2023 Oregon End-of-Session Report

The Oregon Legislative Assembly adjourned the 2023 legislative session on Day 160 as lawmakers finished their work Sunday, June 25, with just hours to spare, As required by the Oregon Constitution, legislative sessions in odd-numbered years may last no more than 160 days. Unless a special session is called for some unforeseen reason, the Legislature will not meet again until February 2024, and then for no more than 35 days – the even-numbered year "short" session.

Small business finished the 2023 session incredibly strong. We passed two important tax bills – HB 2083, which extends Oregon's state and local tax (SALT) cap workaround program, and SB 498, which creates a $15 million estate tax exemption for business owners engaged in farming, fishing, and forestry. The final days of the session also saw the demise of two harmful insurance bills - HB 3242, which would have created a new private right of action against insurance companies, and HB 3243, which would have added insurance to the Unlawful Trade Practices Act, Both would have resulted in more lawsuits and higher insurance premiums.

It's not all good news though. A few bad-for-business bills made it across the finish line this year and the Legislature could have done far more to help small business. At times, it felt like lawmakers were content to accept the missed opportunities. But most of the truly objectionable ideas failed to pass – and on the whole, the 2023 session was arguably the best for small business in more than a decade!

Below you will find two lists of bills from the 2023 session with implications for Oregon's small businesses – one list of notable bills that successfully passed and made their way to the governor's desk, and one list of bills that were brought forward for consideration, but later died during the legislative process.

One thing to note about the bills that died – on occasion, a bill fails to move forward with very little effort due to a lack of interest on the part of legislative leadership, or a less-than-robust lobbying effort on the part of the bill's advocates. However, most of the time a bill dies because of sustained and coordinated efforts on the part of the bill's opponents. In recent years, NFIB hasn't been able to defeat every bill we oppose, but we've still managed to kill many, many bad bills.

Please see below for a short summary of each measure, NFIB's position on the bill, and the vote count in each chamber (if the legislation made it that far). The bills are listed in numerical order.

List of Bills Impacting Small Business that Passed:

- SB 498 – Estate Tax Relief for Natural Resources Sector Businesses
- SB 592 – Increased Penalties for Workplace Safety Violations
- SB 907 – Right to Refuse Dangerous Work
- SB 1089 – Universal Health Care Governance Board
- HB 2083 – SALT Workaround Extension
- HB 3409 – Climate Omnibus Package
- HB 3471 – Workers' Comp No-Rehire Agreements

List of Bills Impacting Small Business that Failed:

- SB 38 & SE 42 – Regulatory Reform
- SB 68 – Additional Phased-out Estate Tax Exemption
- SB 127 – $5 Million CAT Exemption
- SB 140 – CAT Reform
- SB 456 – Estate Tax Repeal
- SB 803 – Petroleum Diesel Fuel Ban
- SB 925 – Wage & Benefits Disclosure Mandate
- SB 939 – Estate Tax Reform
- HB 2057 – Wage Claim Liability
- HB 2396 – Indirect Sources of Emissions
- HB 2433 – $5 Million CAT Exemption
- HB 2624 – $2 Million Estate Tax Exemption
- HB 2800 – Age Discrimination
- HB 3022 – Legislative Oversight of DEQ Vehicle Regulations
- HB 3158 – Diesel, Tire, Rental & Heavy Equipment Tax
- HB 3205 – Hiring & Retention Bonus Pay
- HB 3226 – Suspension of Quarterly CAT Payments
- HB 3242 – Private Right of Action Against Insurance
- HB 3243 – Insurance Lawsuits Under Oregon's UTPA
- HB 3496 – Capital Gains Tax
- HB 3498 – $21.00 Minimum Wage & 32-hour Work Week
- HB 3504 – Personal Income Tax Increase

2023 Small Business Bills: Passed

SB 498 – Estate Tax Relief for Natural Resources Sector Businesses

NFIB Position: Supported

SB 498 sets a new $15 million estate tax exemption threshold for small businesses in the farm, forestry, and fishing industries, which is especially important for estates comprised mainly of illiquid assets, like farmland, ranchland, forestland, or a fishing vessel.

