March 2016

This 2016 OSBA/COSA Legislative Report describes the bills enacted by the 2016 Oregon Legislative Assembly that affect public schools. It was prepared jointly by the Oregon School Boards Association and the Confederation of Oregon School Administrators, whose continuing collaboration ensures that the interests of board members and school administrators are at the forefront when state laws affecting public education are enacted.

Oregon public schools are represented full-time in Salem by Chuck Bennett from COSA and Jim Green, Lori Sattenspiel and Morgan Allen from OSBA.

We thank all those from school districts, education service districts (ESDs), charter schools and community colleges around the state who work with our Salem team to represent the interests of Oregon public school students. Our special thanks go to the school district, ESD, charter school and community college board members and administrators who contacted their legislators in person and by letter, phone, fax, email and text message. Their response to our calls to action and their effective delivery of messages from home kept the pressure on at the Capitol and made success possible for OSBA and COSA on several important issues.

We look forward to a successful session in 2017.

Sincerely,

Betsy Miller-Jones
Executive Director
Oregon School Boards Association

Craig Hawkins
Executive Director
Confederation of Oregon School Administrators
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2016 SHORT SESSION IN REVIEW

The 2016 short Legislative Session, scheduled to last just over one month, barely did by running from Feb. 1 to March 3.

It got off to a rocky start almost immediately. Legislative leaders decided to take on substantial policy bills that were highly divisive along partisan lines. Energy, including the highly controversial cap and trade provisions, dramatic changes in landlord tenant relations, affordable housing, annexation, marijuana, minimum wage and, just to add a little spice, the suggestion of stronger gun laws, resulted in strong party line divisions.

The result was a general slowdown of the legislative session driven mostly by procedural hassles on the floors of the House and Senate. The most dramatic display of displeasure came when minority (Republican) members of both the House and Senate required the full reading of bills to be voted on before floor action could be taken.

There were no major education bills considered during the session. The Legislature did approve an extension on the sunset for open enrollment so a plan can be developed for the next regular legislative session to try to combine inter-district transfer and open enrollment into a single system. There was discussion of increasing the amount of State School Funds for charter schools, but due to the time shortage it was referred to the interim. This was the pattern on a number of more complicated education bills that would require substantial study before they would be ready for consideration, including spending of poverty weighted funds.

Probably the biggest bill of the session for education was the so-called “5th Year” bill that dramatically changed the ability for districts to use State School Funds to buy college-level courses for students who have not received a diploma.

The 2016 March quarterly state revenue forecast was basically flat, with drops in corporate income and a sluggish stock market. Job growth in Oregon balanced out the flat forecast. Over the next several biennia, the state’s revenue projections are not good, as baby-boomers retire and cut back in their personal spending. According to estimates, the state will have roughly $166 million less in revenue than what was forecasted at the end of the session for the 2017-19 biennium, and about $150 million less for the 2019-21 biennium. With PERS rates for school districts and health insurance costs expected to go up, it could be a long battle during the 2017 Legislative Session to ensure schools across Oregon have stable and adequate resources necessary to provide educational services to Oregon’s schoolchildren.
Senate Bill (SB) 1541 *(Chapter __), effective March __, 2016, creates new provisions directing the Oregon Department of Education (ODE), in consultation with the Chief Education Office, to conduct a study on expenditure variations among school districts. The study shall:
(a) review expenditures in multiple categories, including instruction, support services, administration, transportation and business services;
(b) review amounts in school district reserve funds;
(c) identify factors that may affect expenditure levels in a category, including class size, staff levels, staff compensation, administrative compensation, student demographics, length of school year, number of school days per week and number of instructional hours in school year; and
(d) determine whether expenditure variations are related to student outcomes, including attendance, absenteeism and graduation rates. The bill requires ODE to report to the interim legislative committees on Education no later than December 15, 2016.

