

>> Including Electronic Cigarettes in Oregon's Tobacco Laws

Lessons for tobacco policy



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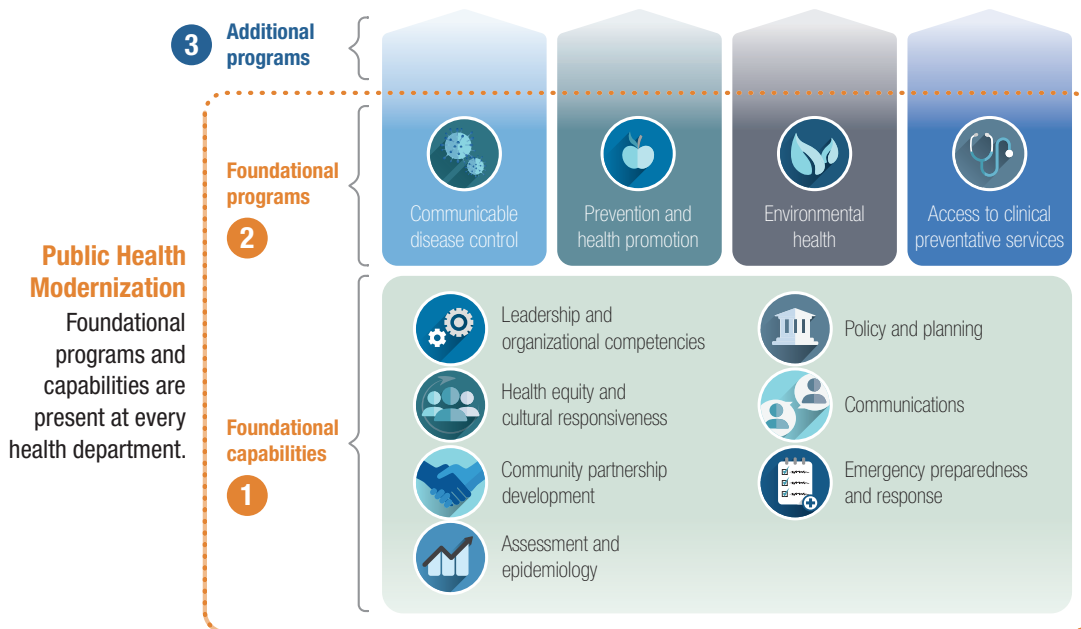
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Passing tobacco policy in a modernized public health system

Eighty percent of what shapes our health happens outside the doctor’s office. Public health promotes the health of all people in Oregon in the places where they live, work, learn and play by working across sectors to advance policy changes that promote and support good health.

This evaluation sought to characterize one such policy change and harvest lessons for future tobacco policy successes. Some ingredients for success identified by the evaluation also provide vivid illustration of the foundational capabilities of a modern public health system: health equity and cultural responsiveness, leadership and organizational competencies, emergency preparedness, assessment and epidemiology, communications, policy and planning, and community partnership development. State and local public health demonstrate a firm grasp on assessment and epidemiology in having up-to-date surveillance data on e-cigarette use at-the-ready, and in conducting assessments of e-cigarette availability in local communities. A solid foundation in communications is evidenced by state public health in meeting legislators’ requests for timely, high-quality e-cigarette surveillance data, and by local public health in providing legislative testimony on local e-cigarette use to contextualize the policy. Strategic partners, convened by state and local public health and key legislators, provided testimony on how the policy would be enforced, which proved essential to passing the strongest possible policy. This community partnership development brought new voices to the policy conversation and assisted governmental public health in achieving a collaborative public health goal.

Modernized framework for governmental public health services



The foundation for the success of this policy process was built, in part, on years of comprehensive tobacco prevention and education in Oregon – 20 years, to be exact. Since 1997, the Oregon Public Health Division’s Tobacco Prevention and Education Program has funded and worked with partners in local public health authorities, tribes, regional health equity coalitions, and other community-based and not-for-profit organizations to prevent and reduce tobacco-related deaths in every Oregon community. This tobacco prevention movement continues to implement proven tobacco control strategies rooted in surveillance and evaluation, strategic health communications, and community-level interventions with diverse partners.

The policy initiative described in this evaluation report is a testament to the efficacy of the comprehensive approach that the Oregon Tobacco Prevention and Education Program has been practicing for two decades, and demonstrates how a modernized public health system can amplify its prevention and health promotion work to benefit health and well-being in Oregon’s ever-changing communities.

Table of contents

» Passing tobacco policy in a modernized public health system	4
» Executive summary.....	8
» Introduction.....	16
» Background	16
» Public health relevance	16
» Policy evaluation.....	17
» Methods.....	18
» Figure 1. CDC framework for public health evaluation	18
» Evaluation advisory group.....	19
» Policy process timelines and theory of change model	19
» Figure 2. Integrated House Bill 2546 timeline.....	20
» Evaluation goals and questions	21
» Evaluation approach	21
» Stakeholder interview process.....	21
» Interview questions.....	22
» Analysis approach	22
» Results	24
» Part 1: Characterizing the policy process	24
» Policy process attributes	24
» Bill attributes.....	33
» Bill support reasons.....	35
» External factors	40
» Policy process challenges	44
» Future concerns	50

- » **Part 2: Characterizing the role of state and local government and lobbyists 51**
 - » State government role..... 51
 - » Local government contribution..... 53
 - » Lobbyist contribution 56
 - » Tobacco norms and data..... 56
- » **Conclusions..... 61**
 - » Applying lessons learned to other Oregon policy processes..... 61
 - » Applying lessons learned for other states working on tobacco control 62
- » **References 64**
- » **Appendices 66**
 - » Appendix A. Evaluation advisory group members 66
 - » Appendix B. State government House Bill 2546 timeline 67
 - » Appendix C. Local government House Bill 2546 timeline..... 68
 - » Appendix D. Lobbyists House Bill 2546 timeline 69
 - » Appendix F. List of stakeholder interviewees 70
 - » Appendix G. Stakeholder interview request template 71
 - » Appendix H. Stakeholder interview script 72
 - » Appendix I. Stakeholder interview coding scheme 74

Executive summary

Background

On May 26, 2015, Oregon Governor Kate Brown signed House Bill 2546 into law. In addition to including vaping products in existing tobacco sales to minors laws, the policy was considered a success by public health advocates due to the involvement of multi-sectoral partners, the creation of a forward-thinking definition for vaping products that considered substances other than nicotine (e.g., marijuana), and the absence of an exemption to Oregon's Indoor Clean Air Act for sampling inside vape shops.

The Oregon Public Health Division sought to characterize the House Bill 2546 policy process and harvest lessons learned for future policy processes in Oregon, as well as offer a case study for other jurisdictions in the U.S.

What did House Bill 2546 do?

1. Created definition for e-cigarettes termed “inhalant delivery systems”
2. Amended existing laws related to youth tobacco sales and use to equally apply to inhalant delivery systems
3. Created broad term “inhalant” to describe aerosol emitted from device
4. “Inhalant” definition included “cannabinoids” (i.e., marijuana) and non-nicotine substances
5. Included “inhalants” in the Oregon Indoor Clean Air Act

What did House Bill 2546 not do?