NFIB has hundreds of Oregon members engaged in agriculture and the natural resources sector – and this bill is a great first step in addressing an inevitable problem for multigenerational family businesses. The legislation will simplify a very complicated process for these taxpayers – and for their heirs who want to continue operating the family business but are unprepared to pay a sizable estate tax.

Eighty-eight percent of NFIB members in Oregon support the complete elimination of Oregon's estate tax. SB 498 takes a different approach, but it's a step in the right direction and, hopefully, the beginning of a continuing dialogue about reforming or eliminating Oregon's estate tax.

SB 498 was an NFIB Key Vote for the 2023 Oregon Legislative Session. The bill passed by a vote of 16-9 in the Senate, with 5 members absent. It passed by a vote of 35-20 in the House, with 5 members excused. For more information, click here.

SB 592 – Increased Penalties for Workplace Safety Violations

NFIB Position: Opposed

SB 592 makes significant changes to how the Oregon Occupational Safety and Health Division (Oregon OSHA) enforces the state's occupational health and safety laws. The legislation focuses on monetary punishment and ramps up inspections but does little else to enhance current health and safety best practices.

The penalty increases proposed by SB 592 are staggeringly high. Prior to the passage of the bill, the minimum penalty that could be imposed upon a business for a serious violation was $100. SB 592 increases the minimum to $1,116.

Part of what makes these new penalty amounts so problematic is that a serious violation may occur, and thus a civil penalty may be imposed against the business, even if an accident has not happened, and when no one working at the business has been injured, because a violation exists solely on a "substantial probability that death or serious physical harm could result" from the violation.

SB 592 was an NFIB Key Vote for the 2023 Oregon Legislative Session. The bill passed by a vote of 20-10 in the Senate. It passed by a vote of 35-23 in the House, with 2 members excused.

SB 907 – Right to Refuse Dangerous Work

NFIB Position: Opposed

SB 907 makes it an unlawful employment practice for any person to refuse to hire, discharge from employment, or discriminate against an employee or prospective employee because they refuse to expose themselves to serious injury or death from a hazardous condition at place of employment.

Originally, this legislation was much worse – greatly expanding an employee's right to refuse work that went far beyond existing state and federal law, increasing uncertainty and liability for Oregon employers. While the final version of the bill could still lead to lawsuits against small businesses, the employee (or prospective employee) can only invoke this new right so long as the refusal to work was made in good faith and with no reasonable alternatives offered by the employer.

The bill passed by a vote of 21-8 in the Senate, with 1 member excused. It passed by a vote of 33-15 in the House, with 12 members excused. For more information, click here.

SB 1089 – Universal Health Care Governance Board

NFIB Position: Opposed

SB 1089 establishes a Universal Health Plan Governance Board and directs the board to create a comprehensive plan for implementing a government-run, single-payer Universal Health Plan to be presented to the Legislature no later than September 15, 2026.

For the last four years, a legislative task force has been laying the groundwork for this next step in the process, with the ultimate goal of eliminating private health insurance in Oregon. The task force considered two new taxes to pay for this massive expansion of state government: an employer payroll tax designed to generate $12.85 billion per year and a personal income tax (in addition to the existing state personal income tax Oregonians already pay) designed to generate $8.5 billion per year, for a total of $21.35 billion in new taxes per year.

A 2023 survey of NFIB's membership in Oregon found that 90% of our small business members oppose replacing private insurance plans with a government-run single-payer health care system. The Legislature's efforts would be better directed towards identifying innovative, affordable, and responsible ways to provide coverage options for the relatively small number of Oregonians who are still uninsured, not moving forward with a Governance Board whose final product would be irrelevant without a $20 billion per year tax that will force thousands of small businesses to close or relocate out of state.

SB 1089 was an NFIB Key Vote for the 2023 Oregon Legislative Session. The bill passed by a vote of 17-8 in the Senate, with 5 members absent. It passed by a vote of 34-21 in the House, with 5 members excused. For more information, click here.