SB 5701 *(Chapter __), effective March __, 2016, is the omnibus budget reconciliation bill for the 2016 Legislative Session, implementing the statewide rebalance plan that addresses changes in projected revenues and expenditures since the close of the 2015 session. The bill makes multiple changes in the 2015-17 legislatively approved budget in the Education Program area. These changes include:
• Decreasing the General Fund and increasing the Lottery Funds for the State School Fund (SSF) by $39,553,391. This change reflects the balance of available General Fund and Lottery Funds for the overall state budget and maintains the amount of $7.376 million total funds for the SSF for the 2015-17 biennium.
• Increasing funding for the Oregon Pre-Kindergarten program by $5.3 million, bringing the total General Fund resources for this program to $145.3 million.
• Increasing funding for the Early Intervention and Early Childhood Special Education (EI/ECSE) programs by $5,393,340. This increase reflects, in part, the growth in these two programs at a rate greater than estimated at the end of the 2015 session. Total General Fund resources for these programs, including this increase, is $155.8 million.
• Increasing the funding for the Relief Nurseries program by $300,000, bringing the total General Fund available for the 2015-17 biennium to $8.6 million.
• Funding a $260,000 grant to the Burnt River School District for the Burnt River Integrated Agriculture/Science Research Ranch program. This program provides educational opportunities to students from outside the district, including from the Portland area, and provides a number of educational services outside of the core curriculum common to all high school students, such as natural resource studies, agricultural experience, water quality monitoring, animal husbandry, sustainable rangeland science, forest restoration and organic food production.
• Funding $95,000 for a grant to the World of Speed organization for the High School Automotive Career Technical Education program. The organization partners with Clackamas Community College and area high schools to provide automotive-related career technical education (CTE). Other high schools have expressed interest and the $95,000 would be used to match other contributions to the program, assisting with the cost of transporting students to the facility for classes, and other program costs.

House Bill (HB) 4033 (Chapter 8), effective March 1, 2016, amends ORS 342.950 to allow that funds distributed under the Network of Quality Teaching and Learning may be distributed for purposes of advancing the Educators Equity Act, improving the cultural competence of educators and ensuring educators are trained in culturally relevant educational practices. (Specific programs eligible for funding under this bill are delineated in SB 5701.)

HB 5201 *(Chapter __), effective March __, 2016, creates new provisions and modifies various appropriations from the Lottery Fund made during the 2015 Legislative Session. This bill specifically appropriates the $39,553,391 in increased Lottery Funds to the State School Fund as outlined in SB 5701.

*Awaiting signature from Governor

Continued
HB 5202 *(Chapter __ ) effective March __ 2016, creates new provisions and amends ORS 286A.830, 286A.836 and 286A.851; and section 14, chapter 746, Oregon Laws 2007; section 4, chapter 906, Oregon Laws 2009; section 11, chapter 79, Oregon Laws 2012; and sections 1, 2, 3 and 10, Chapter 685, Oregon Laws 2015. The bill authorizes the issuance of general obligation bonds for capital construction projects for the 2015-17 biennium.

The bill modifies five previously authorized community college projects including:

- Blue Mountain Community College: $495,037 from XI-G bonds previously approved in SB 5507 (2013) will be used to construct a classroom for the Veterinary Assistance Certificate.
- Columbia Gorge Community College (CGCC): The bill approved a scope change which will allow CGCC to construct a Middle College Prototype Facility to be used by both CGCC and North Wasco School District. This program will focus on grades 11-14 and the transition between high school and post-secondary education.
- Linn Benton Community College: The bill approved a scope change to the College Nursing and Allied Health Facility that was to be built on the Lebanon campus. The college plans to acquire land to construct the new facility.
- Southwestern Oregon Community College: The bill approved a scope change from building a new Health and Sciences building to renovating and expanding the existing health building.
- Treasure Valley Community College: The bill approved a scope change to expand and remodel an existing building being used for welding and fabrication rather than constructing a new facility.

HB 5203 *(Chapter ___), effective March __, 2016, creates new provisions and amends sections 1, 2, 3, 5 and 7, chapter 808, Oregon Laws 2015. This is the budget bill for capital construction projects and establishes authority for planning, design and construction of projects with costs over $1 million. The project approvals and expenditure limitations expire on June 30, 2021. The Legislature must approve each project. The bill adjusts some previous approved projects.

The education portion of the bill authorizes $1 million for Portland Community College to finance the acquisition and improvements to land and/or the acquisition, construction or alteration of the American Manufacturing Innovation District Building, including furnishing and equipping of the building.

House Joint Resolution 202 (filed with the Secretary of State on March 10, 2016) proposes an amendment to the Oregon Constitution to require 1.5 percent of lottery revenues to be expended for the benefit of veterans. The election for this proposed constitutional amendment shall be held at the general election in November 2016.

