

As we all know, this past year has been anything but normal in Oregon and around the nation. The pandemic, economic conditions, natural disasters, student learning losses, and social unrest all profoundly impacted our daily lives, and spotlighted the need for new investment in our communities.

True to the times, the 2021 Legislative Session was unlike any other session Oregon has witnessed in recent memory. From gavel-in to “sine die” adjournment, Oregonians watched as the Legislature attempted to navigate a worldwide public health emergency and conduct the people’s business.

The entire legislative session was held virtually with the use of video conferencing for public hearings and strict protocols for in-person floor votes. However, legislative leaders’ decision to close one of the country’s most accessible capitol buildings was not without controversy -- Republicans briefly boycotted the session in late February – and was a stark reminder of how the pandemic changed our lives.

The impacts of the September 2020 wildfires also lingered over the legislature, as dozens of bills were proposed to aid with wildfire relief efforts and to address prevention of wildfires. Because many of these significant policy issues were unexpected, there was little discussion in advance of the session and negotiations continued until the final days. The February ice storm also brought legislative progress to a halt, as many Oregonians in the Northwest part of the state remained without power or internet for the better part of a week.

This session also saw two members of the House forced to vacate their seats. The first, Democrat Rep. Diego Hernandez, resigned under pressure after multiple allegations of harassment in the workplace. The second, Republican Rep. Mike Nearman, became the first legislator in Oregon’s history to be expelled from the Legislature after evidence surfaced of his involvement with armed protesters at the state capitol.

Despite all of these roadblocks and distractions, a majority of legislators were able to work together to meet their constitutional obligation of crafting and passing a budget for the next biennium. The efforts of the Ways and Means process were supported by a very optimistic May revenue forecast and the infusion of federal American Rescue Plan funds.

As in year’s past, Oregon Democrats controlled the Legislative and Executive branch with Governor Kate Brown, Speaker of the House Tina Kotek, and Senate President Peter Courtney in leadership. Senator Fred Girod led the Senate Republicans and Representative Christine Drazen led the House Republicans. Both were new leaders for their caucuses.

The 2021 session saw the passage of many important pieces of legislation including measures to advance racial equity, a police reform package, wildfire relief, a historic behavioral health package, a childcare investment package, a landmark bill to modernize Oregon’s recycling system, and the extension of a commercial rent payment grace period to give local businesses time to access rent relief. And while the session has gavelled to an end, the Legislature will continue to work hard for Oregonians in the coming months to redraw the state’s legislative and congressional districts and prepare for the February 2022 “short” session.

2021 LEGISLATIVE AGENDA

The Northwest Credit Union Association maintained three priorities for the 2021 Oregon legislative session:

- 1 Protecting the credit union tax exemption in the State of Oregon;
- 2 Advancing additional updates to the Oregon Credit Union Act; and
- 3 Protecting Oregon credit unions from new and/or burdensome regulation and requirements.

The NWCUA Board of Directors approved the legislative priorities and agenda recommended by the Oregon Governmental Affairs Committee (GAC) in the summer of 2020. The legislative priorities were based on feedback from Oregon credit unions, and ideas gleaned from a review of other credit union acts around the country.

PASSAGE OF OREGON CREDIT UNION MOVEMENT PRIORITY BILLS

HB3079, updating the Oregon Credit Union Act, was one of our priority bills. As members' needs continue to evolve, it is important that the Oregon Credit Union Act is updated. Modernizing the Oregon Credit Union Act will ensure not-for-profit, cooperative credit unions remain relevant to their members on Main Street. Here are the three provisions that passed in HB3079:

Modernize Act Requirements for Credit Union Service Organizations (CUSOs)

Across America, there are nearly 1,000 CUSOs that primarily serve credit unions. CUSOs allow credit unions a greater voice in determining their products and services. Credit Union Direct Lending (CUDL) is one example; CUDL helps more than 1,100 credit unions and nearly 15,000 auto dealers to process convenient, affordable vehicle loans to consumers. Investing in a CUSO can allow credit unions a greater voice in determining the products and services they offer; however, Oregon is one of the only states that require CUSOs be majority owned (51%) by credit unions for an investment to be made. Given the fact that many CUSOs have outside industry investors due to their service expertise — FinTech companies, for example — Oregon statute excludes credit unions from making investments in some CUSOs that might benefit the credit union and its members. HB3079 deletes the requirement to be primarily owned by a credit union or CUSO.

