



2023 Legislative Session Final Report

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2023 LEGISLATIVE SESSION IN REVIEW

The 82nd Oregon Legislative Assembly convened on January 9th, members were sworn in and newly elected Governor Tina Kotek addressed a joint session of the Legislature outlining her priorities for the upcoming session. It was the first in-person session since March of 2020 due to the worldwide pandemic, which shut down the Capitol to the public. Prior to the session commencing, 1,861 measures were made public and read for the first time so that they could be referred to the various policy committees, thereby enabling committees to conduct hearings on bills on the first day of the legislative session.

On January 17th the Legislative Session began. This was the seventh full Legislative Session that was constitutionally limited to 160 days under Ballot Measure 71 (2010). Leadership outlined an ambitious legislative calendar under HCR 23, which established session deadlines, and set a target date of June 15th for *Sine Die* (150 days). However, due to 42-day denial of a quorum by Senate Republicans, the legislative session ended on June 25th at 4:26 pm, only seven 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, and the first time in four years, House and Senate Democrats lost their super-majority (3/5ths or 36 votes in the House and 18 in the Senate) required to increase taxes without Republican support. The House lost two seats from the previous session and was comprised of 35 Democrats and 25 Republicans. Representative Dan Rayfield (D-Corvallis) was approved as Speaker – a position he has held since Tina Kotek resigned after serving as Speaker for nearly a decade to seek the governorship. Representative Julie Fahey (D-Eugene) was elected as the Majority Leader. Vicki Breese-Iverson (R-Prineville) was elected as the House Minority Leader, a position she filled from previous minority leader, Christine Drazan, who also resigned from her House seat to pursue the governorship.

Nearly one-third of all lawmakers were freshman legislators. There were 21 new representatives in the 60-member House and six senators in the 30-member Senate. BIPOC members represent a 1/5th of the Oregon legislature, contributing to the most diverse member makeup in the state's history. Furthermore, this was the first in-person legislative session for more than half of the 90-member House and Senate chambers.

The Senate Democrats lost one seat after the General Election resulting in 17 Democrats, 12 Republicans and one Independent. The Senate elected Rob Wagner (D-Lake Oswego) as President of the Senate by a 17-12 vote. Kate Lieber (D-Portland/Beaverton) was selected as the Majority Leader for her first full term in that position. Tim Knopp (R-Bend) was elected as the Senate Minority Leader. Leader Knopp had made it very clear prior to session he didn't

trust Senator Wagner as President and that he lacked the necessary skills to run the chamber in a bi-partisan manner – an ominous warning for things to come. Representative David Brock-Smith (R-Port Orford) was sworn in as a Senator on the first day of session after Dallas Heard (R-Roseburg) previously resigned his seat. There were six freshman Senators entering this session, three Democrats and three Republicans.

Governor Kotek was elected to serve a four-year term after beating Christine Drazan and Betsy Johnson in Oregon's most expensive gubernatorial campaign in the state's history. More than \$70 million was spent in all, an increase of roughly 89% from the previous governor's race, Kotek captured 47% of vote compared to Drazan's 43.5% and Betsy Johnson's 8.6%. Oregon secured a sixth Congressional seat after 2020 Census – that seat was ultimately won by Andrea Salinas. Furthermore, Lori Chavez-DeRemer, former Happy Valley Mayor, won as a Republican to represent Oregon's 5th Congressional District after Congressman Kurt Schrader failed to advance in the primary, losing to Jamie McLeod-Skinner. Christina Stephenson became Oregon's Labor Commissioner after Val Hoyle ran for and won Oregon's 4th Congressional District following the retirement of long-serving Peter DeFazio.

There were two ballot measures, as well as a United States Supreme Court decision, that weighed heavily on the session. Ballot Measure 113, which passed with 68.3% of the vote was an attempt by organized labor to eliminate Republican walk outs – thereby denying a quorum. The measure sought to prevent these walk outs by disallowing a member from running for office after 10 unexcused absences. Ballot Measure 114, which passed 50.6% to 49.4% or less than 25,000 votes placed new restrictions on individuals purchasing firearms in the state as well as limiting the size of magazines that hold ammunition. After passage of BM 114 it was immediately challenged in district and federal courts. In addition, the previous summer, the United States Supreme Court bucked legal precedent and effectively overturned the Roe v. Wade decision in the Dobbs decision – effectively eliminating a woman's constitution right to seek an abortion.

In late November, the Legislative Fiscal Office announced that entering the upcoming biennium the state faced a \$560 million shortfall in meeting current service levels for the upcoming budget cycle and warned that a mild recession could result in a \$3 billion gap in meeting current service level, despite having more than \$3 billion extra to spend than the previous biennium. Some of the budget challenges were due to the state having received billions of dollars from various federal Covid relief packages passed by Congress that were one-time funds, and others were due to surprising inflationary growth and other economic pressures that were creating conditions for a predicted recession.

When Governor Kotek's was sworn in as Oregon's 39th Governor she signed three Executive Orders all related to housing and homelessness. The first established a housing production goal of 36,000 units a year, 11,000 more than the current production rate, for the next 20 years. The second was declared a state of emergency in the parts of Oregon where there had been a 50% increase in homelessness over a period time, thereby providing greater flexibility in how federal funds could be spent. And finally, the third ordered state agencies to prioritize reducing

homelessness. She challenged the Legislative Assembly to send her a funding package of \$130 million to address housing and homelessness in the first 100 days as well as a bill that would address Oregon's competitiveness in attracting and retaining high-tech manufacturing.

