to streamline the process for applicants. This bill directs the Department of State Lands to develop a legislative proposal for partial assumption of the authority to administer permits for the discharge of dredge or fill materials under section

404 of the Federal Water Pollution Control Act. The bill limits assumption to permits within an acknowledged urban growth boundary, mining and related activities, and the creation and operation of mitigation banks. The bill also removes certain restrictions on the purchase of credits from the Oregon Removal-Fill Mitigation Fund; most relate to the availability of approved credits.

HB 2623 – Fracking Prohibition

Chapter 406, Effective June 17, 2019

This bill imposes a statewide moratorium on hydraulic fracturing used in the exploration for, or production of, oil or gas until 2025. It exempts natural gas storage wells, geothermal activities, and existing coal bed methane extraction wells from the definition of "hydraulic fracturing" subject to the moratorium.

SB 41 – Oil Spill Prevention Fees

Chapter 540, Effective September 29, 2019

ORS 468B.405 establishes fees to be submitted to DEQ for covered vessels and facilities located offshore and onshore for oil spill contingency planning and response preparedness. This bill modifies oil spill prevention fees, to include Cargo and passenger vessels fee from \$105 to \$220; non self-propelled tank vessels having a capacity of fewer than 25,000 barrels from \$85 to \$160 per trip; non self-propelled tank vessels having a capacity of 25,000 to 99,999 barrels from \$110 to \$220 per trip; non self-propelled tank vessels having a capacity of 100,000 or more barrels from \$250 to \$1,850 per trip; self-propelled tank vessels of 300 gross tons or less from \$85 to \$160 per trip; self-propelled tank vessels over 300 gross tons from \$2,100 to \$5,500 per trip; offshore and onshore facilities that are not pipelines from \$9,250 to \$20,000 per year; dredge vessels from \$50 to \$100 per day when operating in the navigable waters of the state; and establishes separate fees for pipelines with a diameter of six inches or less to \$15,000 per year and pipelines with a diameter greater than six inches to \$25,000 per year. Applies to fees assessed on or after the effective date of the Act.

SB 256 – Offshore Drilling Moratorium

Chapter 14, Effective January 1, 2020

The "territorial sea" is defined in ORS 196.405 as the waters and seabed extending three geographical miles seaward from the coastline in conformance with federal law. The 2007 legislature adopted a prohibition on leasing in the territorial sea for purposes of exploration, development, or production of oil, gas, or sulfur that sunset on January 2, 2010 (Chapter 521, Oregon Laws 2007). The 2010 legislature extended this prohibition until January 1, 2020 (Chapter 11, Oregon Laws 2010). SB 256 prohibits the Department of State Lands from leasing any submerged or submersible lands in the Oregon territorial sea for the exploration, development, or production of oil, gas, or sulfur or activities in furtherance thereof within federal waters adjacent to the territorial sea.

SB 445 – Invasive Species Council

Chapter 622, Effective September 29, 2019

The 2001 Oregon Legislative Assembly established the Oregon Invasive Species Council (Council) to conduct a comprehensive and coordinated effort to prevent, detect, control, and eliminate invasive species harming the region's economy, health, and natural resources. This bill requires the Invasive Species Council (Council) to report biennially to interim legislative committees concerning Council activities during the previous two years. The bill also revises the Council membership to include eight ex-officio voting members, four ex-officio non-voting members, and 10 voting members who must represent a different specified category of interest.

ENVIRONMENT – DID NOT PASS**HB 2020 – Carbon Cap and Trade**

Did not Pass

HB 2020 would have established the "Oregon Action Climate Program to meet updated greenhouse gas reduction goals for the state, with a goal of reducing emissions to 80 percent below 1990 levels by the year 2050. The bill would have impacted entities with annual emissions of 25,000 metric tons of carbon annually (primarily natural gas, electricity suppliers, manufacturing industries and the transportation fuels sector). The bill specified how revenues from the auction of allowances would have been spent. This bill was the target of a second Senate Republican walkout that lasted nine days.