HB 2083 – SALT Workaround Extension

NFIB Position: Supported

HB 2083 extends a voluntary Oregon income tax program that allows qualifying business owners to reduce their federal income tax liability.

In 2017, the United States Congress passed into law the Tax Cuts and Jobs Act (TCJA). Among many other provisions, the TCJA limited a taxpayer's ability to deduct state and local taxes (SALT) to $10,000. For business owners in Oregon, this change had a significant impact on federal tax liability and reduced the overall benefit of the 2017 tax reforms for these taxpayers.

Along with most states that have an income tax, Oregon responded in 2021 with the creation of a SALT cap workaround. At the time, Oregon opted for a two-year sunset of the program. It should be noted that HB 2083 does not create a new tax, nor does it create a new credit – it simply extends an existing tax program that helps Oregon businesses reduce their federal tax liability through 2025, when the federal cap on the SALT deduction is set to automatically expire.

HB 2083 was an NFIB Key Vote for the 2023 Oregon Legislative Session. The bill passed by a vote of 52-1 in the House, with 7 members excused. It passed by a vote of 25-0 in the Senate, with 5 members absent. For more information, click here.

HB 3409 – Climate Omnibus Package

NFIB Position: Opposed

An amalgamation of several other legislative measures introduced during the 2023 session, HB 3409 is an omnibus bill relating to climate that passed in the final days of the session. Originally a placeholder bill introduced by the House Speaker's Office, HB 3409 became the vehicle for nearly every climate bill under consideration by the Legislature this year when an amendment more than 100 pages long was adopted in a budget committee – a highly unusual break from the normal legislative process.

Among many other provisions (and some NFIB would not oppose) the bill directs multiple state agencies to facilitate greenhouse gas reductions, specifies energy performance standards for certain commercial buildings, modifies building code policies, and makes significant changes to the Oregon Global Warming Commission, which will be now known as the Oregon Climate Action Commission.

The more one digs into this legislation, the more questions and concerns arise. Agency rulemaking will be extensive in the coming years as this bill is fully implemented.

The bill passed by a vote of 35-23 in the House, with 2 members excused. It passed by a vote of 17-7 in the Senate, with 6 members absent. For more information, click here.

HB 3471 – Workers' Comp No-Rehire Agreements

NFIB Position: Opposed

Early versions of HB 3471 would have prohibited employers from entering into settlements or agreements disposing of workers' compensation claims that bar a worker from seeking further employment with an employer unless first requested by the worker.

There are legitimate reasons for requesting a no re-hire provision in cases involving workers' compensation. First and foremost, instances can and do occur where the employee is no longer able to safely work at the job because of the injury sustained. In the case of an occupational disease, returning to the jobsite would likely result in further exposure and the prospect of another workers' compensation claim.

With this in mind, the final version of the bill was amended to prohibit settlement agreements that are conditional upon no-rehire agreements but continue to allow employers to put a no-rehire agreement on the table for consideration under certain circumstances. Still, the legislation allows for dual track enforcement through the BOLI complaint process and a private right of action.

The bill first passed by a vote of 35-23 in the House, with 2 members excused. It was then amended in a Senate committee and passed by a vote of 17-7 in the Senate, with 6 members absent. The bill then went back to the House for concurrence and passed by a final vote of 33-21, with 6 members excused. For more information, click here.

2023 Small Business Bills: Failed

SB 38 & SB 42 – Regulatory Reform

NFIB Position: Supported

Oregon's employers face an increasingly complex regulatory environment. As they spend more time complying with an expanding array of rules, they have less time to devote to the operation and expansion of their businesses. The absence of clear regulatory requirements, predictable timelines and outcomes, and a constructive working relationship between agencies and employers has a chilling effect on business investments in Oregon.

SB 38 would have eliminated "moving target permitting" by requiring state agencies to provide clear regulations, guidelines, and internal management directives relevant to each permit type and prohibit them from requiring permit applicants to comply with requirements that were neither in effect nor provided to the applicant at the time a complete application is submitted.