1. Did not include Indoor Clean Air Act exemption for indoor sampling of e-cigarette products
2. Did not include component for taxation of e-cigarette products

Evaluation advisory group

The Public Health Division convened an evaluation advisory group representing state and local public health departments and public health lobbyists. The advisory group identified evaluation questions, selected policy stakeholders for key informant interviews, and aided in interpretation of evaluation results.

Key informant interviews were conducted with 15 policy stakeholders, including eight legislators and legislative staff, three public health partners, two public health lobbyists, and two local public health staff.

Evaluation questions

1. To what extent and effect did state government, local government, and lobbyists collaborate?
2. What role did local, state and national tobacco control infrastructure play?
3. What role did external factors in the environment play?

Data collection and analysis

Stakeholder interviews were conducted in October and November 2016 using a standard script. Interviews were recorded with stakeholder permission and transcribed verbatim. Data management was conducted in NVivo version 11. Two coders from the evaluation team independently reviewed and coded all interview transcripts. Discrepancies in coding were resolved through discussion and consensus between the two coders.

Policy process characteristics

Stakeholders identified the following components of the policy process as keys to success:

Legislative leadership in pre-session workgroup and during session, including succession planning from the 2014 to 2015 sessions



Effective pre-session workgroup to draft the bill with representation from legislators, state and local public health, community partners, and the vape industry



Setting clear bill priorities to focus on youth sales and clean air laws (and not tax) allowed for consistent stakeholder messages



Diverse stakeholder voices in pre-session workgroups and in hearing testimony, including non-traditional partners like law enforcement and building managers and owners

2014 legislative session introduced e-cigarettes as a new product to regulate and allowed time to educate legislators and other stakeholders

Bill characteristics

Stakeholders highlighted the following components of the bill as important to policy success:



Novel product definition broad enough to account for future industry innovations, and responsive to future federal regulations

Inclusion of cannabinoids in “inhalants” definition to prepare for implementation of recreational marijuana legalization in Oregon



No Indoor Clean Air Act exemption for indoor sampling in vape shops



Keeping taxation separate to focus on less complex issues like youth sales restrictions and strengthening clean air regulations

“

I work with a lot of different groups and I'm on a lot of committees. This one was so crazy well organized. Sometimes you go to meetings and say, 'why am I here?' This was never the case.

”

“

The work together between the workgroup members was so multidisciplinary, it was inclusive of state government, local government, nonprofit, and community-based folks. I think that was a great model.

”

“

We wanted something that would apply not just to the current devices but any crazy thing that somebody's going to come up with in the future.

”

“

...as we get into the hairy questions of taxation, that's going to take us quickly to questions about harm reduction...those are going to be more difficult waters to navigate...

”

Reasons for bill support

Stakeholders highlighted several reasons for bill support both personally and for other stakeholders:



Protecting children from e-cigarette initiation, a potential gateway to regular tobacco and lifelong nicotine addiction, and from exposure to secondhand e-cigarette vapor



Easier enforcement of the Indoor Clean Air Act given the difficulty of distinguishing between substances used in e-cigarettes

Regulating the vape industry as a growing market with no consistency or safety standards

Lack of research on the health effects of e-cigarette use and exposure to secondhand vapor



Recreational marijuana legalization and prohibiting public use of marijuana was particularly compelling to conservative legislators

Effect on local ordinances and ensuring state policies do not adversely affect strong local policy

External factors affecting the policy process

Stakeholders commented on several external factors that informed the policy process:



Growing, but diffuse, vape industry proved ineffective during legislative session at alleviating concerns with product safety; perpetuated the idea that the new industry needed regulations

Recreational marijuana legalization was top-of-mind for legislators concerned with public consumption of marijuana and youth exposure

“ Young people are my biggest concern. Here are young people vaping. They don't know what's in that. There is no long-term empirical evidence as to the effect of what they're doing. ”

“ ...they [people responsible for enforcement] don't have to figure out what's in the device. If you're using in the prescribed areas then it's a violation... ”

“ There was a lot of concern about the legalization of marijuana and where it will be consumed and how it will be part of our society. Seeing that this bill will encompass marijuana, I think gave relief to Republicans and Democrats both. ”

“ ...an employee of a vape shop, with no certification, no license, no professional background, would go into a room in the back and literally concoct a liquid form and then sell it to a member of the public to inhale. ”



Awareness of vaping increased both from media coverage of emerging research and stakeholders' experiences with e-cigarettes in daily life

Laws and regulations outside Oregon, including other states that had already regulated e-cigarettes and lack of federal regulations

Challenges during the policy process

While relatively smooth overall, stakeholders identified several challenges in the policy process:



Keeping the Indoor Clean Air Act exemption out of the bill was the most-cited challenge; vape shop owners said prohibiting indoor product sampling would harm business and e-cigarette users wanted communal spaces for product use

Small business arguments from vape shop owners warning that regulating vape businesses would stifle a new home-grown industry



Health and cessation claims from vape shop owners and e-cigarette users despite absence of research and lack of FDA approval

Conservative values of many legislators hesitant to regulate a growing industry and expand the role of government in general

Absence of voluntary organizations that did not have national approval to advocate for the bill

Lack of research on the health effects of e-cigarette use and secondhand exposure as reasons to wait before regulating the industry

“ It was amazing who I saw vaping. I've seen little mini generations come and go... on the streets where I saw them gathering, there were just too darn many young people smoking the stuff. ”

“ They [e-cigarette users] felt that if they had group settings where they came together and talked about their nicotine addiction... if they are able to vape together in a public space, it would help them. ”

“ ...these young companies have the argument, and I think it's a decent one, 'well, you regulated us into a corner before we really even had a chance to find our feet.' ”

“ They [e-cigarette users] came and provided some very heartfelt, very real testimony that e-cigarettes are really...helping them because they started smoking at a very young age, which we know is the way that nicotine addiction often happens. ”

Future concerns from stakeholders

A few stakeholders expressed concerns that may be relevant in future policy processes:

Further regulating vape businesses may prove difficult given the growing industry is becoming more organized and may have more lobbying power (concerns related to implementing a tax or youth-oriented policies like a flavor ban)



Backlash from the marijuana community who may not have been aware that the law prohibits use of marijuana in public, places of employment



Overstating the health harms of e-cigarettes relative to regular cigarettes makes any future harm reduction conversations more difficult

Stakeholders provided their perspectives on the roles of state and local government and lobbyists:

State government role in policy process

General gratitude toward the Oregon Public Health Division for helping in the process



Contribution to pre-session workgroup, especially on the new product definition

Information sharing including public health surveillance data and vape industry tracking



Funding local programs to assess e-cigarettes in communities, which increased capacity to provide testimony for local and state policies

Local government role



Passing strong local policy provided a precedent and reason to pass state-level e-cigarette policies without indoor sampling exemptions

Providing testimony at bill hearings in both the House and Senate

“ When public health comes on as saying ‘these cigarettes are all bad,’ we’re not giving credit to people who are taking a harm reduction step and that philosophically is an alignment with other public health principles around syringe exchange and a lot of other things we do. ”

“ You know what, I give it all to the state. They were very well organized. I work on a lot of groups with the City and the State and this was a very easy process for me. ”

“ When you actually go and photograph these things for sale in real stores, in real counties, I think that’s very compelling. So, the more pictures and tangibles like that, I think goes a long way. ”

“ I think we benefited a lot from the very strong involvement of the community in Multnomah County that had already started down this road. ”

Lobbyist role



On the ground during legislative session, particularly in the Senate to ensure the bill did not include an indoor sampling exemption

Local tobacco prevention partner group participation to strategize for session



While stakeholders provided few specifics on the role of tobacco prevention programs in the policy process, they referenced lessons learned from tobacco industry tactics, the history of clean air laws, a state-developed counter-marketing ad, and cited both general trends and specific data points from public health surveillance systems. A long history of tobacco prevention in Oregon likely contributed to stakeholder knowledge and perceptions.