As the session began both parties in each chamber outlined their agendas. The majority party in the House called their 2023 Caucus Agenda "Rebuilding for the Future" which painted broad themes that they as a caucus they planned to pursue during the session including: housing, homelessness, behavioral health, the economy, safe communities, schools, and climate. The Republicans, on the other hand, prioritized their focus on being fiscally responsible, addressing homelessness, housing, and mental health, supporting law enforcement and community safety, and protecting rural Oregon and the natural resource economy. The Senate Majority Caucus's agenda was like the House's, not surprisingly the Senate Republican's agenda called for returning the kicker in the form of a check to taxpayers in 2023 rather than as a tax rebate in 2024 among several other specific proposals.

Governor Kotek's \$32.1 billion proposed budget was released in early February outlining her policy and budget priorities for the biennium. Not surprisingly, those priorities included addressing Oregon's homeless crisis and lack of affordable housing, investing in Oregon's behavioral health system, shoring up the state's lack of public defenders, and investing in early literacy and education among others. The Governor's budget suggested some minor cost cutting across all state agencies and expressed support for a bill that would impose a new tax to fund a statewide suicide crisis prevention line. Her budget made no attempt to divert the anticipated \$3.7 billion personal income tax kicker, but she did recommend skipping a normally scheduled payment into the state's reserves and redirecting approximately \$765 to pay for affordable housing construction and other budget priorities. Republicans signaled some approval, primarily because the governor was not seeking to redirect the kicker. Democrats generally complimented the governor's proposal, but the chief budget writers did express some concerns about redirecting money away from the state's reserves.

Early in the session, Senate Republicans made it clear that they had plenty of ideas that would benefit the state. They took measures to slow the process down to force Senate Democrats to take them seriously. During the second week of the session, they laid out dozens of bills they hoped to pass – many bipartisan – but others that would not be acceptable to the majority. They announced they would require all bills to be read in full before they could receive a final vote on the floor, even bills that were bi-partisan and non-controversial.

In late February, the seventh of the quarterly revenue forecasts was issued showing once again that revenues had far outstripped the previous quarter's estimate and that the state would have \$700 million more to spend during the upcoming biennium and that the personal income tax kicker had grown to \$4 billion. This forecast was used by the Co-Chairs of the Ways and Means Committee to issue their budget framework in late March.

Meanwhile the House and Senate were poised to pass Kotek's homelessness package. It included but was not limited to \$155 million to help get 1,200 unsheltered people off the streets by the end of the year, add 600 low-barrier shelter beds statewide and keep nearly

9,000 at-risk families from falling into homelessness. Kotek's initial request was \$130 million but was increased to ensure that rural counties could address some of their housing and homelessness issues. Additionally, lawmaker's approved Senate Bill 4 which created a \$200 million fund for grants and loans for semiconductor and advanced manufacturing businesses seeking federal funding under the CHIPS Act to expand in Oregon. Additionally, the measure gave Governor Kotek the authority to designate some land outside urban growth boundaries as industrial land for annexation by cities. These two measures were spared from any long delay tactics by the minority party.

The Co-Chair's released their \$31.6 billion Budget Framework in late March. Like Governor Kotek's \$32.1 billion proposal, it called for prioritizing education and increasing school funding, housing, and human services. However, their proposal did not include a diversion of hundreds of millions of dollars intended for states reserves as the Governor had called for. The continued threat of a recession drove the co-chairs to be cautious in their approach knowing that a recession and recent bank failures could cause a steep decline in state revenues.

When the deadline to move bills out of the first policy committee passed, nearly two-thirds of the nearly 3,000 introduced bills died. By mid-April, House Republicans joined their Senate colleagues in adopting the parliamentary stall tactic of requiring that all bills be read in full before a vote on final passage. The reason for the maneuver was that the House majority was moving a contentious gun bill that would change the age a person could purchase a firearm and permitted local governments to regulate whether concealed firearms permit holders could "carry" in and upon their premises. Other House bills causing angst amongst the minority party included a rent control measure and a bill related to abortion and gender affirming care. Another delay tactic utilized by the minority party in each chamber was the attempt to pull stalled bills out of committee and by speaking on every bill, whether it was controversial or not, slowed the process down even further. In one instance the House only passed five bills during nearly seven hours of floor session. The House was forced to cancel committee meetings to conduct marathon floor sessions just to keep the process moving. After the Democrats in the House agreed to delay the vote on firearms bill to early May the House Republicans started allowing bills to be read by title only.

In late April, it was revealed that Secretary of State Shemia Fagan had accepted a consulting job with a controversial cannabis company as her office prepared an audit arguing for more lax regulation of the industry. Republicans immediately called for her resignation and Governor Kotek demanded an ethics investigation following the revelations. Fagan stated that she welcomed the any inquiry, but in just over a week's time Fagan was forced to resign under mounting political pressure. Cheryl Myers, Fagan's Deputy, assumed the position and Kotek said that she would take her time in appointing a new Secretary of State. Interestingly, because Ms. Meyers was not elected to the position, she was disqualified from succession to the Governorship, thereby making Tobias Read, the State's Treasurer, the next in line to become Governor should Kotek become incapacitated while in office.