Update Language in the Emergency Merger Section of the Act

Oregon's credit union merger statute does not currently permit a community credit union with an occupational or associational field of membership to merge with another credit union. In times of distress, regulators may wish to allow a credit union to merge with another credit union in order to avoid erosion of the first credit union's financial strength. If the ideal credit union partner's field of membership is incompatible with the distressed credit union's field of membership, the credit unions cannot merge without giving up one of the fields of membership. The Federal Credit Union Act permits the National Credit Union Administration to approve mergers of federal credit unions in such circumstances with retention of both fields of membership. This bill provides the Oregon regulator with the same authority that is available to the federal regulator.

“Oregon has never had a session like this, “The state was on fire. People were out of work. Families were struggling. We were in the middle of a pandemic, but we came in and did the people's work. We balanced our budget and made big investments in our communities. There were some bitter fights but, in the end, we represented the people well.”

Peter Courtney
Senate President

Update Parity Strike Date

Periodically, we must update the “strike,” or trigger date in the Act’s federal parity provision. The law requires the Act to have a specified “as of” date for the powers granted by parity with the Federal Credit Union Act, to prevent unconstitutional delegation of legislative authority. Maintaining state-chartered credit unions’ abilities to obtain parity with federal credit unions helps to ensure both charters remain relevant, and that a credit union’s preference for a state charter remains intact. This “housekeeping” update would minimize requests to state regulators to invoke parity with federal regulations, which have been amended since the last amended strike date in the Oregon Act. HB3079 has been signed into law by Governor Brown and becomes effective Jan. 1, 2022.

HB3080, the Scan Identification Bill, also passed this session. This measure allows financial institutions, after obtaining a person’s permission, to run a driver’s license or identification card through a scanner or reader for the purpose of establishing or maintaining a contract or account. Oregon law currently prevents financial institutions from scanning the bar code on an ODL to populate a loan or membership application. The bill allows financial institutions to scan, using a barcode reader, as opposed to just copying a member’s government identification (usually a driver’s license) into accounts or loan documents. In compliance with federal law, financial institutions MUST request, review, and retain a record of a member’s government identification when opening an account per the Bank Secrecy Act. HB3080 has been signed into law by Governor Brown and becomes effective Jan. 1, 2022.

OTHER RELEVANT BILLS TRACKED BY NWCUA WHICH PASSED

Mortgage Foreclosure Moratorium

HB2009 renews temporary mortgage payment deferral and protections from foreclosure for specified borrowers: those who own no more than five properties that each include four or fewer residential dwelling units. Protections apply through the end of the current emergency period, June 30, 2021, and the measure authorizes the Governor to extend the emergency period twice in three-month increments. (She has extended the period through Sept. 30, 2021). During the emergency period, defaults are prohibited for failing to make mortgage payments so long as borrowers notify their lenders of lost income from the COVID-19 pandemic. Any foreclosures initiated during the emergency period will be stayed. The measure also changes the threshold to exempt a lender from participating in the Oregon Foreclosure Avoidance Program. Currently, the exemption applies if a lender commenced no more than 175 foreclosures in the prior calendar year. House Bill 2009B lowers the threshold in 2021 and 2022 to 30 foreclosures commenced in 2019; and in 2023 and subsequent years, the threshold will be 30 foreclosures commenced in the prior year. NWCUA was successful in making several changes to the bill including adding language on the homeowner notification to qualify for protections under the bill.

Remote Online Notarization

SB765 makes permanent provisions allowing a notary public to perform a notarial act using communication technology for a remotely located individual under certain circumstances. NWCUA testified in support of this bill. It was signed by the Governor on June 15th and is effective immediately.

Remote Online Notarization (RON) allows a commissioned notary public to perform notarial acts for remotely located individuals under specified circumstances using audio/video technology provided by state-approved vendors that meet specific requirements. Remote online notarization benefits credit unions and their members by allowing notaries to electronically and remotely notarize documents, providing a tamper-proof electronic version of the document. It also would eliminate physical distancing concerns for consumers and would eliminate the need for rural residents to travel significant distances to have a document notarized. In 2019, NWCUA led the charge to authorize the recording of documents (such as trust deeds) that were created and signed electronically. The legislation provides lenders, title insurers, and county recording offices the assurance that electronically signed documents can be recorded as long as they satisfy all applicable recording requirements. Remote notarization has been our next goal in updating laws related to lending practices. This permanent change will allow for the ability to practice strong social distancing standards and provide Oregon citizens and businesses with a secure and safe method by which to execute important legal documents, and to promote and secure the safety and protections of individuals. We are especially aware that our senior citizens and rural Oregonians may need alternative methods for notarization during this time.

Mortgage Loan Originator Education

HB2007B adds completion of additional education requirements, including topics of implicit bias and racial bias to the list of requirements for a mortgage loan originator license and renewal. It allows the Department of Consumer and Business Services to establish educational requirements on implicit bias and racial bias by rule and establishes the 16-member Joint Task Force on Addressing Racial Disparities in Home Ownership. This new task force is charged with reviewing the reports and continuing the work of the Task Force on Addressing Racial Disparities in Home Ownership and recommending legislative solutions to eliminating barriers for homeownership for people of color in Oregon. It is expected that Governor Brown will sign HB2007B.