SB 42 would have strengthened Oregon's small business fiscal and economic impact statement requirements. Agency rulemaking requires a small business impact statement, which is a good first step. However, many rules have a significant economic effect, whether that be through job loss or creation or through compliance costs passed on to consumers. Further, proposed rules may carry significant ongoing costs of administration that lawmakers will be asked to fund through appropriations or fee increases. Regulated entities, consumers, taxpayers and legislators should have a clear and complete picture of the overall fiscal and economic impact of proposed rules.

Both bills were referred to the Senate Committee on Rules and received a public hearing on February 14, but failed to move forward along with a slate of additional regulatory reform bills supported by a large coalition of Oregon business groups. For more information, click here.

SB 68 – Additional Phased-out Estate Tax Exemption

NFIB Position: Supported

SB 68 would have more than doubled Oregon's lowest-in-the-nation estate tax exemption threshold for all estates worth up to $4.5 million and provided limited additional relief for estates valued between $4.5 million and $8.5 million. Larger estates would continue to be limited to the current $1 million exemption.

This bill was one of 15 introduced during the 2023 session aimed at reforming Oregon's estate tax. As a reminder, 88% of NFIB members in Oregon support the complete repeal of this tax – and multiple legislative proposals sought to do just that.

SB 68 was referred to the Senate Committee on Finance and Revenue and received a public hearing on March 27. NFIB testified in support, but the bill did not move forward.

SB 127 – $5 Million CAT Exemption

NFIB Position: Supported

SB 127 would have raised the current $1 million exemption for the Corporate Activity Tax (CAT) to $5 million.

The $1 million threshold was originally sold as a small business exemption, but due to the pyramiding effects of a gross receipts tax, even the smallest of small businesses have seen substantial increases in costs. This has only been made worse by labor shortages, supply chain issues, inflation, and an increase in the overall tax burden on Oregon businesses in recent years.

Raising the CAT exemption threshold to $5 million would have exempted 72% of current CAT-paying businesses completely – and would have reduced CAT liability for businesses with higher gross sales as well.

SB 127 was referred to the Senate Committee on Finance and Revenue and received a public hearing on February 15. NFIB testified in strong support, but the bill did not move forward. For more information, click here.

SB 140 – CAT Reform

NFIB Position: Neutral

SB 140 was a placeholder bill relating to the CAT. Multiple amendments were offered to replace the original language of the bill (some good, some bad). One proposal would have increased the CAT exemption threshold from $1 million to $2 million but would have "paid for" this reduction in revenue by increasing the 0.57% CAT rate or reducing the 35% subtraction for labor costs or cost of goods sold.

NFIB supports raising the CAT's exemption threshold, but we have serious concerns about raising the tax rate or reducing the 35% subtraction. Together, these policy changes create winners and losers – even within our own membership, let alone the entire business community.

SB 140 was referred to the Senate Committee on Finance and Revenue, where it received two public hearings in early June. NFIB went on the record with our concerns and urged the committee to move forward with a version of the bill that simply raised the exemption threshold. Unfortunately, lawmakers chose not to do so, and the bill died with the end of session.

SB 456 – Estate Tax Repeal

NFIB Position: Supported

SB 456 would have completely repealed Oregon's estate tax, but an amendment to the bill would have simply raised the exemption threshold from $1 million to $1.5 million – a very modest change that would have barely accounted for inflation since Oregon first implemented its current estate tax policy more than a decade ago.

The bill was referred to the Senate Committee on Finance and Revenue and received a public hearing on May 15. NFIB testified in support, but the bill failed to move forward in light of SB 498 being the estate tax bill legislators were most interested in passing this year. For more information, click here.

SB 803 – Petroleum Diesel Fuel Ban

NFIB Position: Opposed

SB 803 would have phased-out and eventually banned the sale of petroleum diesel fuel in Oregon. The economy relies on the use and availability of diesel fuel, and although Renewable Diesel (RD) is an emerging alternative fuel that by most accounts is a good product that many Oregonians and business would like more of, RD currently (and likely into the future) faces significant cost competitiveness and supply challenges that have not yet been addressed. Our opposition was not a reflection on RD, but rather an ill-advised mandate that would ban a vast majority of diesel and put our members' businesses and Oregon's economic future at risk.