When the voters of Oregon approved the creation of the Oregon Lottery, the Constitution dedicated the net lottery proceeds to the purpose of creating jobs and furthering economic development. This was expanded by Measure 21 (May 1995) to include financing public education, and by Measure 66 (Nov. 1998) to include restoring and protecting Oregon’s parks, beaches, watersheds, and critical fish and wildlife habitats. Measure 21 also gave lottery bonds first claim on lottery proceeds and dedicated 15 percent of net proceeds to the Education Endowment Fund. Measure 66 dedicated 15 percent of net proceeds to the Parks and Natural Resources Fund, with 50 percent to parks and recreational areas and 50 percent to fish and wildlife habitats. Measure 19 (Sept. 2002) converted the Education Endowment Fund to an Education Stability Fund, transferred $150 million of the principal to the State School Fund, and increased the lottery dedication to 18 percent. If the balance in the Stability Fund reaches 5 percent of General Fund revenue, the lottery dedication is reduced to 15 percent and deposited in a new school capital matching subaccount. The 2005 Legislature (HB 3466) repealed lottery games on sporting events starting in July 2007. The same bill also dedicated 1.0 percent of lottery proceeds to fund sports programs at Oregon universities. Measure 76 (Nov. 2010) made the 15 percent dedication to parks and natural resources permanent and allocated 12 percent to regional parks and grants. If this resolution is adopted by the voters, the lottery will have an additional 1.5 percent dedicated to veterans, which will bring the total constitutionally dedicated revenues to 34.5 percent.

*Awaiting signature from Governor*
SB 1537 *(Chapter __), effective March __, 2016, creates new provisions in ORS Chapter 327 to allow school districts to continue operating so-called “5th Year” community college programs under new conditions. The bill enacts tighter guidelines for the programs in an attempt to target the classes to “at risk” and underserved students. The bill limits and lowers the amount districts can claim from the State School Fund to a 0.75 weight beginning in 2018-19 (the weight for 2016-17 is 1.0, and 0.85 for 2017-18; no additional weights for the students may be claimed). The bill also prohibits students eligible for the Oregon Promise from entering 5th-year programs. It requires eligible students to submit a Free Application for Federal Student Aid (FAFSA) form; students may not participate in the program if their projected federal aid exceeds the average cost of tuition and fees. The bill requires the Oregon Department of Education (ODE) to report on how many students are enrolled and the financial impact on the State School Fund by November 1, 2018, and asks for recommendations from ODE and the Higher Education Coordinating Commission on a long-term, sustainable source of funding for the program. It sunsets on June 30, 2021, and absent any legislative action, the 5th-year programs would again be allowed to exist without limitation or regulation.

SB 1540 (Chapter 17), effective March 3, 2016, creates new provisions to direct the Oregon Higher Education Coordinating Commission (HECC) to conduct an evaluation on providing tuition waivers for students at community colleges and public universities who are pursuing mathematics-related degrees. The bill clarifies that the HECC may consider multiple methodologies for increasing the number of math majors in Oregon.

SB 1564 (Chapter 21), effective March 3, 2016, creates new provisions, amends ORS 327.016 and 336.079 and repeals section 7, chapter 604, Oregon Laws 2015, to require the Oregon Department of Education (ODE) to create one statewide report on the progress of English Language Learners (ELL) and expenditures related to ELL programs. The bill also eliminates a requirement that each school district create an individual, district level report that was established in 2015 under HB 3499. ODE will be required to share the report with school districts by September 1 of each year; districts will be required to post the report on their website and make it available at the district office for public inspection.

SB 1566 (Chapter 60), effective March 15, 2016, amends ORS 339.127 and 339.133; and sections 21 and 22, chapter 718, Oregon Laws 2011; and repeals section 11, chapter 781, Oregon Laws 2015; and sections 1, 2, 3, 4, 5, 6, 7 and 11, chapter 7, Oregon Laws 2016 (Enrolled House Bill 4023), to extend the sunset date on Oregon’s “open enrollment” law from July 1, 2017, to July 1, 2019. The practical impact is that there will now be “open enrollment” during the 2017-18 and 2018-19 school years. Both the House and Senate Education Committee chairs have indicated a commitment to convening stakeholders between the end of the 2016 Legislative Session and the beginning of the 2017 Legislative Session to discuss the complexities and confusion created by having both “open enrollment” and interdistrict transfer options available to districts in an attempt to create one system for student transfers in Oregon.