GENERAL - PASSED**HB 2080 – Marine Board Fees**

Chapter 389, Effective January 1, 2020

This bill increases the fee for boating safety certificates from \$10 to \$20. It also increases the biennial fee for original or renewal certificate of identification number or registration for all sailboats 12 feet and longer and all motorboats from \$4.50 to \$5 plus \$5.95 per foot. \$5 of each original or renewal certificate be deposited in the Aquatic Invasive Species Prevention Fund. The bill also removes the existing biennial fee for motorboat aquatic invasive species prevention permit. Finally, the bill increases the application fee for original boat title or title transfer from \$50 to \$75.

HB 2682 – Bicycle Lanes in Intersections

Chapter 120, Effective January 1, 2020

This bill clarifies that a bicycle lane is considered to exist within an intersection if the bicycle lane is marked on opposite sides of the intersection in the same lane of travel.

HB 2787 – Wet Marine Insurance

Chapter 493, Effective January 1, 2020

This bill seeks to distinguish between taxation schemes for admitted and non-admitted (unauthorized) wet marine and transportation insurers operating within Oregon. Admitted insurers have a certificate of authority granted by the Oregon Department of Financial Regulation and are allowed to advertise insurance coverage within the state. Non-admitted insurers of wet marine and transportation insurance provide policy coverage for items not covered by admitted insurers. Non-admitted insurers are not allowed to advertise within the state and a licensed broker must be involved in the transaction of non-admitted insurance coverage. HB 2787 distinguishes between admitted and non-admitted insurer taxation policies and rates.

GENERAL – Did Not Pass**HB 2272 – State Lands Lease Surcharge**

Did not Pass

This bill, introduced at the request of the Department of State Lands would have authorized the department to impose a surcharge on all state-owned land leases. Proceeds from the surcharge would have been deposited in a newly established Restoration Subaccount. Money in the subaccount would have used to purchase insurance or to otherwise defray costs to clean up or otherwise address damage to state-owned submerged or submersible lands.

LABOR - PASSED**HB 2005 – Paid Family Medical Leave**

Chapter 700, Effective September 29, 2019

Oregon requires family medical leave for employers with 25 or more employees. Leave can be taken for a serious illness, care for a family member who is ill, or bonding with a newborn or newly adopted child. More than half of Oregon workers are eligible for unpaid family and medical leave benefits under the federal Family and Medical Leave Act of 1993 (FMLA) and the Oregon Family Leave Act (OFLA).

Oregon requires employers of 10 or more workers (six for employers in Portland) to allow employees to accrue and use up to 40 hours of paid sick leave each year.

Under HB 2005 an insurance program is created to provide employees with a portion of wages while on family and medical leave or military family leave. The bill requires employee to have received at least \$1,000 in wages during base year and to have contributed to the fund in an amount determined by the Director of the Employment Department to be eligible for the benefit. The bill directs the Employment Department to set contribution rates, collect payroll contributions and otherwise administer the program.

On January 1, 2022 premiums will begin to be collected and on January 1, 2023 employees could begin to access the paid leave benefit.

Employers with 25 or more employees pay (40% of 1% of payroll) and employees pay (60% of 1% of payroll); Employers with less than 25 employees don't pay the "employer premium" (40% of 1% of payroll). The cap on premiums is tied to the Social Security cap of \$132,900

Benefits are capped to a weekly benefit amount at 120 percent of state average weekly wage (approximately \$1,215). It also establishes a minimum weekly benefit amount as 5 percent of state average weekly wage (approximately \$50). The bill allows employees to use accrued paid leave (i.e., vacation leave, sick time) in addition to receiving paid family and medical leave insurance benefits to replace wages up to 100 percent.