Business Oregon Lending

The Oregon Business Development Department, more commonly known as Business Oregon, is the state's economic development agency. Its mission is to invest in Oregon businesses, communities, and people to promote a globally competitive, diverse, and inclusive economy. Business Oregon operates infrastructure financing programs that are available to local municipalities for water systems, wastewater systems, port development, roads, and other infrastructure needs related to business growth and community development.

HB2266 A requires Business Oregon to make awards to lenders to fund the lenders' loan loss reserve accounts, and to establish a program to make loans to eligible businesses. The measure appropriates \$10 million from the General Fund to each program.

It is expected that Governor Brown will sign HB2266.

Juneteenth

HB2168 establishes Juneteenth as a state holiday on June 19 and the bill takes effect on the 91st day following adjournment sine die. The bill was passed by the Oregon Legislature and signed by Governor Kate Brown. It recognizes Juneteenth as a paid state holiday beginning in 2022.

Civics Education

HB2299 passed the House and Senate and will require students to demonstrate proficiency in civics in order to receive a high school diploma. Civics and financial education have often been reviewed by the legislature.

Paid Family Medical Leave

Two bills, HB2474 and HB3398, related to family leave, passed this session. In passing House Bill 2474-Enrolled, the Legislature modified the Oregon Family Leave Act to expand protected leave for all employees of a covered employer during a public health emergency, who have been employed at least 30 days and worked at least 25 hours per week leading up to the leave. It also provides leave protections for employees who are reemployed within 180 days or who would otherwise lose protection because of a temporary cessation of scheduled hours. This legislation is effective on January 1, 2022.

HB3398-Enrolled, delays implementation dates for the Oregon Family Leave Act, allowing more time for the Oregon Employment Department to adopt rules, submit reports to the Legislative Assembly, and reimburse money for start-up costs. The start date for employer and employee contributions is from January 1, 2022 to January 1, 2023.

This legislation is effective 91 days following adjournment sine die. It amends the Paid Family and Medical Leave Insurance (PFMLI) program. The current law requires PFMLI contributions to begin Jan. 1, 2022, and benefits to begin Jan. 1, 2023. The Oregon Employment Department finds that timeline to be unreasonable and proposed a delay. Under HB 3398, contributions will begin Jan. 1, 2023, and benefits will begin Sept. 3, 2023. The bill passed the House and Senate and is waiting for the Governor's signature.

Non-Competition Agreements

This session, there was substantial discussion around non-competition agreements. SB169, legislation that achieved consensus, ultimately prevailed, establishing that a nonconforming non-competition agreement between an employer and employee is void and unenforceable, rather than voidable. The law becomes effective Jan. 1, 2022.

Predictive Scheduling

The Legislature made minimal changes in SB716 to Oregon's predictive scheduling laws to explicitly include childcare needs under work schedule limitations or changes that an employee may request of a large retail, food service or hospitality employer. The law gives employees the right to identify any limitations or changes in their work schedule availability and to request to not be scheduled for work shifts during certain times or at certain locations. The measure became effective June 3, 2021.

Contact Tracing

The Department of Justice Work Group pursued HB3284 to provide parameters on the use of the data gathered by apps for contact tracing. The focus of the legislation is providing protection for consumer data while maintaining the effectiveness of these tools for public health purposes to stop the spread of COVID-19. During the pandemic, the focus of privacy legislation was narrowed to focus on the current pandemic. This legislation became effective when it was signed into law by Governor Brown on June 15, 2021.

The NWCUA Compliance Team has prepared a detailed analysis of the bills relevant to credit unions that passed in the 2021 Oregon legislative session. The analysis is linked here.

READ MORE



ADDITIONAL RELEVANT BILLS TRACKED BY NWCUA WHICH DID NOT PASS

We have reported on HB2009, the mortgage foreclosure moratorium bill. HB3397 was introduced by the Oregon Restaurant and Lodging Association and includes most of the provisions of HB2009 but also would have included commercial properties. The bill never received a hearing prior to adjournment.

SB852 would have prohibited the personal mortgage interest deduction (MID) for residences other than the taxpayer's principal residence, with certain exceptions. This bill had a hearing in the Senate Finance and Revenue Committee but did not pass.