HB 4002 *(Chapter __), effective March __, 2016, creates new provisions to attempt to address the issue of chronic student absenteeism in Oregon. The bill directs the Oregon Department of Education and the Chief Education Office to jointly develop a statewide plan to address chronic absences; the plan is due to the Legislature by December 1, 2016. The bill also appropriates $500,000 to the Chief Education Office to create and fund pilot programs around the state to decrease rates of absenteeism in school districts; a report on the pilot program is due to the Legislature by October 2019.

HB 4057 (Chapter 9), effective March 1, 2016, creates new provisions to require the Oregon Department of Education (ODE) to survey school districts about programs (including costs, if available) and promising practices that are intended to improve student achievement for students impacted by poverty. ODE will also include how much State School Fund each school district receives from the poverty weight as part of the report; the report is due to the Legislature by February 15, 2017, and may include other recommendations from ODE. The bill also requires ODE to provide the report and other information (such as school district or staff contact information) related to best practices and programs on their website by the February 2017 deadline.

*Awaiting signature from Governor

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HB 4075 *(Chapter __), effective March __, 2016, creates new provisions; amends ORS 165.570, and sections 1 and 2, chapter 93, Oregon Laws 2014; and repeals ORS 180.650 and 180.660. The bill appropriates $1 million from the General Fund to establish a tip line on school safety within the Oregon State Police (OSP) department. It also repeals the existing tip line operated by the Oregon Department of Justice. The bill requires the tip line to receive reports through telephone, text messaging, or electronic formats. It defines the threat to student safety as harassment, intimidation, bullying, cyberbullying, threats of violence against others, and threats of suicide or self-harm. The reports to the tip line can come from either students or the community at-large. The bill requires the OSP to adopt rules on identification of callers; log reports received on the tip line; verify authenticity of reports; and relay reports to local law enforcement, behavioral health providers and appropriate school district officials. It also includes knowingly misreporting through the tip line within the crime of improper use of an emergency communications system. The bill requires the tip line to be connected to other hotlines. It also adds additional members to the Task Force on School Safety from the Oregon Department of Education and the Association of Oregon Community Mental Health Programs. Finally, the bill extends the sunset of the Task Force on School Safety until December 31, 2019.

*Awaiting signature from Governor*
SB 1532 (Chapter 12), effective March 2, 2016, amends ORS 653.025 to establish a three-tiered system for determination of minimum wage based on the geographical location of the employer. Currently the minimum wage in Oregon is $9.25 per hour. The bill will raise the base minimum wage to $13.50 per hour by July 1, 2022. It breaks up the state into three separate regions with each region having a different minimum wage. The bill establishes a higher minimum wage ($14.75 by 2022) for employees working within the urban growth boundary of the Portland metropolitan area and a lower minimum wage ($12.50 by 2022) for those employees working in 18 non-urban counties. It adjusts the base minimum wage annually for inflation starting July 1, 2023. The bill sets the Portland metropolitan area minimum wage after June 30, 2023, to be no less than $1.25 more than the base minimum wage. The bill also sets the non-urban minimum wage after June 30, 2023, to be no less than $1.00 less than the base minimum wage.

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- **Region 1, Non-Urban Counties:** Baker, Coos, Crook, Curry, Douglas, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler
- **Region 2, Statewide Minimum Wage Counties:** Benton, Clatsop, Columbia, Deschutes, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Polk, Tillamook, Wasco and Yamhill
- **Region 3, Portland (UGB) includes:** Parts of Clackamas, Multnomah and Washington Counties

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SB 1534 (Chapter 15), effective March 3, 2016, creates new provisions and amends ORS 657.221. ORS 657.221 outlines the ineligibility of certain employee classifications to receive an unemployment insurance benefit during holidays and breaks. The bill attempts to correct a small technical issue that arises when a classified employee leaves the employment of a school district and seeks work elsewhere. Under current law, if a classified employee has not found a job and a school break begins, his or her unemployment insurance benefit stops for the duration of that break. The bill would allow a classified employee under these circumstances to receive an unemployment insurance benefit.

This same issue arose in the 2015 Legislative Session as 2015 Senate Bill 470, which passed the Senate and was stalled in the House because of concerns issued by the United States Department of Labor (USDOL). The USDOL indicated the proposed changes in 2015 SB 470 may not comply with federal law. During the interim, a workgroup had discussions with the USDOL on this issue, leaving Oregon waiting for an official opinion about proposed changes to ORS 657.221 contained in 2015 SB 470. While waiting for an opinion from the USDOL, legislators drafted SB 1534 to address this issue, leaving Oregon waiting for an official opinion about proposed changes to ORS 657.221 contained in 2015 SB 470. While waiting for an opinion from the USDOL, legislators drafted SB 1534 to address this issue, leaving Oregon waiting for an official opinion about proposed changes to ORS 657.221 contained in 2015 SB 470.