Job protections for employees taking leave attaches after 90 days of employment. The job protections for employees who work for employer with fewer than 25 employees: they may be returned to a different position with similar job duties and with the same pay and benefits. Prohibits civil action against employer who takes necessary action to restore employee returning from leave by terminating temporary replacement or returning employee transferred to fill vacancy to prior position

A few additional details include the use of leave will be permitted for specified crime-related purposes ("safe leave"). Requires employee who commences unforeseeable leave without advance notice to provide oral notice to employer within 24 hours and written notice within three days. There is also explicit language that this Act does not require any collective bargaining agreements to be reopened. Extensive rulemaking will need to be undertaken to fill in the gaps.

HB 2016 - Union Business During Work Hours

Chapter 429, Effective January 1, 2020

This bill introduced in part due to the US Supreme Court's *Janus* decision requires public employers to allow persons designated by a bargaining unit to conduct union related activities during their normal work hours. The bill also requires that employers deduct union dues of employees who are on a list provided by the collective bargaining unit. Finally, the bill also requires employers to allow meetings hosted by the bargaining unit in workplace common areas.

HB 2341 – Reasonable Accommodations for Pregnant Employees

Chapter 139, Effective January 1, 2020

This bill makes it an unlawful employment practice for an employer to deny employment opportunities, fail to make reasonable accommodations, or take certain actions because of known limitations of an employee or applicant related to pregnancy, childbirth, or a related

medical condition. The bill authorizes an exemption if the reasonable accommodation requires significant difficulty or expense that imposes an undue hardship on the business operations. The bill also exempts employers with fewer than six employees. Employers are required to post a sign informing employees of these protections. The bill also directs the Commissioner of Bureau of Labor and Industries (BOLI) to develop training and education materials for employees and employers. Finally, the bill provides an employee a private right of action or ability to file a complaint with BOLI.

HB 2589 – Disability Discrimination

Chapter 71, Effective May 6, 2019

HB 2589 updates language in employment discrimination statutes. The bill specifies that sexual orientation is not considered a physical or mental impairment and that an individual does not have a disability solely by reason of the individual's sexual orientation. Current law also specifies that an employer may not be found to have engaged in an unlawful employment practice solely because the employer failed to provide reasonable accommodation to an individual with a disability arising out of transsexualism. The bill updates language relating to sexual orientation and removes language stating that employer's failure to provide a reasonable accommodation arising out of transsexualism is not an un-lawful employment practice.

HB 2593 – Expression of Milk

Chapter 118, Effective September 29, 2019

Currently in Oregon, employers with 25 or more employees are required to allow an employee a 30-minute rest period to express milk during each four-hour period and specifies that the rest period be taken approximately in the middle of the work period. Oregon's requirements extend to the first 18 month after a child's birth and to coincide with rest periods and meal periods that are already provided. An employer is not required to comply with the rest period to express milk if doing so would impose an undue hardship on the business. HB 2593 removes the limitations on frequency and duration of rest periods employer must provide an employee to express milk. It also limits the ability to claim an undue hardship to employers who have 10 or fewer employees. Finally, the bill extends the requirements to all employers by removing the exemption for employers with fewer than 25 employees.

SB 123 - Pay Equity Fix

Chapter 617, Effective January 1, 2020

SB 123 was intended to be a technical fix bill for the pay equity legislation passed in 2017. The bill clarifies that pay differentials are acceptable for merit, travel, bona fide reasons contained in a collective bargaining agreement, and other factors. It will also trigger a new round of rulemaking to provide additional clarity to employers.

SB 164 – Retirement Savings

Chapter 149, Effective January 1, 2020

In 2015, the legislature created the seven-member Oregon Retirement Savings Board, chaired by the State Treasurer. In 2017, the Board created OregonSaves, a defined contribution retirement plan. Oregon employers with 20 or more employees are required to automatically enroll their employees in OregonSaves if the employer does not offer a qualified retirement plan. Over the next year, smaller employers will also be required to automatically enroll their employees if the employer does not offer a qualified plan. Employees enrolled in OregonSaves make post-tax contributions to a Roth IRA that is administered by the Oregon State Treasury. Employers do not contribute to OregonSaves accounts and employees may opt not to contribute after their employer enrolls them. However, there were no provisions to enforce these requirements. SB 164 authorizes Bureau of Labor and Industries (BOLI) to enforce the Board's rules governing retirement plans using BOLI's contested case process. The Oregon Retirement Savings Board can request BOLI to investigate if, after making three attempts using different forms of communication, the Board has reasonable grounds to believe the employer remains in violation. BOLI can accept complaints from employees no earlier than two years following the date by which an employer is required to register with OregonSaves.