As the House moved toward passage of the controversial gun, abortion and gender affirming care bills, Senate Republicans made an unprecedented but unsuccessful attempt to remove Senator Wagner as President of the Senate. On May 3rd the Senate Republicans denied quorum and initiated what would turn out to be the longest walkout in Oregon history. Despite overwhelming passage of Ballot Measure 113, Republicans insisted that they were willing to test the new law that had been overwhelmingly approved by the voters nearly seven months before. In addition to opposing controversial bills, Republicans stated that many of the bills being considered violated a statute (ORS 171.134) which provides that bill summaries must be written in a manner that result in a score of 60 or higher on the Flesch-Kincaid readability test. A 60 or higher on the test means that someone with an 8th grade reading level can understand the text. Two Republican House members filed a lawsuit seeking to block HB 2002, the abortion and gender affirming care bill, because the bill's summary did not comply with the readability law. A Marion County Circuit Court judge did seem to agree with the plaintiffs that Democrats had failed to comply with the readability requirement. However, the judge rejected the petition stating that the court had no authority to block the Legislature from doing its job. Despite the Republican denial of a quorum on the Senate floor some of their members continued to participate in Senate and Joint Committee hearings.

The May revenue forecast, used to balance the upcoming biennial budget, was issued on the 17th. The forecast showed that revenue was up nearly \$2 billion from the previous forecast for the current biennium and by \$173 million for the next biennial budget. The personal income tax kicker was upgraded to a projected \$5.5 billion from \$3.93 billion back in February. The corporate kicker, which is directed to the state school fund was projected to be \$1.8 billion. Importantly, the state's ending balance was \$7 billion which can be tapped with a simple majority vote rather than a 3/5th vote as required to draw from reserves which had grown to \$2 billion. This excess revenue largely resolved the dispute between the Governor and the Co-Chairs of Ways & Means Committee about diverting payments to the reserve accounts to use those funds for other priorities.

As the Republican walkout continued in the Senate, for the fifth time in three years, Governor Kotek attempted to broker a deal. She met with members but only one Senator showed up in person, the others met with her via video. Governor Kotek called the Republicans disrespectful. As more Senate Republican members reached the critical 10 unexcused absences it became clear that they planned to challenge the constitutionality of Ballot Measure 113. In early June the Senate began fining members \$325 for each unexcused absence. Furthermore, Legislative Counsel warned of dire consequences without a newly approved budget. And in another move, Republicans convened an unofficial committee, the Joint Committee on Oversight and Accountability, to investigate Democratic transgressions. During the first hearing many of the public witnesses criticized the members for denying a quorum in the Senate and turning their backs on the state's business and told them to get back to work.

On June 15th, after 42 days, enough Senate Republicans returned to the Senate for quorum. Oregon's previous walkout record lasted only nine days. As a result, the Legislature had only 10 full days to complete its business before the Constitutional requirement of Sine Die at midnight

on June 25th. By this time approximately 400 bills and budgets had stacked up on the Senate agenda. To get the Republicans back Democrats agreed to significant concession and key changes to the abortion and gender affirming care bill as well as the controversial gun bill. As a result of the walkout, nine Republicans and one Independent may have disqualified themselves from reelection under Ballot Measure 113. However, members will challenge the language and its constitutionality. Only three Republican Senators, Senator Girod, Anderson, and Brock Smith, did not reach the 10-day threshold.

In the end, the Legislative Assembly was able to pass nearly all the backlogged bills and budgets with little debate. Although, in the final hours, the Governor's housing and land supply priority legislation failed by one vote in the Senate. With greater revenue than expected the legislature was able to balance the budget with relative ease. The final Legislatively adopted budget amounted to nearly \$31.8 billion General Fund and \$1.6 billion Lottery Funds for a total of \$33.49 billion. When considering all funds, this budget was a 3.6% decrease from the previous 2021-2023 legislatively adopted budget. This decrease was primarily attributable to a lower level of Federal Funds expenditures compared to the previous biennium. The combined General Fund and Lottery Funds adopted budget for 2023-2025 is up 17.2% from the previous biennium and is a 12.2% increase over the 2023-2025 current service level.

NOTABLE ACTIONS TAKEN THIS SESSION

- \$10.2 billion budget for K-12 schools, the largest school budget in state history. An additional \$140 million in Early Literacy Success Initiative earmarked to close third grade reading gaps and improve graduation rates across the state. Together with local property tax revenue the total resources for K-12 will reach \$15.3 billion, a 12.3% increase over the previous biennium.
- Early passage of two bills addressing the state's housing and homeless crisis – including \$155 million for statewide and coordinated response to homelessness, \$27 million for homelessness support in rural counties, and \$25 million for homeless youth, and \$20 million to produce modular housing, among others.
- Opioid Harm Reduction Package – making lifesaving emergency treatments like naloxone kits more available in public buildings.
- Nearly \$2 billion allocated for Housing Affordability and Supply Budget framework to address middle housing supply, rental assistance, affordability, shelters, and homelessness.
- Passage of the Oregon CHIPS Act committing \$190 million in state funds to support applications by Oregon businesses for \$52 billion from the Federal CHIPS and Science Act with the hope of boosting domestic manufacturing of semiconductors. Another \$10 million will be used to assist local governments to prepare sites for industrial development. The Act gives the Governor super-siting authority for UGB expansion.