SB 803 was referred to the Senate Committee on Energy and Environment and received two public hearings in early March. NFIB testified in opposition. The bill was then moved to the Joint Committee on Ways and Means, where it did not receive any further consideration.

SB 925 – Wage & Benefits Disclosure Mandate

NFIB Position: Opposed

SB 925 would have required all Oregon businesses to publicize ranges of compensation and descriptions of employment benefits for job postings, promotion opportunities, and transfer advertisements.

This legislation would have impacted thousands of small and independent businesses across Oregon by creating an unnecessary, potentially costly, and burdensome state mandate when there are already significant federal and state standards that explicitly prohibit wage discrimination.

The bill would have authorized the Oregon Bureau of Labor and Industries (BOLI) to penalize employers for failing to comply with these new disclosure requirements and would have allowed for a private right of action in addition to BOLI enforcement.

The bill was referred to the Senate Committee on Labor and Business and received a public hearing on March 16. NFIB testified in opposition and the bill failed to move forward.

SB 939 – Estate Tax Reform

NFIB Position: Supported

SB 939 would have made three modest changes to Oregon's estate tax. It would have eliminated the "marriage penalty" by allowing each individual to retain the full value of their exemption, regardless of marital status, it would have raised the $1 million exemption to $1.3 million (to account for inflation since the current estate tax system was put in place by the Legislature,) and it would have indexed that exemption threshold to inflation going forward.

Each of these policy changes would be a step in the right direction on their own – and even better together as a package. But perhaps the most interesting aspect of this bill was that it was chief sponsored by Sen. Michael Dembrow (D-Portland) making estate tax reform a bipartisan issue in both chambers of the Legislature. (Another estate tax bill, HB 2259, had already been introduced in the House with bipartisan chief sponsors.)

The bill was referred to the Senate Committee on Finance and Revenue and received a public hearing on March 14. NFIB testified in support, but the bill was not considered again before the end of session.

HB 2057 – Wage Claim Liability

NFIB Position: Opposed

HB 2057 would have made general construction contractors liable for the unpaid wages of their subcontractors. Making one independent business liable for the unpaid wages of another would have been a dangerous precedent to set, regardless of the specific industry being targeted. The bill would have fundamentally held the wrong party responsible for breaking the law. If passed into law, businesses that did nothing wrong would have been sued under this new private right of action.

HB 2057 was an NFIB Key Vote for the 2023 Oregon Legislative Session. The bill was referred to the House Committee on Business and Labor and received a public hearing on March 8. NFIB testified in opposition. The bill passed out of committee on a party line vote but had bipartisan opposition when it came to the floor of the House for a vote on April 12. In fact, it was the first House vote of the 2023 session to pass with 31 votes – the minimum required for a house bill to pass, which sent a strong signal to the Senate that the bill was highly controversial. The bill was then referred to the Senate Committee on Labor and Business where it received two more public hearings and although the bill eventually moved out of committee, it remained on the Senate President's desk for the remainder of session. For more information, click here.

HB 2396 – Indirect Sources of Emissions

NFIB Position: Opposed

HB 2396 would have created a new indirect sources review program at DEQ. The proposed program would have applied to indirect sources of greenhouse gas emissions throughout the state, including retail facilities, government offices and buildings, schools, colleges, hospitals, ports, and development projects. This broad application meant that all of Oregon's economy would have been impacted by this sweeping program.

The impact of this program would have been felt by Oregon's whole economy, but especially by small businesses. Such a program would likely include analysis, review, and permitting requirements. The cost of air quality analysis and permit preparation alone would be prohibitive for some small contractors and businesses, and substantial delays would have also been caused by review requirements.