SB 370 – Employee Notification of Anticipated Immigration Inspections

Chapter 260, Effective June 6, 2019

The Immigration and Customs Enforcement (ICE) implements the Immigration Reform and Control Act of 1986. That Act requires employers to verify the identity and employment eligibility of their employees using the Employment Eligibility Verification Form I-9. Employers are also required to maintain for inspection original I-9 forms. Any person or entity required to retain I-9 forms must be provided with at least three business day's notice prior to an inspection of the forms by an officer of an authorized agency of the United States. SB 370 requires an employer to notify employees that an inspection of I-9 forms or other employment records used by the employer to verify the identity and employment eligibility will be conducted by a federal agency. The notice must be provided within three business days of the employer receiving the federal notice of inspection. The bill also directs the Commissioner of Bureau of Labor and Industries (BOLI) to generate a standardized notice template for employers use that contains specified information, including contact information for a raid resistance hotline currently in use in Oregon.

SB 478 – Prohibited Payments for Non-Disclosure Agreements

Chapter 462, Effective June 20, 2019

This bill prohibits payments made in connection with a non-disclosure agreement (NDA) relating to workplace harassment from campaign contributions, political committee contributions, petition committee contributions, or public moneys. The bill also prohibits the use of third-party money to make a payment in connection with a NDA relating to workplace harassment if the harassment occurred when the holder of public office or candidate was

acting as an office holder or candidate. The bill defines "payments in connection with a nondisclosure agreement" as any form of consideration provided in exchange for the silence of another. This includes money, stock, or personal property, severance pay or benefits, the promise of a positive reference or assistance in obtaining future employment in public employment, alternative work arrangements, and any termination agreement that includes a waiver of past or future claims against the public official, public body, or public employee. Finally, the bill allows a civil penalty of up to two times the amount of the penalty provision for violating the NDA.

SB 726 – Workplace Conduct

Chapter 343, Effective September 29, 2020

This bill places several requirements on private sector employers. For example, the bill requires employers to have written policies for the prevention and investigation of harassment in the workplace. It also increases the statute of limitations for claims of harassment or sexual misconduct from one to five years. The bill does not revive old claims, and the statute of limitations extension will apply to cases occurring after the enactment date.

SB 796 – Family Leave for Organ Donation

Chapter 265, Effective January 1, 2020

This bill makes a period of absence for donation of body part, organ or tissue a "serious health condition for which family leave may be taken. Please see HB 2005 (above).

LABOR BILLS – Did Not Pass

SB 379 – Marijuana in the Workplace

Did Not Pass

Under current statute, ORS 659A.315, an employer may not prohibit an employee or prospective employee from using tobacco products during nonworking hours. However, an employer can prohibit the off duty use of other products legal to Oregon, including alcohol and marijuana. This measure would have prohibited employers from restricting or banning the use of marijuana, alcohol, and other products legal to Oregon by their employees or prospective employees during nonworking hours. Several exceptions were included in the bill including if: the restriction related to a bona fide occupational qualification relating to health and safety; the business was a federal contractor or employer receiving grants subject to the federal Drug-Free Workplace Act; the employer was required by federal law or regulation to drug test employees or potential employees; the employee was subject to a collective bargaining agreement that prohibits use; the employee fit within the statutory definition of public safety personnel, emergency service provider, or licensed health care professional; the employer/employee operated a public transit vehicle or taxi; or performed job functions that could involve a risk of injury to others, including the operation of heavy machinery or equipment. Under the bill employers could still impose restrictions that relate to an

employee's performance of work while impaired. A similar measure was introduced in the House.