- Governor Kotek placed a pause on tolling in the state until January 2026 under pressure from Clackamas area legislators.
- Bill passed that outlaws “ghost guns,” which are firearms that do not have serial numbers.
- Creation of the first-ever child tax credit in Oregon worth a total of \$75 million providing a \$1,000 tax credit per child.
- \$110 million allotted to address drought in the state.
- \$153 million package of proposals to address behavioral health crisis including the establishment of a 9-8-8 suicide crisis prevention hotline.
- A climate package that invests \$90 million in various policies and projects to reduce building emissions, lower utility costs, incentivize carbon sequestration and improve disaster resilience.
- Approval of a \$2.2 billion Higher Education Opportunity Package providing \$800 million to community colleges, \$1 Billion for the public university support fund, and \$300 million for Oregon Opportunity Grants.
- Passage of a bill to allow Oregonians to pump their own gas.
- \$90 million invested to address Oregon’s Public Defense crisis.
- A combination of economic development bills to extend the sunsets on Enterprise Zones, Long Term Rural Enterprise Zones create a research and development tax credit and make modifications to the Strategic Investment Program.
- \$700 million allotted to leverage federal funding to expand high-speed internet coverage in Oregon.
- A Rural Infrastructure and Economic Development Package that invests \$32.2 million to bolster key rural industries and address the workforce housing shortage.

This session was challenging on several fronts and will be remembered for years to come. Aside from political dynamics, the Capitol was undergoing major construction to retrofit it for a major Cascadia earthquake throughout session. As a result, nearly half of the Capitol was off limits to legislators and the public, and noise from that work was a constant distraction that rarely subsided. It was also the first session that hearings were conducted in a hybrid fashion allowing testimony in person as well as via video. The record-setting walkout left many wondering whether there would be a special session during the summer to address budgets that would have to be passed prior to a September 15th deadline.

LOOKING AHEAD

There is little doubt that relationships, particularly in the Senate, were strained during the session. Democrats claimed that they had passed critical legislation on a host of topics and that they delivered for the citizens and State of Oregon. On the other hand, Republicans claimed

that they had protected Oregonians from an extreme agenda being pursued by the majority party. Furthermore, Senate Republicans have already hinted that they may employ similar tactics in the short session beginning in February 2024.

Ballot Measure 113, which was proposed by public unions, was passed overwhelmingly in 2022 to prevent lawmakers with 10 or more unexcused absences from running for reelection to the Legislature for a term. The measure's language is somewhat ambiguous and as a result raises the question of when that one-term ban takes effect. The language says that lawmakers with at least 10 unexcused absences cannot hold office "for the term following the election. After the member's current term is completed." Since elections in Oregon are held before a lawmaker's term is completed — not after — Republicans believe the Constitution plainly allows them to serve another term before the penalties take effect.

Out of the 10 Senators who have been "disqualified" to run for another term under BM 113, six must run again next year if they wish to continue their legislative careers. Senators Dennis Linthicum (R-Klamath Falls), Sen. Tim Knopp (R-Bend), Sen. Art Robinson (R-Cave Junction) and Sen. Brian Boquist (I-Polk/Yamhill) have indicated that they plan to run for reelection in 2024. Sen. Lynn Findley (R-Eastern Oregon) has yet to indicate whether he will run again. Sen. Bill Hansell (R-Athena) has indicated that he will not pursue another term in 2024.

In May, an attorney representing those Senators submitted a formal request to the Secretary of State's Office asking for an interpretation of the ballot measure. The Secretary of State directed the Oregon Election's Division to implement an administrative rule, providing guidance, based on legal advice from the Department of Justice, that clarifies that Measure 113 disqualifies legislators with 10 or more unexcused absences during the 2023 legislative session from running for legislative seats in the 2024 election. On August 8th the Secretary of State ruled, based on legal advice from the Oregon Department of Justice, that the legislators in question are disqualified from seeking reelection. The affected members immediately responded with a legal challenge which puts the issue squarely back in the courts. Additionally, Sen. Cedric Hayden (R-Fall Creek) has filed workplace complaints and indicated possible plans to sue the Legislature in federal court due to not receiving excused absences for missing weekend Senate floor sessions while he attended church and cared for his disabled child (Hayden's faith is Seventh Day Adventist).

Two days after the session concluded Governor Kotek appointed LaVonne Griffin-Valade to serve as Oregon's next Secretary of State after Shemia Fagan resigned in May under pressure due to her outside consulting work for an Oregon marijuana business. Griffin-Valade has 16 years of experience as a government performance auditor, including eight years as an elected auditor. She previously served as Multnomah County Auditor and later Portland City Auditor before retiring in 2014.

Voters will also decide the fate of three referrals from the Legislative Assembly, two constitutional, and one statutory:

- Senate Joint Resolution 34 would amend the Oregon Constitution to establish an Independent Public Service Compensation Commission that will be responsible for establishing the salaries of state-wide elected officials, judges at the state and circuit level, and the members of the Legislative Assembly.
- House Joint Resolution 16 would amend the Oregon Constitution to give the House of Representatives the power of impeachment for statewide elected officials of Executive Branch for malfeasance or corrupt conduct in office, willful neglect of statutory or constitutional duty, or other felony or high crimes, and the Senate the power to try any impeachment received from House.
- HB 2004 which would establish ranked choice voting as voting method to determine major political party nomination and elections for the office of President and Vice President of the United States, United States Senator, Representative in Congress, Governor, Secretary of State (SOS), State Treasurer, and Attorney General and allow local governments including cities, counties, school districts and special districts to use ranked choice voting as well.

Each of these measures will be on the November 2024 ballot.