Lessons learned for Oregon policy processes

Stakeholders considered the following bill and policy process elements as essential to success:

Legislative champions with succession planning

Pre-session workgroup with representation from all stakeholder groups, including the industry

Diverse partners from multiple sectors in pre-session workgroups and session hearings



Clear bill priorities prior to session for consistent policy messages during session



Strong local policies offer leverage to advocate for similarly strong state regulations

State public health access to legislators to respond to information and data requests



There's all sorts of research showing nationally Americans, and I believe it trickles all the way down to Oregonians, are just frankly done with smoking in public places.



I've been in a lot of workgroups. This one worked really well. How come? We had a very, very circumscribed goal.



[House Bill] 2546 was the big mothership...we needed it to actually pass and we wanted everything else, but it wasn't going to be the priority.



Lessons learned for other tobacco programs

Tobacco control advocates in other states could consider the following lessons learned in their work:



Involve **non-traditional partners** concerned with easy enforcement of smokefree laws



Involve **vape industry representative(s)** in early policy planning to ensure perspectives are understood and considered

Support local jurisdictions in passing **strong, exemption-free ordinances** to leverage in statewide policy discussions



Leverage **recreational marijuana legalization** to garner support from legislators

Create a **broad product definition** to account for future industry innovation

Exclude tax component to moderate opposition from e-cigarette users and anti-tax legislators



Focus on messages related to youth prevention and easier enforcement of clean air laws



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“ We had a lot of advocates that were going around and talking, and each was emphasizing different aspects of the bill...it wasn't just always health people going to talk...there were lots of different people who were supportive of the bill. ”

“ We made sure that we passed what we wanted in Multnomah County first, because we truly believed that we can enforce and push good public policy by taking the reins up here. ”

Introduction

Background

On May 26, 2015, Oregon Governor Kate Brown signed House Bill 2546 into law. The law went into effect upon signage except for Oregon Indoor Clean Air Act (ICAA) requirements which began on January 1, 2016,¹ and rules related to product packaging and labeling which went into effect on July 1, 2016.² The bill created a legal definition for electronic cigarettes (e-cigarettes) and other vaping products termed “inhalant delivery systems” rather than including these products into the existing definition for “tobacco products”.³ The bill also amended existing laws related to the sale of tobacco products to, and use of tobacco products by, minors (those less than 18 years old) so the laws equally apply to inhalant delivery systems. For the purposes of Oregon’s ICAA, the bill defined the term “inhalant” to include both nicotine and non-nicotine substances (e.g., marijuana) and included inhalants in Oregon ICAA prohibitions against use in the workplace and within 10 feet of all entrances, exits, windows, and air-intake vents.⁴ The law also gave the Oregon Health Authority the responsibility of writing rules and imposing standards for child resistant product packaging, labeling, and packaging that is not attractive to minors.³

Public health relevance

The law was considered a policy success by public health advocates due to:

- Multi-sectoral involvement of partners in the process, including many not historically supportive of tobacco regulations;
- Creation of a novel, forward-thinking definition for vaping products that considered substances other than nicotine (e.g., marijuana); and
- Absence of an exemption to Oregon’s ICAA for the purposes of sampling inside inhalant delivery system retailers (i.e., vape shops).
- Including vaping products in existing tobacco sales to minors laws.

The Oregon Public Health Division sought to systematically and comprehensively characterize the House Bill 2546 policy process to harvest lessons learned for future policy processes in Oregon and offer a case study for other jurisdictions in the United States pursuing similar tobacco policy efforts.

Policy evaluation

Policy, systems and environmental change strategies are the foundation of comprehensive tobacco prevention and control efforts.⁵ Policies generally operate at the systems level and can be a cost-effective way to create positive changes in the health of large portions of the population.⁶ Policy evaluation uses a range of research methods to systematically investigate the effectiveness of policy interventions, implementation and processes, and to determine the merit, worth, or value of a policy to improve the social and economic conditions of different stakeholders.⁶ Evaluating successful policy efforts can serve the important purposes of documenting and informing future policies and policy processes, informing an evidence base for successful policy strategies, and providing accountability for resources invested in tobacco prevention and control.⁶

Methods

The Centers for Disease Control and Prevention (CDC) provide a framework for public health evaluation that emphasizes stakeholder engagement to describe the program or process of interest; determine the most appropriate evaluation design and data collection methods; aid in results interpretation; and ensure appropriate sharing of lessons learned (Figure 1). The CDC evaluation framework guided this policy process evaluation, which began by convening an evaluation advisory group. Evaluation methods are detailed below, including the role of the evaluation advisory group.

Figure 1. CDC framework for public health evaluation



Evaluation advisory group

The evaluation advisory group consisted of six individuals, including four Oregon Public Health Division staff, one local public health department staff member, and one lobbyist for county public health departments (a list of advisory group members is in Appendix A). The composition of the advisory group was chosen to represent the three key stakeholder groups involved in the policy process, including state public health, local public health, and lobbyists. All advisory group members had participated in the policy process under evaluation.