The bill was referred to the House Committee on Climate, Energy, and Environment and received a public hearing on February 15, but failed to move forward after a strong showing of opposition from industry groups, including NFIB. For more information, click here.

HB 2433 – $5 Million CAT Exemption

NFIB Position: Supported

HB 2433 was the near-exact house version of SB 127 (above) and would have raised the current $1 million exemption for the Corporate Activity Tax (CAT) to $5 million.

When the Legislature passed the CAT in 2019, 91% of NFIB members in Oregon opposed it. It's no secret that small business owners have consistently and overwhelmingly expressed their frustration with the concept of a gross receipts tax, mostly because the very idea of taxing a business on its gross sales, whether it makes a profit or not, is objectionable to entrepreneurs who already bear the financial and legal risks of owning, operating, and trying to grow a small business.

HB 2433 was referred to the House Committee on Revenue and received a public hearing on February 9. NFIB testified in strong support, but the bill did not move forward. For more information, click here.

HB 2624 – $2 Million Estate Tax Exemption

NFIB Position: Supported

HB 2624 would have added an additional $1 million estate tax exemption to Oregon's estate tax policy, thereby exempting the first $2 million of the estate, and adjusted the additional $1 million for inflation in future tax years.

Just for a little bit of additional background, Oregon's estate tax applies to all estates valued at $1 million or more (except for estates impacted by SB 498 – see above for more details.) The tax rates range from 10-16% on the value of the estate that exceeds $1 million.

In contrast, the federal estate tax exemption level is currently $12.92 million for 2023 and three-fourths of states do not impose an estate tax at all. Regarding our closest neighbors, California, Idaho, and Nevada have no estate tax. Washington state has an exemption threshold of $2.193 million for 2023.

HB 2624 was referred to the House Committee on Revenue and received a public hearing on February 9. NFIB testified in support. An additional informational hearing was held on March 7, but the bill failed to move forward. For more information, click here.

HB 2800 – Age Discrimination

NFIB Position: Opposed

HB 2800 would have prohibited employers from asking about the age of job applicants prior to completing an initial interview or making a conditional offer of employment. It would have also prohibited employers from using certain words or phrases in the job application process that could suggest age preferences. The bill would have created a new private right of action in addition to BOLI enforcement.

This bill would have been completely unworkable for employers had it passed, especially during the nation's current labor shortage. When "characteristics that are closely associated with, correlated with or used as a proxy for age include, but are not limited to: salary and length of service with an employer," among others, are expressly prohibited – and these and other terms in the bill shall be "liberally construed to carry out the purpose" of the legislation, employers would have undoubtedly found themselves struggling even more so than they are now to meet their workforce needs.

The bill was referred to the House Committee on Business and Labor and received a public hearing on February 6. NFIB testified in opposition along with a large coalition of business groups. The bill failed to move forward. For more information, click here.

HB 3022 – Legislative Oversight of DEQ Vehicle Regulations

NFIB Position: Supported

HB 3022 would have prohibited the Oregon Environmental Quality Commission (EQC) or the Oregon Department of Environmental Quality (DEQ) from adopting or enforcing rules or standards related to motor vehicle fuels or emissions unless the EQC and DEQ were authorized to do so by the Legislature.

In a recent survey of NFIB members in Oregon, over 93% of respondents opposed the EQC adoption California's Advanced Clean Cars II rule. On issues of this magnitude with the potential to impact the lives and livelihoods of nearly every small business owner in the state, not to mention Oregonians in general, Oregon's elected lawmakers should have the final say, not an unelected board, commission, or agency in Salem or Sacramento.

The bill was referred to the House Committee on Climate, Energy, and Environment and received two public hearings in February. NFIB provided testimony in support, but the bill failed to advance. For more information, click here.

HB 3158 – Diesel, Tire, Rental & Heavy Equipment Tax

NFIB Position: Opposed

HB 3158 would have would have created several new taxes to fund goals established by the Legislature in 2019 to reduce diesel emissions, The bill would have established a 3% excise tax on the retail sale of tires, a 1.5% privilege tax for businesses who sell or lease off-road equipment, a 1.5% use tax on off-road diesel equipment purchased outside of Oregon, a 3.5% rental tax for rentals of off-road diesel equipment, a 2% rental tax for rentals of all other qualified heavy equipment, a privilege tax on heavy-duty trucks and light-duty vehicles, and a fuel tax on all red-dyed diesel used in off-road equipment.