To qualify, constitutional measures for the ballot, gatherers will need to collect approximately 160,551 signatures; statutory measures to qualify for the ballot will need 120,413 signatures. The deadline to turn in those signatures will be July 5, 2024. Nearly 40 petitions have already been filed, although several have already been withdrawn and it is hard to predict what petitions will have the financial backing to have a chance to appear before the voters.

There will be three statewide seats that will be up during the upcoming election cycle – State Treasurer, Secretary of State, and Attorney General. Treasurer Tobias Read is term limited and has announced his intention to run for Secretary of State. Ellen Rosenblum who has served as Oregon’s Attorney General has not indicated whether she plans to seek reelection (Oregon’s AG is not subject to term limits like the Governor, Treasurer or Secretary of State).

DYNAMICS OF THE 82ND LEGISLATIVE ASSEMBLY

Session Length:	160	Bills, Resolutions, etc. Introduced:	2,970
Date Convened:	January 17, 2023	Bills Passed:	653
Date Adjourned:	June 25, 2023	Bills Vetoed:	7

OREGON SENATE
 Democrats: 17
 Republicans: 12
 Independent: 1

Senate Caucus Leadership:

Senate President Rob Wagner (D-Lake Oswego)
Senate Majority Leader Kate Lieber (D-Portland/Beaverton)
President Pro Tempore James Manning (D-Eugene)
Deputy Majority Leader Janeen Sollman (D-Hillsboro)
Majority Whip Sara Gelser Blouin (D-Corvallis)
Majority Whip Lew Frederick (D-Portland)
Assistant Majority Leader Kayse Jama (D-Portland)
Assistant Majority Leader Wlnsvey Campos (D-Aloha)

Senate Republican Leader Tim Knopp (R-Bend)
Deputy Minority Leader Dick Anderson (R-Lincoln City)
Deputy Minority Leader Daniel Bonham (R-The Dalles)
Deputy Minority Leader Lynn Findley (R-Vale)
Deputy Minority Leader Kim Thatcher (R-Keizer)
Minority Whip Dennis Linthicum (R-Klamath Falls)

OREGON HOUSE OF REPRESENTATIVES

Democrats: 35

Republicans: 25

House Caucus Leadership:

Speaker of the House Dan Rayfield (D-Corvallis)
Majority Leader Julie Fahey (D-Eugene)
Speaker Pro Tempore Paul Holvey (D-Eugene)
Majority Whip Andrea Valderama (D-Portland)
Deputy Majority Whip Rob Nosse (D-Portland)
Assistant Majority Leader Pam Marsh (D-Ashland)
Assistant Majority Leader Jason Kropf (D-Bend)
Assistant Majority Leader Dacia Grayber (D-Tigard)

Republican Leader Vicki Breese-Iverson (R-Prineville)
Deputy Republican Leader Shelly Boshart Davis (R-Albany)
Republican Whip E. Warner Reschke (R-Klamath Falls)
Deputy Republican Whip Kim Wallan (R-Medford)
Deputy Republican Whip Lily Morgan (R-Grants Pass)
Assistant Republican Leader Rick Lewis (R-Silverton)

I am grateful to CRSOA for their support and guidance through this latest Legislative Session. Staff has been outstanding. It is an honor represent CRSOA. Mark Landauer – MJL Consulting, LLC.

ENVIRONMENT – Bills that Passed

HB 3409 – Omnibus Climate Package

Chapter Law: 442 Effective Date: July 27, 2023

This bill is an amalgamation of several separate bills combined into one. Some of the provisions will have an impact on our membership. For example, the bill directs the Department of Consumer and Business Services (DCBS) to facilitate greenhouse gas emission reductions. This portion of the measure requires DCBS to consult with the Department’s advisory boards and committees and work with Oregon Department of Energy (ODOE) to specify energy efficiency goals for new residential and commercial construction with an aim to achieve at least a 60 percent reduction in annual energy consumption by 2030, from standards specified in building and specialty codes that were in effect in 2006. DCBS is to report to an interim committee of the Legislative Assembly related to the environment by December 31st of every third year, starting in 2023, on progress and options to achieve goals. DCBS must update the Reach Code through rulemaking to show progress toward the goals each time the Department updates the statewide building code and applicable specialty codes. It requires ODOE to specify energy performance standards for covered commercial buildings, permits them to impose civil penalty for failure to comply and requires them to establish an incentive program to encourage compliance.

In addition, the bill establishes a Community Green Infrastructure Grant Program, which directs the Oregon Department of Agriculture to certify green community nurseries. HB 3409 directs the State Forestry Department to acquire and maintain urban tree canopy assessment tools and to develop and implement a program related to loss of tree canopy.

Under the measure, the Department of Environmental Quality (DEQ) is to establish a rebate program for purchase or lease of qualifying medium or heavy duty zero-emission vehicles. Also included in the bill is a component that directs ODOE and Oregon Climate Action Commission to prepare an inventory, baseline and metrics for net carbon sequestration and storage in natural and working lands and to study workforce training programs needed to support adoption of natural climate solutions.

Finally, it directs the Oregon Health Authority (OHA) to identify, monitor and test water sources susceptible to harmful algal blooms. Directs DEQ to develop strategy to respond to harmful algal blooms.

ENVIRONMENT – Bill that Failed

HB 2396 – Indirect Source Pollution

In committee upon adjournment

Indirect sources of air pollutants are places such as facilities or roads that may contribute indirectly to air pollution by attracting mobile sources of air contaminants. This bill would have directed the Environmental Quality Commission (EQC) to adopt rules to establish a program to control emissions from indirect sources in Oregon as well as the aggregate emissions from vehicles or engines associated with the indirect source. HB 2396 would have required the EQC to establish rules that an owner or operator of an indirect source to notify residents or businesses in the geographic area of any significant air quality concerns.