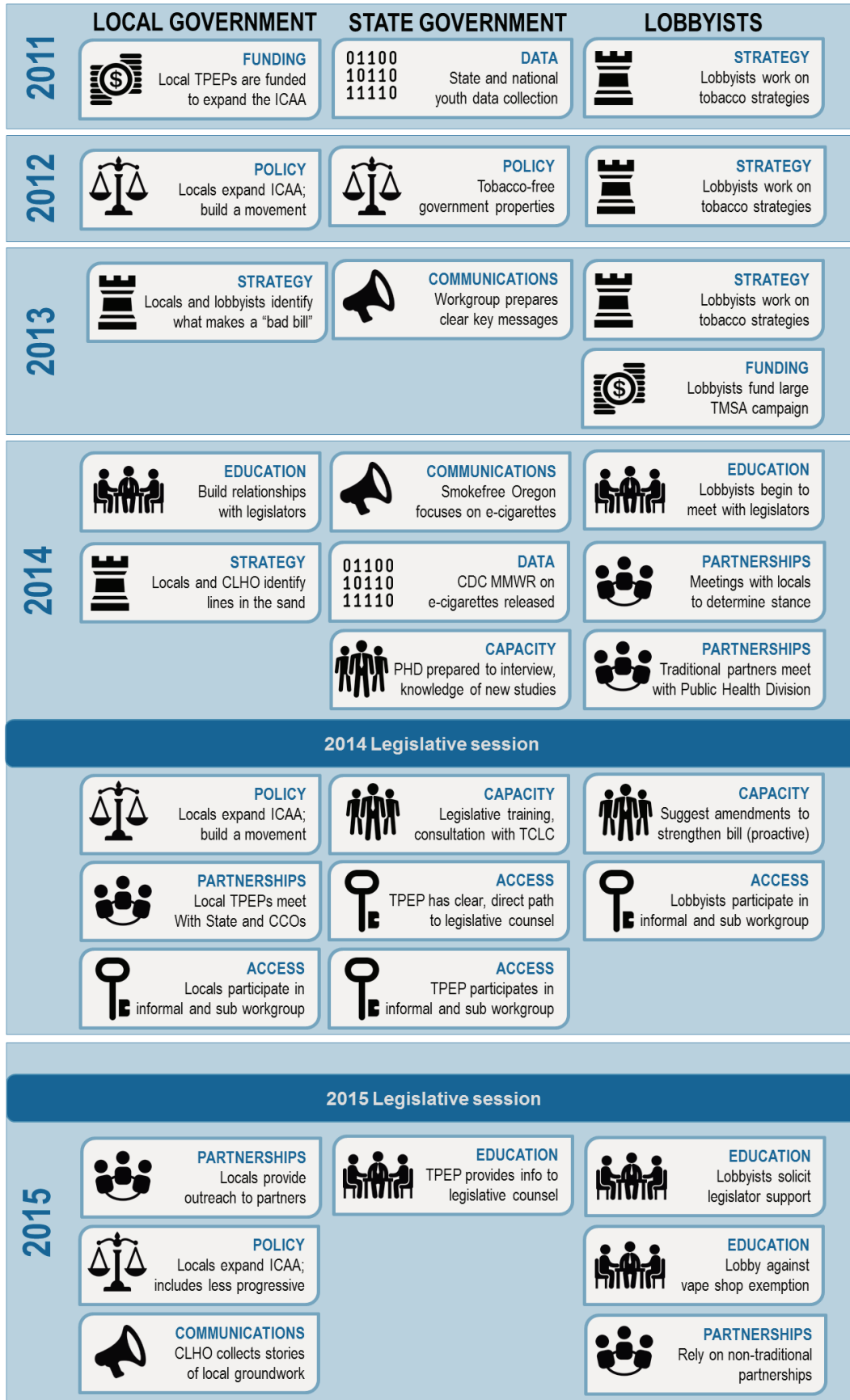
The advisory group was tasked with the following activities: (1) developing a timeline of the policy process and theory of change model; (2) identifying the evaluation goals and evaluation questions; (3) informing data collection methods, including selection of stakeholder interviewees; and (4) aiding in interpretation of evaluation results.

Policy process timelines and theory of change model

The first objective of the advisory group was to jointly create a timeline of events in the policy process from the perspectives of state and local public health and lobbyists. The creation of a timeline from the perspectives of advisory group members helped build a shared understanding of the process and identify the unique contributions of each stakeholder type. These timelines would later inform the development of evaluation questions and data collection methods, as well as results interpretation and reporting. The timelines would also be used after data collection and analysis to highlight converging and diverging external stakeholder perceptions of the policy process. Based on the timelines, a theory of change model was also created to visually depict the conditions that were in place to achieve the outcome of policy passage.

An integrated timeline is presented as Figure 2, individual timelines for state public health, local public health, and lobbyists are presented as Appendices B-D, and the theory of change model is presented as Appendix E.

Figure 2. Integrated House Bill 2546 timeline



Evaluation goals and questions

The advisory group identified two high-level evaluation goals: (1) document strengths and areas for improvement for the Public Health Division's role in policy processes; and (2) describe the policy process and lessons learned for other jurisdictions interested in similar tobacco prevention policies.

Based on the policy process timelines and evaluation goals, the advisory group developed and prioritized the following evaluation questions:

1. To what extent and effect did state government, local government, and lobbyists collaborate in the policy process?
2. What role did local, state, and national tobacco control infrastructure play in the policy process?
3. What role did external factors (other events in the environment that could affect policy success) play in the process?

Evaluation approach

The evaluation advisory group chose key informant interviews as the most appropriate data collection method. The advisory group identified 18 policy process stakeholders for interviews, including six legislators and two staff of the Oregon legislature, five lobbyists, three public health partners, and three local public health staff. A list of interviewees is in the detailed methods section in Appendix F.

Stakeholder interview process

Interviews were conducted in October and November 2016. Interview requests were sent via email to stakeholders with two follow-up emails sent at one week and two weeks to those who did not respond to the initial request. Eighteen stakeholders were identified and asked for interviews; 15 were completed in the allotted timeframe. One local public health stakeholder declined due to a busy schedule, and two lobbyists declined because they had begun work at organizations outside of Oregon and were not interested in commenting on the policy process.

All stakeholders were interviewed using a standard script that included a brief description of the policy under evaluation, evaluation purpose and objectives, and how stakeholder interviews would be analyzed. Stakeholders were asked for permission to record the interview and consent to identify the stakeholder in reported results. Stakeholders were offered the opportunity to indicate which comments they did not want attributed to them, and to review quotes credited to them for accuracy and intention.

The email template used to request stakeholder interviews is in Appendix G and the interview script is in Appendix H.

Interview questions

The following questions were developed for stakeholder interviews:

1. What was your role in the House Bill 2546 policy process?
2. From your perspective, what led to the successful passage of House Bill 2546?
3. What were the challenges in the policy process (if any), and how did you overcome these challenges?
4. If you could do this policy process over again, what (if anything) would you do differently?

Stakeholders received the interview questions beforehand for review and consideration. In addition to these core interview questions, several prompts were developed to elicit stakeholder response to key areas of the evaluation. Although prompts were developed, they were rarely used. Interviews favored an organic, conversational approach with little guidance to see which issues rose to the top, noting what was said and not said.

Analysis approach

All interviews were recorded and transcribed verbatim, and data files (transcriptions) were cleaned and put into a common format (Microsoft Word documents). Data management was conducted in NVivo version 11.⁷

The general inductive approach was used to analyze the qualitative data to identify themes in the interview text related to evaluation objectives and questions. The purposes of using an inductive approach are to (1) condense raw textual data into a brief, summary format; (2) establish clear links between the evaluation objective and the summary findings derived from the raw data; and (3) develop a framework of the underlying structure of experiences or processes that are evident in the raw data. The general inductive approach is not regarded as a strong analytic strategy for theory or model development, but it is described as a simple, straightforward approach for deriving findings in the context of focused evaluation questions.⁸ While the findings are influenced by the evaluation goals and questions outlined by the advisory group, the findings arise directly from the analysis of raw data, not from a priori expectations or models. The evaluation objectives provide a focus or domain of relevance for conducting the analysis, not a set of expectations about specific findings.