These proposed taxes would have created enormous burdens for the exact businesses they were aiming to assist. These new taxes would decrease the capital that companies have, making it more difficult for them to purchase new, lower-emission equipment. Each of these taxes on their own would create major problems for businesses in Oregon, but together, they would have created a catastrophic cost increase on businesses who use diesel equipment and vehicles throughout the state.

The bill was referred to the House Committee on Climate, Energy, and Environment and received a public hearing on February 15, but failed to move advance after a coalition of industry groups rallied to oppose the bill, including NFIB. For more information, click here.

HB 3205 – Hiring & Retention Bonus Pay

NFIB Position: Supported

HB 3205 would have restored the ability of Oregon employers to offer hiring and retention bonus pay to workers without running afoul of Oregon's Equal Pay law. Currently, hiring and retention bonuses are included in the definition of compensation, which means an employer cannot legally pay these bonuses unless they pay them to all employees who perform the same or similar work. Conversely, merit bonuses are expressly exempt – HB 3205 would have added hiring and retention bonuses to the list of exemptions.

In 2021, the Legislature listened to the needs of employers and temporarily removed hiring and retention bonuses from Oregon's Equal Pay law. The Legislature again extended the exemption in 2022, but it expired on September 28, 2022, 180 days after Gov. Kate Brown's COVID-19 state of emergency ended.

Oregon is currently the only state in the country where employers aren't allowed to pay hiring and retention bonuses. Due to the national labor shortage, Oregon is losing workers to other states, including Washington, which allows employers to pay hiring and retention bonuses.

The bill was referred to the House Committee on Business and Labor and received a public hearing on March 13. NFIB joined with 50 other advocacy organizations in support of the measure.

It easily passed out of committee and passed unanimously on the House floor on April 14. It was referred to the Senate Committee on Labor and Business where the bill hit a snag. The chair of this committee had problems with the bill and amended it in such a way that it failed to accomplish its purpose. The bill then sat on the Senate President's desk until the end of session. For more information, click here.

HB 3226 – Suspension of Quarterly CAT Payments

NFIB Position: Supported

HB 3226 would have specified that if a taxpayer has no taxable commercial activity for a calendar quarter, the taxpayer is not required to make an estimated payment of Corporate Activity Tax (CAT) for that quarter.

The bill would have provided cash-flow protections for highly seasonal businesses like farms – or even businesses impacted in the future by a situation similar to the COVID-19 pandemic, when many businesses were required to shutter their doors for extended periods of time. (Currently, if a business expects to have a CAT liability of more than $5,000, it is required to pay quarterly estimated payments).

The bill was referred to the House Committee on Revenue and received a public hearing on March 9. NFIB testified in support, but the bill did not advance.

HB 3242 – Private Right of Action Against Insurance

NFIB Position: Opposed

HB 3242 would have established a new private right of action for insurance policyholders against their insurer for unfair claim settlement practices including practices that are not described in current law but that are deemed unfair by the Director of the Department of Consumer and Business Services (DCBS) or a court. If the insured prevailed, they would be entitled to up to three times actual damages as well as attorney fees.

This bill would have increased insurance rates for nearly all lines of insurance at a time when Oregonians and their businesses cannot afford any more cost burdens. Small businesses rely on affordable insurance rates to protect their businesses, their employees, and the customers they serve. HB 3242 would have moved Oregon's insurance market away from a proven model that is working for most Oregonians to one that incentivizes expensive litigation.

HB 3242 was an NFIB Key Vote for the 2023 Oregon Legislative Session. The bill was referred to the House Committee on Business and Labor and received a public hearing on March 1. NFIB joined with our coalition partners in opposition, but it passed out of committee later that month on a party line vote. It then passed on the House floor – again on a party line vote. The bill was then referred to the Senate Committee on Judiciary where it received two public hearings and a work session in April. The committee amended the bill to ensure workers compensation insurance and medical malpractice insurance would not be impacted.