GENERAL GOVERNMENT – Bills that Passed

HB 2238 – Removal Fill Fees & Removal of Personal Property from State Lands

Chapter Law: 403 Effective Date: September 24, 2023

This bill authorizes Oregon Department of State Lands (DSL) to remove, store, and dispose of personal property left on state lands without authorization. It would require the DSL Director to adopt rules establishing fees for removal or fill permit applications, wetland delineation report review, and general authorizations, rather than specify those fees in statute.

HB 5030 – Lottery Bonding Bill

Chapter Law: 599 Effective Date: August 4, 2023

This bill authorizes the issuance of lottery revenue bonds for specified projects. A total of \$453 million of net lottery bond proceeds are authorized to be spent on 37 projects included in HB 5030. Authority to spend bond proceeds for project costs and pay for the cost of issuing bonds is included in the budget reconciliation bill (SB 5506). Lottery revenue bonds are scheduled to be issued in the of spring 2024 and 2025 and debt service payments in the 2023-25 biennium are estimated to be \$13.1 million. Lottery revenue bonds are authorized for the relevant projects and programs summarized below:

- The measure authorizes issuance of \$20 million in net proceeds in the 2025-27 biennium for the Coos Bay Channel Modification project funded in the Oregon Business Development Department.
- Port of Portland Terminal 2 Building Innovation Hub Mass Timber Factory - \$5 million
- Port of Hood River - Hood River-White Salmon Interstate Bridge - \$20 million

HJR 16 – Impeachment

Filed with Secretary of State

HJR 16 proposes a Constitutional amendment (for consideration at the November 2024 election) to give the Oregon House of Representatives (House) the power of impeachment for statewide elected officials of Executive Branch for malfeasance or corrupt conduct in office, willful neglect of statutory or constitutional duty, or other felony or high crime, and the Oregon Senate the power to try any impeachment received from House. The measure requires a two-

thirds majority vote of the House to deliver an impeachment resolution to Senate and two-thirds majority vote of the Senate for conviction.

SJR 34 – Independent Public Service Compensation Commission

Filed with Secretary of State

Oregon law requires each county to appoint a county compensation board to recommend the compensation schedule for elected county officials. A similar commission was required to review and make recommendations for the salaries of certain state officials, but the commission was largely inactive from its establishment in 1983, by 2000 all positions became vacant until its abolishment in 2017. Legislation enacted in 2007 revitalized the Commission with new membership and a revised scope of work. The Commission's 2008 recommendations were introduced amidst the Great Recession, and the Legislative Assembly ultimately declined to increase compensation for public officials. The Commission went unfunded after 2008 and was eliminated in 2017.

SJR 34 proposes a Constitutional amendment (for consideration at the November 2024 election) to establish the Independent Public Service Compensation Commission. If approved by voters the Commission will establish salaries for specified public officials, including: Governor; Secretary of State; State Treasurer; Attorney General; Bureau of Labor and Industries Commissioner; Supreme Court Judges and other judges governed by the Oregon Judicial Department; District Attorneys; State Senator; and State Representative.

LABOR – Bills that Passed

HB 3028 – State Boards and Commission Participation

Chapter Law: 331 Effective Date: September 24, 2023

This bill prohibits an employer from requiring employee to use vacation, sick, or annual leave for time spent as an appointed member of state board or commission. It requires the employee to provide at least 21 days' notice to the employer of any time the employee needs for service on a state board or commission. Employees are eligible to allege violation of the statute and may file a complaint with Bureau of Labor and Industries (BOLI) Civil Rights Division.

HB 3307 – Workplace Protections for Apprentices

Chapter Law: 99 Effective Date: January 1, 2024

Currently, certain workplace protections apply only to employees or interns (ORS 659A.230), but because of participants in "on-the-job training program" are not technically considered employees, specific protections are not provided in Oregon. This bill provides employment-related anti-discrimination law protections to persons who participate in registered apprenticeship programs or any private sector on-the-job training programs.

SB 907 – Right to Refuse Dangerous Work

Chapter Law: 196 Effective Date: January 1, 2024

This bill makes it an unlawful employment practice for any person to bar or discharge from employment or discriminate against employee or prospective employee because they have refused to expose themselves to serious injury or death from hazardous condition at place of employment, with no reasonable alternatives and in good faith.

SB 912 – Overpayments of Family and Medical Leave Benefits

Chapter Law: 120 Effective Date: September 24, 2023

The family and medical leave insurance program, known as Paid Leave Oregon, is contained in ORS chapter 657B and was enacted by the Legislative Assembly in 2019. This bill creates requirements relating to overpayment of Paid Leave Oregon benefits, collection of overpaid benefits, and penalties for employers who offer, but fail to meet requirements for employer equivalent benefit plans.

SB 913 – Family and Medical Leave Technical Changes

Chapter Law: 292 Effective Date: September 24, 2023

This bill makes several technical changes to Paid Leave Oregon and modifications to procedures, including modifying procedures for requesting a hearing, determining when benefits are available to certain persons, and disclosing of confidential information. It also changes the fixed maximum wage subject to Paid Leave Oregon contributions to match the U.S. Social Security contribution and benefit base limit.