PORTS - Passed

HB 2351 – Wake Size in Willamette River Greenway

Chapter 192, Effective January 1, 2020

In 1967, Oregon Governor Tom McCall proposed the idea of a greenway to enhance the scenic, recreational, historic, natural, and agricultural qualities along the Willamette River. During the 1980s the boundaries of the Willamette River Greenway were identified and adopted. This bill permits the Oregon State Marine Board (OSMB) to adopt special regulations for boat operation on the Willamette River within the Willamette River Greenway, including establishment of designated speed and other methods for the protection of shoreline, public and private property, fish and wildlife habitat, and vegetation. The bill exempts deep draft vessels, tugboats, towboats, barges, launch vessels, and other commercial vessels from special regulations on Willamette River from river mile 0 to 26.

PORTS – Did Not Pass

HB 2181 – Task Force on Maritime Service Workforce Development

Did Not Pass

This bill would have established the Task Force on Maritime Sector Workforce Development to continue the work of a predecessor task force created in 2017. It also would have required the Board to conduct a study and analyze how to implement the recommendations of the continuing and predecessor task forces, and to report to the Legislative Assembly in 2020 and 2022.

HB 2284 – Port of Newport Commission Appointment

Did Not pass

This bill would have renamed the Port of Newport as Oregon International Port of Newport and would have required that port commissions be appointed by the Governor. The bill was introduced by Rep. Greg Smith (R-Heppner) and supported by the International Longshoreman's Workers Union. Under the bill commissioner's qualifications were detailed and required to represent different backgrounds, would have been appointed by the Governor in staggered two-year terms. Finally, the existing commissioners would have been allowed to complete their terms unless earlier discharged by Governor.

HB 2304 – Willamette Falls Locks

Did Not Pass

The Willamette Falls Canal was constructed in the 1870s to allow river traffic to navigate

around the 40-foot, horseshoe-shaped basalt ridge between Oregon City and West Linn on the Willamette River. In 1915, the U.S. Army Corps of Engineers purchased the locks; the locks were placed on the National Register of Historic Places in 1974. The locks were deemed non-operational in December 2011. SB 131 (2015) established the Willamette Falls Locks Task Force to gather information related to the lock, including their current and potential future value. In 2017, SB 256 (2017) created the Willamette Falls Locks Commission, the Willamette Falls Navigation Infrastructure Program, and the Willamette Falls Navigation Infrastructure Program Account. HB 2304 would have authorized lottery bond proceeds to be issued to the Oregon Department of Administrative Services for the acquisition and restoration of the Willamette Falls navigation canal and locks.

SB 678 – Salvage Chief Restoration Funding
Did Not Pass

This bill would have appropriated \$1.9 million in General Funds to the Department of Administrative Services for distribution to the Salvage Chief Foundation - specifically \$1.2 million for hull repairs; \$400,000 for engine and fire pump upgrades; and \$300,000 to upgrade emergency communications and provide for U.S. Coast Guard inspection and contingency - to return the vessel Salvage Chief to operation for disaster training, response, and recovery purposes.

PUBLIC SAFETY – PASSED

HB 2209 – Oil by Rail

Chapter 581, Effective January 1, 2020

This bill requires railroads that own or operate high hazard train routes to institute oil spill contingency plans and to have those plans reviewed and approved by Department of Environmental Quality. The bill also requires railroads that own or operate high hazard train routes to annually submit financial responsibility statements to DEQ. The bill also outlines a training schedule for training for response to high hazard oil train spills. The bill sets forth additional requirements for a plan adopted by the Oregon State Fire Marshal for coordinated response to oil or hazardous material spills or releases that occur during rail transport. The bill creates a High Hazard Train Route Oil Spill Preparedness Fund and continuously appropriates money in the Fund to DEQ for the purposes related to contingency planning for high hazard train routes. The bill also authorizes a gross revenue fee of up to 0.05 percent on railroads required to submit contingency plans which is scheduled to sunset January 2, 2027. Finally, it authorizes a per-car fee of up to \$20 on oil tank rail cars entering the state or originating in the state. This fee is also scheduled to sunset January 2, 2027.