Analysis involved two coders from the evaluation team. An initial coding of the raw data was completed by the first coder through close, iterative reading of all transcript text. The initial coding was conducted with broad themes in mind derived from the evaluation goals and questions of the advisory group. Additional codes were created

as new or divergent themes emerged. Through multiple readings and interpretations of the raw data, the first coder developed a coding frame capturing core messages reported by interview participants. A second coder was given the evaluation goals and questions, coding frame, and descriptions of each category (without examples of associated text segments). The second coder analyzed all raw data. When new categories emerged during the second coding, the coding frame was changed and all transcripts were re-read by both coders according to the new structure. Discrepancies in coding were resolved through discussion and consensus between the two coders. The final coding frame is in Appendix I.

In addition to coder-to-coder consistency checking, evaluation results were reviewed with the evaluation advisory group as a “member checking” exercise to allow for comment on the findings, interpretations and conclusions.

Results

The first section of results focuses on stakeholders' characterization of the policy process and the bill itself, reasons for bill support, challenges with the policy process, the role of the external factors in the policy process, and future concerns related to policy implementation.

The second section of the results will focus on stakeholders' characterization of the role of state government, local government, and lobbyists in the policy process.

Themes are reported according to the number of stakeholders who commented on the theme or a logical connection between themes.

Part 1: Characterizing the policy process

Policy process attributes

Stakeholders identified eight policy process attributes that were notable: legislator leadership, the formation of a well-organized workgroup prior to legislative session, setting clear priorities for the bill, tailored and consistent communication about the bill, participation of diverse stakeholders, eventual bipartisan support, lessons learned from the 2014 legislative session, and early involvement from Oregon legislative counsel and Department of Justice during bill writing.

Legislator leadership

The group of policy makers working on House Bill 2546 included an experienced legislator who had led many tobacco policy efforts (then-Representative Carolyn Tomei), a first-year legislator who understood tobacco prevention issues (then-Representative Kathleen Taylor), and a physician who understood the role of policy in health (Senator Elizabeth Steiner Hayward).

All stakeholders discussed the initiative of these three legislators—along with a fourth, Senator Laurie Monnes Anderson—as instrumental to the policy process. Then-Representative Carolyn Tomei was noted by several stakeholders for her leadership in assembling a diverse and well-organized workgroup prior to the 2015 legislative session that met “early and often” and was responsible for drafting the bill. The workgroup member representing the Oregon Department of Justice commented on the benefits of this process, saying:

“The coordinators of the effort that would become House Bill 2546 really went out of their way to make sure that those discussions [about drafting the bill] happened early. I’ve been on a lot of workgroups where they don’t happen early and then you’ve got the Department of Justice coming in at a much later hour saying, ‘this is broken.’”

Chief bill sponsors Representative Taylor, Senator Steiner Hayward, and Senator Monnes Anderson were also identified for their leadership in the pre-session workgroup. Several respondents particularly noted Senator Steiner Hayward for originally conceiving of the definition for “inhalant delivery systems” (discussed in more detail in the Bill Attributes section), and Representative Taylor for shepherding the bill through the Senate (which had more concerns with the bill compared to the House where it was introduced):

“Kathleen Taylor worked with each member of the Senate to try to get this through, and with the Senate President and his staff. She would look at each of the [Senate] members and determine what arguments are going to work with them...marijuana would work with some of them, health might be the key for somebody else, and even when she knew that they probably weren’t going to support it she would make an appointment to go talk with them to explain it out of politeness if for no other reason. So, she did work very, very hard.”

Pre-session formation of a well-organized workgroup

Stakeholders also noted the formation of a workgroup prior to the 2015 legislative session as “absolutely essential” to the bill’s passage. Stakeholders highlighted several functions of the workgroup, including establishing the scope of the bill, considering the bill’s effect on existing tobacco laws, identifying dissenting opinions, and drafting bill language, including the definition of a new product type and its emissions. (These work group functions and relevance to the overall legislative process are described in more detail later.) These functions ensured that “by the time it [the bill] got to the legislature it was essentially done.”

Several stakeholders commented on the effectiveness of a workgroup for more complex legislation like House Bill 2546 (e.g., defining a new product type, ensuring definitions do not interfere with existing tobacco laws) in mitigating potential obstacles prior to introduction in the legislature. One legislative stakeholder noted the benefit of this preparatory work:

“What’s nice about having a work group is that you have a lot of the issues resolved so that you can get through committee, get it to the floor, and get it voted on. If you wait for something big like this, then too many road blocks can come up.”

While one legislative stakeholder commented that workgroups are a “common and effective way to hammer out details on a bill,” most stakeholders referred to the House Bill 2546 workgroup as particularly effective. One legislative stakeholder noted this difference:

“I work with a lot of different groups and I’m on a lot of committees. This one was so crazy well organized and had the details and everything ahead of time. Sometimes you go to meetings and say, “why am I here?” This was never the case. They were very well-prepared. When I did have input, they were very responsive.”

Stakeholders attributed workgroup effectiveness to well-organized and consistent meetings, organizers coming to meetings well prepared, a singular focus, consideration of multiple voices (including those of the vape industry), and general responsiveness to workgroup member feedback. One partner stakeholder not typically involved in tobacco legislation highlighted the responsive workgroup culture:

“There were 20 people at the table; 19 of them were public health people and me. It was interesting and at first a little intimidating. But they were very open to why I was there, what my perspective was. It was nice because sometimes that does not happen.”

In addition to comments on the workgroup process itself, stakeholders also noted the effect of the workgroup on the bill’s progression through the legislature. Pre-session work to limit the scope of the bill, develop simple and concise language, and acknowledge a variety of stakeholder perspectives (some not in support of the bill) proved instrumental to the relatively smooth and quick passage. One legislative stakeholder noted the benefits of this early work:

“Like many successful legislative proposals, it was 90 percent preparation and 10 percent execution. It’s not always that way at the legislature. So many times you don’t even really know what the bill says. You just have a sense of what people want it to do, and then you have the legislative discussion to try to line those two things up and it’s messy and sometimes it’s rushed...this didn’t feel messy or rushed.”

Setting clear priorities

One outcome of the pre-session workgroup that would contribute to the passage of the bill was clearly defining the scope of bill and letting go of other potentially-relevant tobacco policy options.

Not selling e-cigarettes to minors and incorporating e-cigarettes in the Oregon ICAA, with no exceptions for indoor sampling in vape shops, were identified as the focal points of the bill by workgroup members:

“We had a very, very circumscribed goal. We wanted to make sure these new devices were going to be proscribed under the Oregon Clean Air Act. We wanted to make it easy to enforce.”

Stakeholders noted several other tobacco policy interests during the 2015 legislative session, which required workgroup members to prioritize the focus of the bill. Keeping the bill tightly focused meant risking that other policies might not be introduced during session or would be introduced and not passed. One legislative stakeholder referred to the potential breadth of House Bill 2546 that workgroup members considered:

“Everybody had their pet peeve about tobacco that they wanted to get in the bill...raising the age to 21, don't have e-cigarette stores near schools, a pharmacy focusing on health shouldn't also be selling tobacco products, [tobacco store] licensing. And it was trying to decide how much to put in 2546 and what to do with the other stuff.”