SB 999 – Family Leave Modifications

Chapter Law: 203 Effective Date: June 7, 2023

SB 999 makes several modifications to Paid Leave Oregon and Oregon Family Leave Act. These changes include requiring employers to offer an employee who returns from leave and whose employment no longer exists an equivalent position at a job site located within 50 miles of the original job site, and requiring consideration of whether there is a significant personal bond resembling a family relationship to determine whether a person qualifies as a family member by reason of affinity.

MARINE RELATED – Bills that Passed

HB 2914 – Abandoned and Derelict Vessels

Chapter Law: 419 Effective Date: July 27, 2023

This bill was introduced at the request of the Oregon Public Ports Association. It establishes the Oregon Abandoned and Derelict Vessel Program in the Department of State Lands (DSL) and requires the program to address abandoned and derelict vessels and ensure that state-owned

submerged and submersible lands are managed for the public interests in fisheries, navigation, commerce, and recreation. It directs DSL to identify and work with stakeholders to develop a policy framework for program implementation and authorizes DSL to undertake rulemaking. The measure creates the Oregon Abandoned and Derelict Vessel (ADV) Fund in the State Treasury, and requires the department to submit a program progress report to committees of the Legislative Assembly on or before February 15, 2024. Reporting requirements under the bill sunset on January 2, 2025. It should also be noted that the ADV Fund received \$18.7 million in the Christmas Tree bill, SB 5506.

HB 3382 – Coos Bay Expansion of Federal Navigation Channel

Chapter Law: 544 Effective Date: July 31, 2023

This bill specifies that deep draft navigation channel improvements are a reason that a local government may adopt an exception to land use planning goals related to estuarine resources to redesignate or rezone natural and conservation estuary management units, under certain circumstances. It outlines circumstances to include: mitigation of adverse impacts to ensure no net loss of estuarine resources and affected aquatic and shore habitats; project is of the location, design, and minimum extent necessary for the use; application by a public port or federally recognized Oregon Indian tribe; the project is within the jurisdiction of the International Port of Coos Bay; the project does not include or rely upon commercial processing, importing, or exporting of fossil fuels, other than existing facilities for fuel storage and distribution; application is preceded by a report issued by applicant that identifies anticipated funding sources for the channel improvements and an estimate of the number of jobs expected to be created; and the project is conducted in accordance with a plan developed in consultation with tribes regarding archaeological sites and objects.

SB 16 – Expansion of State Rail Rehabilitation Fund Uses

Chapter Law: 65 Effective Date: May 8, 2023

This measure expands the list of authorized uses of the State Rail Rehabilitation Fund to specify rail capacity improvements, such as new or lengthened sidings, or industrial spur construction or rehabilitation; capital safety improvements; investments to reduce greenhouse gas emissions; and providing state matching funds to leverage federal discretionary grant funding for rail projects. SB 16 directs the Oregon Department of Transportation (ODOT) to develop a methodology for prioritizing funding that considers an applicant's ability to leverage federal discretionary funding, and that ensures that selected projects are consistent with the goals of the Oregon State Rail Plan.

SB 814 – Anti-Trust Immunity for Ports

Chapter Law: 164 Effective Date: June 6, 2023

Senate Bill 164 was introduced at the request of the Oregon Public Ports Association. Oregon ports are regulated by the Shipping act of 1937 (Shipping Act). The Shipping Act grants marine terminal operators the ability to discuss rates and expenses regarding carriers providing

services at their ports. It allows ports to file a discussion agreement with the Federal Maritime Commission (FMC) so that they may act collectively without violating antitrust laws.

The FMC recently alerted the Northwest Marine Terminal Association (a voluntary association of deepwater ports and marine terminal operators in Oregon and Washington) that certain domestic public ports in Oregon are not serving “common carriers,” defined as a commercial enterprise that moves passengers or goods for a fee. The FMC deemed some ports ineligible for antitrust immunity under the Shipping Act, including the Port of Astoria, Port of Columbia County, and the Port of Coos Bay.

Notwithstanding the applicability of state and federal antitrust laws, SB 814 declares it to be state policy to displace competition under state action doctrine that public ports in Oregon and other members of the Northwest Marine Terminal Association, can coordinate, make agreements, and implement action that is within the public port’s authority. This includes discussions and agreements on rates and charges rules, practices, and procedures; planning, management, marketing, operations, uses of public port facilities; and other matters related to cargo and passenger service operations.

SB 5521 – Oregon State Marine Board

Chapter Law: 473 Effective Date: July 27, 2023

The Oregon State Marine Board (OSMB) serves the recreational boating public with education, enforcement, boating access, and environmental stewardship. The board’s programs serve the owners of registered boats and non-registered boats, outfitters and guides, charter vessel operators, marinas, and floating property owners. The Governor appoints the five-member board to serve four-year terms, subject to Senate confirmation. OSMB is also guided by four external advisory teams representing Outdoor Sportsmen, Cruising, Watersports, and Paddle sports. The subcommittee recommended a total funds budget of \$39,272,684 and 45 positions (42.50 FTE). The recommended budget is an increase of 1.8 percent over the 2021-23 Legislatively Approved Budget.

The Boating Facilities Program provides grants and technical assistance for the maintenance and improvement of public recreational boating facilities statewide. Grants rely on partnerships and leveraging other financial resources such as Federal Funds, private funds, donations, and other funding sources. The subcommittee recommended a budget of \$9,353,313 Other Funds expenditure limitation and \$2,325,698 Federal Funds expenditure limitation with nine positions (9.00 FTE).