Taxing Paycheck Protection Program Loans

SB137 (-2 amendment) - This amendment came up quickly and NWCUA, along with over 50 business associations, sent a letter opposing it. SB 137-2 would have required forgiven PPP loan amounts in excess of \$100,000 to be added back as "taxable income" for Oregon businesses that used the program exactly the way it was intended. We found it to be an unfair, retroactive tax increase on Oregon small businesses at a time when Oregon is already projected to bring in more revenue than ever before. The Legislative Revenue Office estimates this unnecessary tax increase would have cost Oregon businesses \$450-\$600 million. The committee heard testimony opposing this amendment and no one testified in support. The committee took no action on the -2 amendment or the underlying bill.

Check Cashing Fees

HB2356 sought to prohibit certain financial institutions from charging fees to customers for cashing checks drawn on accounts at financial institutions, if the checks were presented in Oregon. The bill had a hearing and did not pass out of committee.

Public Bank/State Bank

HB2743 proposed a "municipal bank" as an entity whose organization was directed by local government ordinance or resolution. NWCUA worked with the proponents on an amendment that prohibits the municipal bank from accepting retail deposits from consumers. The bill did not pass out of committee. SB339, which proposed a state bank, did not get a hearing.

Selling Personal Information

HB2392 proposed a tax on the privilege of engaging in the business of selling personal information at retail establishments. The bill failed to advance out of the House Committee on Business and Labor.

Facial Recognition

SB309 and SB310, sponsored by Senator Chuck Riley (D-Hillsboro,) to prohibit state agencies and private entities from using face recognition technology in place of public accommodation, failed to receive a public hearing this session in the Senate Committee on Judiciary. While it wasn't prioritized this session, it is an issue we will continue to monitor in privacy conversations.

Campaign Finance

At the end of the session, the Legislature failed to prioritize and achieve consensus on campaign finance reform. Oregon is currently one of five states with no limits on political campaign contributions and is one of 11 states that doesn't impose limits on individual donors.

2021 LEGISLATIVE SESSION BY THE NUMBERS:

2,519

*Bills Introduced
this Session*

752

*Passed by
The House*

783

*Passed by
The Senate*

719

Bills enacted

STATE BUDGET

The most recent revenue forecast, released in May, showed Oregon greatly exceeding revenue projections on the heels of the COVID-19 pandemic, thanks in part to federal government support for both households and businesses. Oregon was expected to finish the 2019-21 biennium at the end of June with an ending balance of \$2.82 billion and reserve funds of \$1.38 billion. The forecast also indicated the "kicker" will be triggered, which is expected to result in tax rebates of approximately \$1.42 billion in 2022. The corporate kicker is expected to be an additional \$664 million, all of which would be paid into the state's Education Stability (reserve) Fund. Federal funding played a significant role in stabilizing Oregon's budget during the pandemic. Oregon received direct aid in the form of recovery rebates (\$12 billion), unemployment insurance benefits (\$12 billion), Paycheck Protection Program loans/grants (\$10 billion), and funding for state and local governments (\$4.2 billion).

CREDIT UNION DAY AT THE CAPITOL – 2021 STYLE!

The Oregon advocacy army's timing couldn't have been better, as the two credit union priority bills had sailed through the House and were headed for Senate hearings. Advocates were able to learn about the bills and message their legislators. The Virtual Oregon Credit Union Day at the Capitol presented a great opportunity for advocates to thank legislators for their support, and to tell senators why it is important to pass the bills. During the virtual event, advocates heard from State Treasurer Tobias Read, Secretary of State Shemia Fagan, House Minority Leader Christine Drazen, and House Majority Leader Barbara Smith Warner. Smith Warner received the NWCUA's Community Impact Award for her years of service to Oregonians and for her support of credit unions. Following the virtual event, advocates attended more than 70 Zoom meetings with their legislators.

SPECIAL SESSION

Every 10 years, the Legislature holds a special session for redistricting – a once-in-a-decade opportunity to redistribute Oregon’s Congressional and Legislative district boundaries to account for population changes across the state. The decisions made during the redistricting session will impact how every Oregon resident is represented, and with whom, for the next decade.

Unlike redistricting sessions of the recent past, this year’s session will include the drawing of an entirely new congressional district, as Oregon qualified for a sixth seat thanks to the population growth data collected from the 2020 Census. The last time Oregon qualified for a new congressional district was in 1980.

This year’s special session is tentatively scheduled to be held on September 20, 2021 and will be open to the public – assuming COVID-19 protocols permit. Due to scheduled construction beginning at the Capitol this July, operations will be severely impacted, and the wings, hearing rooms, and parking garage will be closed. However, the chambers and other common areas of the building are expected to remain open.

Thank you, Advocates, for your work to keep the Credit Union Movement’s operating environment relevant. The 2021 session was certainly one to remember. We appreciate the work of advocates who are currently engaged in the Governmental Affairs Committee (GAC) process to help shape the policy advancement agenda for coming sessions.



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