Legislative stakeholders noted that while important, these “ancillary” tobacco policy components were more complicated and could endanger passing restrictions on sales to minors and expanding Oregon’s ICAA:

“[House Bill] 2546 was the big mothership...we needed it to actually pass and we wanted everything else, but it wasn't going to be the priority.”

Taxation of e-cigarettes in particular was noted by stakeholders as “too big a lift” and a policy component that would have undoubtedly “killed the bill”. (The effect of separating taxation from the bill is detailed in the Bill Attributes section.) As such, taxation was one of the first policy components removed in favor of focusing on sales to minors and clean indoor air which were considered “sensible, reasonable, and pretty simple” policy concepts.

While most stakeholders considered the removal of taxation an essential decision, one stakeholder expressed concern that passing a tax on e-cigarettes may be more difficult in future sessions, arguing it may have been more strategic to capitalize on favorable political will and a relatively nascent, disorganized vaping industry in the 2015 legislative session. (Discussed in more detail in the Future Concerns section.)

Stakeholders noted that priority setting not only helped narrow the scope of bill writing, but also proved essential to maintaining bill integrity as amendments, like vape shop exceptions to the ICAA, were introduced during session in the Senate. One legislative stakeholder expressed this firm commitment to pre-session bill priorities:

“I think it was truly determination, which is closely aligned with perseverance, and frankly I think we were willing to say ‘screw it’ rather than pass something that was bad public policy.”

Alternatively, another legislative stakeholder was concerned with this uncompromising approach to the policy process:

“In the policy process, it’s hard and almost never useful to be purist about something. I think that letting the perfect be the enemy of the good is one of the worst things you can do as a legislator.”

Tailored and consistent messages

In addition to the pre-session workgroup convened by then-Representative Tomei, tobacco policy advocates also formed a workgroup prior to session to discuss policy strategy and communications. Arising from bill priorities and lobbying strategy from the workgroups, stakeholders noted several key messages used to describe and gain support for the bill.

The first message referenced by all stakeholders related to the lack of restrictions on youth access and use of e-cigarettes. Stakeholders highlighted the outrageousness of children being able to legally purchase the product and use it in public. Stakeholders noted that “where kids are concerned, that’s a no-win argument,” and acknowledged that the vaping industry was not resistant to this argument and focused on testimonials from adults describing the tobacco cessation benefits of e-cigarettes. One partner stakeholder highlighted the use of the youth message in communicating the importance of the bill:

“I would say ‘my 4-year-old granddaughter can buy this and she could walk down the hall of the Capitol vaping’...There was no restriction on the age.”

Stakeholders also used messages related to Oregon’s ICAA, including preserving the integrity of the law and ensuring uncomplicated enforcement of the law. Stakeholders referenced a previous exception in the law that contributed to the proliferation of youth-appealing hookah lounges as a warning against similar exceptions for vape shops. One local government stakeholder highlighted the potential for ICAA enforcement issues:

“We distanced the issue from the binary conversation about electronic cigarettes being good or bad for our society. We moved to externalities...It’s just difficult enforcing a two-class nicotine system. At the time, there were e-cigs that looked like regular cigarettes, so how can you tell?”

Impending recreational marijuana legalization also influenced messages related to ICAA enforcement. Similar to enforcement concerns with e-cigarettes in general, stakeholders referenced the additional complexity of enforcing the law if police officers were required to differentiate between use of nicotine and marijuana products.

More broadly, stakeholders noted the inclusion of e-cigarettes in the ICAA as a “natural extension” of the law. A legislative stakeholder referenced this “common sense” message:

“When people say, ‘oh my gosh, you’re trying to outlaw e-cigarettes.’ No, that’s not what we’re doing. We are just saying don’t sell to minors and follow the Clean Indoor Air Act. Done. And then people go, ‘oh okay, I guess I can get on board with that.’”

Stakeholders also advanced messages related to the knowns and unknowns of e-cigarettes. These messages referenced nicotine’s known negative effects on youth development and high risk for lifelong addiction, as well as the uncertain long-term health effects of e-cigarette use and poorly-defined chemical constituents of e-cigarette secondhand vapor. These unknown health effects were discussed in the context of non-existent industry and product standards and supported stakeholder calls for state-level legislation in the absence of regulations from the U.S. Food and Drug Administration (FDA).

Stakeholders also noted the use of different messages for different audiences. While messages related to maintaining the integrity of the ICAA were compelling to those already familiar with tobacco control (and likely already in support of the bill), messages on youth access, including all products under the ICAA for ease of enforcement, and accounting for impending implementation of marijuana legalization proved compelling to more conservative legislators and stakeholders who were not traditionally supportive of tobacco regulations.

Multiple stakeholders and voices, including non-traditional partners

The inclusion of a diverse set of stakeholders was noted as a strength of the policy process. Stakeholders referred to the advantages of diverse perspectives and voices in both the pre-session workgroup and during session. Stakeholders commented that the pre-session workgroup benefited from its multidisciplinary members in drafting bill language, which was a nuanced process requiring internal expertise from multiple levels of government and legislators, as well as the perspectives of outside stakeholders affected by the bill, including building managers and owners and the vaping industry. One partner stakeholder commented on the diverse mix of the pre-session workgroup:

“I think it [the workgroup] was inclusive. The work together between the workgroup members was so multidisciplinary, it was inclusive of state government, local government, nonprofit, and community-based folks. I think that was a great model.”

Stakeholders cited a culture of mutual respect in the pre-session workgroup with one partner stakeholder feeling that the workgroup was “very open to why I was there and what my perspective was, which was nice because sometimes that does

not happen.” One stakeholder positively characterized the vape industry’s early participation in the policy process as “putting their best foot forward” and highlighted the industry’s understandable position of “asking us as regulators to recognize that they do what they can to sell a safe and consistent product.” A legislative stakeholder noted the benefit of a process that includes potential opposition:

“I really believe in the power of getting a bunch of people around the table who don’t necessarily agree with each other. The more you can do to be inclusive, to be bipartisan, to bring a lot of different voices to the table, and to listen carefully the better. . .What you don’t want is someone who has a problem with a piece of the legislation to personally feel that they weren’t heard or that they were insulted.”

Identifying vape industry concerns with the bill early on in the policy process not only informed bill development, but also helped stakeholders identify and refine counterpoints to opposition from the industry during session. This insight into industry perspective would also prove crucial to inoculating against later statements from the industry that they were not included in the policy process.

The multidisciplinary group of stakeholders was also highlighted for providing legislative testimony that deviated from the typical “public health echo chamber”. One local government stakeholder noted the advantage of legislators hearing from non-public health groups:

“We had a lot of advocates that were going around and talking, and each was emphasizing different aspects of the bill. I think that was very successful, it wasn’t just always health people going to talk. . .there were lots of different people who were supportive of the bill.”