The Aquatic Invasive Species program mitigates the effects of invasive species on native waters through inspecting and decontaminating watercraft. This program was created because of a law enacted by the Legislature in 2009, with the intent of protecting the state from invasive species. The program dedicates funds toward education, monitoring, enforcement, inspections, and decontamination services. This program manages the permitting process and education and outreach efforts impacting non-motorized boaters, motorized boaters, and out-of-state visitors

bringing their boats to use on Oregon waterways. The subcommittee recommended a budget of \$1,735,797 Other Funds expenditure limitation with one position (1.20 FTE)

MARINE RELATEED – Bills that Failed

HB 2098 – Interstate Bridge Replacement

In committee upon adjournment

This legislation commits Oregon to \$1 billion toward the Interstate Bridge Replacement (IBR). Oregon's funding matches the state of Washington's commitment made earlier this year. HB 2098 did not advance during the session; however, the bonding authorization is in HB 5005, and the funding commitment is in the Christmas Tree bill, HB 5506. Finally, SB 1049 has additional funding components. Oregon's funding commitment comes entirely from general obligation (GO) bonds of \$250 million over four consecutive biennia. With the funding commitments from Oregon and Washington, a joint grant application for federal funds will be submitted with hopes of seeing more than \$3 billion in federal funding toward an estimated \$6.3 billion cost.

HB 2170 – International Port of Coos Bay Hydrogen Hub

In committee upon adjournment

This bill would have required the Oregon Department of Energy to study and report on the feasibility of establishing a renewable hydrogen hub at the Oregon International Port of Coos Bay.

HB 2903 – Adaptive Management for Marine Reserve

In committee upon adjournment

This bill would have directed the Oregon Department of Fish and Wildlife (ODFW), the Oregon Fish and Wildlife Commission, the State Land Board, and relevant state agencies to implement recommendations from the Ocean Policy Advisory Council to develop an adaptive management plan for Oregon's marine reserves. Components of the plan included monitoring and research, social impacts, long-term sampling protocols, data collection and evaluation, and outreach and engagement. \$800,000 would have been appropriated to ODFW to implement the provisions of the measure.

]HB 3139 – Maritime Workforce Development

In committee upon adjournment

This bill would have established a program in Higher Education Coordinating Commission (HECC) to support strategic investment in workforce development programs and activities in Oregon's maritime sector in coordination with local workforce development boards, community colleges, and other workforce partners and would have appropriated \$2 million General Fund to HECC. The contents of this measure were included in HB 3410, the Rural Economic Development package.

SB 200 – Salvage Chief

In committee upon adjournment

After nearly 60 years of salvage work, the Salvage Chief was berthed off Swan Island in Portland, until it was purchased by Salvage Chief LLC and relocated to Astoria. The new owner converted the ship into a training vessel for local mariners. However, efforts are underway to reconvert the Salvage Chief to active duty to help with response in the event of an earthquake and/or tsunami. This bill would have provided \$3 million from the General Fund to the Department of Administrative Services (DAS) to repair, upgrade, and return the Salvage Chief to operation.

SB 678 – Offshore Wind Benefits to Local Communities

In committee upon adjournment

Among other things, this bill would have established policy of the State related to benefits from offshore wind energy development and local and regional communities and economies. It required the Department of Land Conservation and Development (DLCD) to conduct outreach and engage and coordinate with state agencies, local governments, and affected communities to carry out policies of state established by the bill. Policies of the State under the bill included: (1) support engagement between offshore wind energy developers and certain communities and entities; (2) minimization and mitigation of adverse effects of survey activity related to offshore wind leasing while maximizing benefits; and (3) promotion of economic diversification and resilience. It also required DLCD to conduct, or support, federal consistency reviews of offshore wind leasing decisions and related actions off the Oregon Coast made by the federal Bureau of Ocean Energy Management. A similar bill (HB 2190) was introduced in the House.

SB 679 – Offshore Wind Policy

In committee upon adjournment

This bill would have established policy of the State related to benefits from offshore wind energy so that a meaningful share of the benefits from offshore wind energy development go to local and regional communities and that, to the extent practicable, the benefits from offshore wind energy development are reinvested into local and regional economies. SB 679 would have required the Department of Land Conservation and Development (DLCD) to conduct outreach and engage and coordinate with state agencies, local governments, and affected communities to carry out those policies.

SB 933 – Prohibition on Tolling

In committee upon adjournment

Due to the ongoing debate over the use of tolling to finance transportation projects, several legislative concepts were introduced during the 2023 session. The concepts ranged from delaying the use of tolls to mandated revenue sharing with local governments to an outright prohibition on tolling. SB 933 would prevent the use of tolls on Interstate 205 and Interstate 5,

except for the I-5 Bridge Replacement (IBR) project. This legislation also requires Oregon Department of Transportation (ODOT) to evaluate other funding sources for bridge replacement projects. None of the proposed legislative concepts received hearings.

Legislative leadership and Governor Kotek agreed to delay tolling efforts for the Abernethy Bridge projects and lane expansion on Interstate 205 until January of 2026. In addition, a special transportation committee to review tolling was established. This new Special Subcommittee on Transportation Planning will oversee ODOT's infrastructure repair and modernization plans, including efforts to mitigate the impact of tolling on vulnerable communities. The committee will meet over the next couple of years to frame recommendations on the use of tolling in advance of the 2025 session.