The Senate then passed the bill on the floor and sent it back to the House for concurrence where the House promptly refused to concur. The bill went to a conference committee the day before the session ended, but the final version of the bill that came out of the conference committee did not have the votes to pass again on the Senate floor. It failed by one vote. For more information, click here.

HB 3243 – Insurance Lawsuits Under Oregon's UTPA

NFIB Position: Opposed

HB 3243 would have made insurance subject to Oregon's Unlawful Trade Practices Act (UTPA), allowing private lawsuits against insurers and awards of both actual and punitive damages, in addition to attorney fees.

The bill would have led to higher litigation costs to resolve claims, which creates market pressure to increase premiums. For many Oregon consumers and businesses, this would mean policyholders paying more for the same coverage – and if they could not afford to pay more, they would risk leaving themselves under-insured.

The bill was referred to the House Committee on Business and Labor and received a public hearing on March 1. NFIB joined with our coalition partners in opposition, but it passed out of committee later that month. The bill passed on the House floor, with one Republican voting with the Democrats in support. The bill was then referred to the Senate Committee on Judiciary where it received two public hearings and a work session in April. When the bill finally reached the Senate floor, it was voted back to committee unanimously, killing the bill. For more information, click here.

HB 3496 – Capital Gains Tax

NFIB Position: Opposed

HB 3496 would have Imposed an additional personal income tax of 0.75% on the portion of income treated as a net capital gain. For example, since Oregon's highest personal income tax rate is 9.9%, the highest rate for the new capital gains tax would be 10.65% for that income bracket.

The bill would have also directed the increase in revenue from the additional tax on capital gains into a fund for legal representation of residential tenants in eviction proceedings.

The bill was referred to the House Committee on Revenue. It did not receive a public hearing and did not move forward during the 2023 session.

HB 3498 – $21 Minimum Wage & 32-hour Work Week

NFIB Position: Opposed

HB 3498 would have reestablished a statewide minimum wage in Oregon, doing away with the current three-region approach that was adopted in 2016, by setting the new minimum wage at $15 per hour starting on July 1, 2024, and raising the minimum by $1 per year until 2030.

Similar to current law, the rate would then increase annually based on increases to the Consumer Price Index (CPI)

The bill would also redefine full-time work, requiring overtime pay for hours worked in excess 32 hours per week.

The bill was referred to the House Committee on Business and Labor. It did not receive a public hearing and failed to advance.

HB 3504 – Personal Income Tax Increase

NFIB Position: Opposed

HB 3504 would have overhauled Oregon's personal income tax brackets and rates – something Oregon should absolutely do because our higher rates kick-in at appallingly low income levels – but the bill sought to make these changes in a way that would have drastically raised taxes on most middle-class Oregonians, and certainly the majority of small business owners.

The bill proposed to raise Oregon's top personal income tax rate from 9.9% to 18%!

The bill was referred to the House Committee on Revenue. It did not receive a public hearing and, thankfully, did not receive any serious consideration.

On a Final Note….

The fact that so many harmful bills were stopped in their tracks, or amended to be more palatable, is something we can be proud of. That doesn't take the sting out of the bad bills that passed this year, or the good bills we supported that failed to advance, but as was noted at the beginning of this report, the 2023 Oregon Legislative Session was one of the least harmful long sessions we've seen in recent memory – and even had a few bright spots here and there.

Please reach out to NFIB if you have any questions about any of the bills you've read about in this report, even if you're just looking for more detail. And if there's a bill you tracked that isn't on this list, we'll be happy to investigate it for you. As a reminder, during session NFIB works on bills that affect a significant majority of our members, not every bill that could affect a single member. For those, we can help connect you with your industry-specific group, your state legislators, or both!

Thank you for your support during the 2023 legislative session! We couldn't do this important work without you!