The voices of partners not traditionally supportive of tobacco regulation were also noted as a key feature of the policy process during legislative session. Of note, a Republican county commissioner provided testimony in support of the bill, contradicting a historical stance against increasing government regulations:

“I did testify to the legislature and I think it surprised some people. . . every elected official has a reputation. I really believe in the rights. Voters’ rights, and the rights of people. . .and you know here I was participating in taking the rights away from somebody, but public health, law enforcement, the need for better mental health, sometimes you’ve got to step on some toes in order to get something done that is correct. And this is correct.”

In addition to testimony from a traditionally conservative county commissioner, representatives from the Building Owners and Managers Association, the Oregon Association Chiefs of Police, and the Oregon Office of the Attorney General provided

testimony, which has not been typical of all tobacco policy processes. Although atypical, the stakeholder and workgroup member representing building managers and owners was “very surprised that there weren’t other business groups [involved in the policy process].”

More broadly, one legislative stakeholder commented on this multidisciplinary approach positively affecting general perceptions of the legislative process:

“It changes how people think about the legislative process and it shows that it’s not one party or the other trying to ram stuff through. And that’s really important.”

Bipartisan support

Several stakeholders referred to bipartisan support for the bill and noted both Democrat and Republican chief sponsors (the bill passed with 56 ayes and only 2 nays in the House). Stakeholders perceived the bill, and underlying issues of sales to minors and ICAA enforcement, as less partisan than other tobacco legislation (e.g., increasing the cigarette tax). While not all Republican legislators were supportive of the bill upon introduction, messages around easier enforcement of the ICAA and accounting for marijuana use in public places helped gain their eventual support. One legislative stakeholder noted that while the bill would likely have passed without broad-based support from Republicans, the lack of partisanship was refreshing:

“Look down there in the legislature, everything had become so partisan. This wasn’t partisan, this was health. And that transcends partisanship or it should. This is about public health, and especially youth health. I mean, the number that it passed by was huge...I was really happy that the legislature came together on this important bill.”

2014 legislative session

Prior to the successful passage of HB 2546 during the 2015 legislative session, two e-cigarette-focused bills were introduced during the 2014 session that ultimately did not pass. Several stakeholders commented on the value of the 2014 session in increasing awareness of e-cigarettes (including their use among youth and uncertain health risks) and the current state of Oregon law. Although they were not successful, the previous bills were an opportunity to introduce the topic to legislators and identify questions legislators would have and points of opposition that would need to be addressed in the 2015 session (e.g., the small business argument).

Legislative stakeholders expressed tempered expectations for the 2014 bills and referred to the 2014 policy process as “mostly trial balloons that weren’t going to go anywhere.” One stakeholder noted the lack of political will to pursue e-cigarette regulations in the 2014 session:

“The first attempt at regulating e-cigarettes just face-planted right out of the gate, as I recall. I think there were significant political problems, but also just maybe not as much familiarity [with the topic].”

One legislative stakeholder recalled that conversations during the 2014 session “created a tenor” for discussions on youth protection and ICAA enforcement in the 2015 session, and another noted that the failed bills in 2014 led to the formation of the highly-regarded pre-session workgroup.

Early involvement of legislative counsel and Department of Justice

A few stakeholders considered early involvement of Oregon’s Office of the Legislative Counsel and Department of Justice (DOJ) as strengths of the policy process. Representatives from both of these offices were involved in the pre-session workgroup and contributed extensively to bill writing, particularly in crafting the definition for inhalant delivery systems.

The DOJ stakeholder appreciated being brought into the policy process “at the ground floor” and noted the importance of being able to help policy makers craft bill definitions in a way that does not conflict with already existing tobacco legislation, like the Tobacco Master Settlement Agreement. This stakeholder commented on challenges the DOJ faces when bill writers do not consider the “larger infrastructure of statute” in their process:

“The Department of Justice is uniquely interested in not just bills passing, but in bills passing in particularly sound shape. Because if those bills are challenged, either for technical or constitutional deficiency, we’re the ones who end up having to defend them.”

The Legislative Counsel stakeholder commented on the pre-session workgroup contributing to a more efficient and effective legislative session.

“From our office’s perspective, that was a model for how to get something ready for the session. By the time session came around, all the big issues had been resolved...it was a lot nicer handling of that stuff in the summer than in the middle of the session, writing a bunch of amendments to try to fix something.”

However, this stakeholder noted that the high level of involvement from Legislative Counsel in this bill process could not be afforded to every bill, given the volume of legislation during session. Legislative leadership made this a priority for the Office of the Legislative Counsel. Albeit time-intensive, Legislative Counsel commented on the benefits of the HB 2546 policy process:

“If I were to talk to my clients, which are the legislators, I would say if you really, really want something [passed], model your process for developing the bill after 2546, because your likelihood of it passing is going to be much higher.”

Bill attributes

Stakeholders identified three bill attributes that were important to this policy process: creation and use of novel definitions, lack of vape shop exemptions, and keeping taxation separate. One stakeholder also noted the importance of ensuring that the new law would not penalize minors.

Novel definitions

The most noted characteristic of the bill itself was the inclusion of a new product category called “inhalant delivery system” and the terms “aerosol or vapor” for the product’s emissions. In addition, the definition of “inhalant delivery system” included both nicotine and cannabinoid aerosol (note: “aerosol” is the technical term for inhalant delivery system emissions, which the industry and general public term “vapor”).

Stakeholders noted the process of crafting the definition as iterative, beginning with extensive research into definition options by Legislative Counsel, followed by continuous discussion among workgroup members to craft a “very clear and very precise” product definition. Legislative Counsel, who was responsible for drafting the bill and definitions therein, commented on this collaborative approach:

“I don’t think that I could come up with a perfect answer on my own... I think that we had really good contributions from a variety of people. Public health added to the definition, [workgroup] members added to the definition, legislators.”

Stakeholders could have alternatively recommended including e-cigarettes in the existing definition for “tobacco products,” but highlighted several reasons why this would not have achieved the workgroup’s bill objectives. First, stakeholders wanted to account for any future product diversification by the vaping and tobacco industries. Stakeholders recalled the “balancing act” of a definition broad enough to include future product innovations or alterations, while also mitigating unintended consequences, like prohibiting the use of asthma inhalers in public places:

“We wanted something that would apply not just to the current devices, but any crazy thing that somebody’s going to come up with in the future.”

In addition, stakeholders acknowledged the likely passage of the November 2014 ballot initiative to legalize recreational marijuana in Oregon and wanted to ensure this newly-legalized substance would be accounted for in the state's existing ICAA. As discussed throughout the report, this aspect of the definition would also be key in gaining bill support from conservative legislators not generally supportive of tobacco regulations.

Stakeholders also noted the bill definition accounted for future federal approval of the devices as evidence-based cessation products. This ensured the definition was flexible and responsive to emerging research and federal regulation of the product and would not require opening the law for language changes at a later date. This aspect of the definition also responded to legislators who were sympathetic to the possible future use of e-cigarettes as tobacco harm reduction or cessation tools.