SB 1534 is now in effect, essentially negating the entire bill. The Office of Legislative Counsel indicates a new bill will be drafted for the 2017 legislative session to restore ORS 657.221 to the original language before SB 1534 became law.

HB 4022 (Chapter 6), effective March 1, 2016, creates a new provision in ORS Chapter 238 to reestablish the exemption on the limitations of hours for employment of certain Public Employees Retirement System (PERS) retirees imposed by ORS 238.082. The bill permits Tier One and Tier Two members of PERS to return to work full time (in excess of 1,039 hours) for a school district or education service district as a speech-language pathologist or a speech-language pathology assistant. The bill repeals this exemption on January 2, 2026.

HB 4067 *(Chapter __), effective March ___, 2016, creates new provisions and amends ORS 659A.200, 659A.203 and 659A.885 to expand the employee whistleblower statutes to include an affirmative defense to criminal or civil charges brought about as a result of an employee’s good faith and objectively reasonable disclosure of information that the employee believes shows a violation of state, federal or local law, regulation or rule. Additionally, the bill creates a Class A misdemeanor if a retaliatory action is taken against an employee. The bill requires school districts to ensure district policy delineates the rights and remedies for employees under ORS 659A.203. It also requires school districts to deliver a copy of the policy to each employee either electronically or in writing.

HB 4086 (Chapter 27), effective March 8, 2016, creates new provisions in ORS Chapter 657 to provide temporary unemployment insurance benefits for labor lockouts. Under the bill, the benefit for an individual who is unemployed due to labor lockout will be equal to the individual’s most recent weekly unemployment benefits claim. The bill caps the temporary lockout benefit at 26 times the weekly benefit amount of the individual’s most recent unemployment benefit claim. It also requires an employer to be charged for temporary lockout unemployment benefits in the same manner as regular benefits are charged. Finally, the bill allows the payment for temporary unemployment lockout benefits to be made retroactively.

*Awaiting signature from Governor
SB 1512 (Chapter 55), effective March 15, 2016, amends ORS 286A.760 and 286A.780 to allow the proceeds of bond sales under Articles XI-M and XI-N of the Oregon Constitution to be used to pay for surveying, engineering reports and other administrative costs (such as staff, supplies and services) related to the Seismic Rehabilitation Grant Program. The 2015 Legislature invested $175 million in state bond funds to provide seismic upgrades to school district and community college buildings. Business Oregon (a state agency) administers the program; the bill allows Business Oregon to help pay for the costs of running the program out of the proceeds of the bond sales.

SB 1558 (Chapter 20), effective March 3, 2016, creates new provisions to protect student privacy by prohibiting the disclosure of college or university student health center, counseling center or mental health center records except when allowed or required by law. The bill ensures that these specific student health records may not be considered student records by the institution.

HB 4023 (Chapter 7), effective July 1, 2016, amends ORS 327.006, 339.127 and 339.133; and sections 9 and 22, chapter 718, Oregon Laws 2011; and repeals section 11, chapter 781, Oregon Laws 2015, to require that certain individuals be considered residents of the school district in which those individuals attend school even if legal residences of the individuals are no longer within the district because of a district boundary change.

Under current law, if a school district boundary changes, there is no statutory right for students to remain enrolled in the school they attended prior to the boundary change. The school districts of Beaverton and Hillsboro have agreed to move the location of their mutual school district boundary to better align their districts with ongoing residential development in their respective school districts. The bill allows students in an area affected by a boundary change to be considered residents of the school district they resided in prior to the boundary change, as long as the student is continuously enrolled in that school and has not changed his or her residential address. While this bill addresses a specific need currently between the Hillsboro and Beaverton school districts, it is applicable statewide rather than to a specific location, e.g., Beaverton or Hillsboro.

OSBA HELPS IDENTIFY AND IMPLEMENT POLICY CHANGES REQUIRED BY NEW LEGISLATION

Some of the laws enacted by the 2016 Legislature require school districts, education service districts, charter schools and community colleges to make policy changes. The Oregon School Boards Association has created sample policies to help you make these changes. For more information, contact OSBA Policy Services, 800-578-6722 or 503-588-2800.