SB 431- Creation of an Urban Flood Safety & Water Quality District

Chapter 621, Effective September 29, 2019

This bill creates a new taxing structure and district to replace the current system of taxing

districts for levees and watershed areas in Multnomah County. The bill authorizes the creation of an urban flood safety and water quality district in Multnomah County within urban growth boundary adopted by Metro, for the purposes of managing and improving the and getting certification and accreditation of the levee system. The measure provides for a method of selecting the board of directors and sets forth their powers and duties. It also permits the district to impose charges, assessments and taxes and issue bonds and to dissolve certain drainage districts and water improvement corporations when certain conditions are met. Finally, the bill requires the urban flood safety and water quality district to assume dissolved entity's duties, assets and liabilities.

SB 998 – Bicycles at Intersections

Chapter 683, Effective January 1, 2020

Under current Oregon law, individuals riding bicycles on public roads are treated like other vehicles and must stop at intersections controlled by stop signs or a flashing red light before proceeding through the intersection. This bill allows a bicyclist approaching an intersection regulated by a stop sign or flashing red light at a safe speed to proceed through that intersection or make a turn without stopping. It also creates the traffic violation of improper entry into an intersection controlled by a stop sign and improper entry into an intersection controlled by a flashing red light. A violation of either occurs when a bicyclist fails to yield to traffic within the intersection or to traffic that is approaching so close as to constitute an immediate hazard, disobeys a police officer or flagger, fails to exercise care to avoid an accident, or fails to yield the right of way to a pedestrian. Committing this offense is a Class D traffic violation.

TRANSPORTATION - Passed

HB 2130 – Extension of Several Property Tax Exemptions – Including Cargo Containers

Chapter 578, Effective September 29, 2019

Among other things, this bill extends the existing property tax exemption for cargo shipping containers to 2026.

HB 2592 – Modifications to HB 2017 and ConnectOregon

Chapter 491, Effective September 29, 2019

This bill makes a number of changes to the Transportation Funding Package that was enacted during the 2017 Legislative Assembly. Most notably, the ConnectOregon II program that was created under HB 2017 is repealed. Under HB 2017, the ConnectOregon program was made permanent and was also split into two parts depending on how much money was made available for the program. The ConnectOregon II program would have been triggered if the Legislative Assembly provided more than \$75 million in a biennium to the program. Under HB 2592, the ConnectOregon II program no longer exists. Other notable changes include, the ability of Metro to impose a vehicle registration fee, if approved by voters by December 31, 2022,

separate from other local government registration fees. Directs State Parks and Recreation Department to make grants for bicycle and pedestrian projects related to recreation and transportation purposes, with provision set to sunset January 2, 2025.

HB 2603 – Amtrak Rail Delays

Chapter 47, Effective January 1, 2020

The Oregon Department of Transportation (ODOT) contracts with Amtrak to operate two daily round trips between Portland and Eugene. In ODOT's contract with Amtrak, it states that service will be on-time at least 80 percent of the time. In 2018, Amtrak service between Portland and Eugene was on-time on 73.3 percent of trips throughout the year. This bill directs ODOT to study Amtrak train delays and to report findings to the interim committees of the Legislative Assembly related to transportation by September 15, 2020.

TRANSPORTATION – Did Not Pass

HB 2978 – Tax Credit for Short-line Rail Improvements

Did Not Pass

This bill would have created an income tax credit for the owners or lessees of short line railroads that incurred costs directly related to the work necessary to maintain, reconstruct or replace short line railroad infrastructure in Oregon.

SB 59 – Lottery Bonding for ConnectOregon

Did Not Pass

This bill would have authorized the State Treasurer to issue lottery bonds for Connect Oregon Fund sufficient to generate \$50 million for grants for transportation projects. The bill was heard in the Joint Transportation Committee and moved to the Joint Ways & Means Committee where the program failed to receive any funding under the Lottery Bonding bill – HB 5030 (see previous).