No vape shop exemption

Several stakeholders highlighted the absence of an ICAA exception for vape shops as a defining feature of the bill. Stakeholders noted this decision was made in the pre-session workgroup to preserve the integrity of the ICAA and practice the precautionary principle, given the lack of product regulations and absence of research on the health effects of secondhand aerosol exposure. One legislative stakeholder also referred to the ICAA exception for smoke shops passed in a previous legislative session that led to an increase in youth-appealing hookah lounges. However, one legislative stakeholder acknowledged they were willing to concede on this aspect of the bill if it meant the bill would not pass. This aspect of the bill was noted by all stakeholders as presenting the most opposition during session, which is discussed in further detail in the Challenges section.

Keeping taxation separate

Stakeholders highlighted the absence of an e-cigarette tax as a key bill attribute. Reasons for considering taxation separately were discussed in the Setting clear priorities section, and centered primarily on the complication a tax would introduce into a relatively simple bill about restricting sales to minors and expanding the ICAA. One legislative stakeholder also noted that because the bill did not include a tax, and therefore would have no fiscal impact, it went to the House floor rather than to the Committee on Revenue, which would have slowed progression through the legislature. Stakeholders were near unanimous that the bill would not have passed if taxation had been included. One legislative stakeholder commented on the additional difficulty of considering taxation:

“Folding nicotine and electronic cigarettes into all the other things that we do to protect youth, I think was a safe argument...I think beyond that, as we get into the hairy questions of taxation, that's going to take

us quickly to questions about harm reduction or not...those are going to be more difficult waters to navigate, even with a very sympathetic group of legislators.”

Not penalizing minors

One local government stakeholder referenced the bill’s careful consideration of who would be penalized for illegal youth sales or use of e-cigarettes as another key attribute:

“There was some good scrutiny on the minors piece about not penalizing minors. How do we put the language down so that we get the outcome that we wanted, which was not to penalize minors, but to penalize to the people selling to them.”

Bill support reasons

Stakeholders identified eight primary reasons that HB 2546 received the strong bipartisan support that it did: protecting children, the addictiveness of nicotine, enforcing and maintaining the state ICAA, regulating the vape industry, lack of research on the health effects of e-cigarette use and exposure, recreational marijuana legalization, missteps by the vape industry during session, and the effects of state law on local policy.

Protecting children

The most cited reason for bill support (both for stakeholders personally and perceived support from other stakeholders) was the protection of children from access to e-cigarettes and secondhand exposure to e-cigarette vapor. Stakeholders were concerned by increased youth use of e-cigarettes and noted the lack of retail age restrictions as a major issue. Stakeholders noted that e-cigarettes contain nicotine at levels similar to other tobacco products and should thus have the same age restrictions. These stakeholders often cited anecdotal stories about seeing young people using the products. One stakeholder noted the bill as an “obvious” policy to restrict retail availability of the product to youth:

“I think what made this bill possible was strong legislative advocates and that it was just such an obvious policy and obvious thing for us to do to prevent electronic cigarettes being available to minors. It’s pretty crazy to everyone to think a 13-year-old could walk into a store and buy or have access to this product.”

In addition to retail access, stakeholders also commented on access to the product in the home, especially e-cigarette liquid which can be poisonous with skin contact or ingestion. Stakeholders commented on cases of child poisoning from e-liquid

exposure and highlighted bill requirements for child-proof packaging to prevent future poisonings. Stakeholders also noted bill requirements to ensure product packaging does not appeal to minors (e.g., use of cartoon characters, bright colors). One stakeholder commented on the variety of vape product shapes, sizes and flavors that appeal to youth:

“I thought, ‘This is a natural progression and a good one.’ Particularly when I saw what the manufacturers were doing in expanding the menu to so many different items that would have child appeal.”

One stakeholder also noted the need for youth protections given the naivety of young users:

“Young people are my biggest concern. Here are young people vaping. They don’t know what’s in that. There is no long term empirical evidence as to the effect of what they’re doing.”

Nicotine addiction

Complementary to protection of children, a few stakeholders mentioned the addictive nature of nicotine as a reason for bill support. These stakeholders highlighted the role of nicotine in addicting children to lifelong tobacco use and noted “clear indicators” that e-cigarettes could serve as a gateway product. One stakeholder commented on the gateway concept:

“I’ve long believed...that it’s [electronic cigarettes] a gateway drug. Any kind of a stimulant like that, a mood alterer, is a gateway drug. So, my focus is certainly on those people who might want to use this, especially if they’re under age.”

In general, stakeholders indicated possible addiction as a message that is “always a good way to get people’s attention.” Stakeholders noted the regulation of other forms of nicotine (i.e., regular tobacco products) as a compelling backdrop in which to discuss e-cigarette regulations because of legislators’ general concern with addiction to nicotine and other substances.

Enforcement and maintaining the Indoor Clean Air Act

Nearly every stakeholder noted preservation of Oregon’s ICAA as a reason for bill support. Two stakeholders noted a previous experience in which a loophole in the ICAA allowed for the proliferation of youth-appealing hookah lounges in the state. These stakeholders also commented on the unknown health effects of secondhand exposure to e-cigarette vapor and the need for the precautionary principle of proactive regulation in the absence of solid evidence to the contrary. One legislative stakeholder noted the common-sense expansion of the ICAA to include e-cigarettes:

“Just putting this whole issue inside the Clean Indoor Air Act makes sense. It’s reasonable, and it’s pretty simple...you’re sort of putting a new issue that might have been included in the original Clean Indoor Air Act if it had been around. But it wasn’t around in those days.”

Nearly all stakeholders also commented on the ICAA in the context of easier enforcement for those charged with upholding the law. Stakeholders noted the inability to easily distinguish between nicotine and non-nicotine (e.g., marijuana) e-liquids and the absence of a “quick test” to determine liquid contents as reasons for difficult enforcement:

“They liked this definition for enforcement because they don’t have to figure out what’s in the device. If you’re using in the prescribed areas then it’s a violation...so you could put water in it, you could put marijuana in it, you could put nicotine in it, you could put rose water in it, it wouldn’t matter it’s still a violation either way. I thought that made very good sense.”

In addition to restricting use in public places, the bill also made it easier for police officers to enforce restrictions around using the products while in a car with children present. One stakeholder noted ease of enforcement was particularly important because the most popular e-cigarette products at the time of the legislation looked like regular cigarettes.

While maintaining the integrity of the ICAA was a concern of stakeholders already likely to support tobacco policies, the idea of easier enforcement appealed to a broader swath of stakeholders, including stakeholders not traditionally supportive of tobacco regulations. One partner stakeholder noted the broad appeal of this aspect of the policy:

“It makes it easier for restaurant owners, movie theater owners, a building owner, law enforcement...it just doesn’t matter what you’re smoking, it’s just not allowed under the Clean Indoor Air Act and it simplifies the enforcement of it. That was very appealing to a lot of people.”

One partner stakeholder representing building managers and owners provided insight into the logistical difficulties for those tasked with enforcing the ICAA if e-cigarettes were not included:

“My organization represents about 50 million square feet of commercial real estate in Oregon. How does a building owner, a property manager, a security guard differentiate what’s smoking and what’s an e-cigarette? It would have been a huge mess. The majority of buildings in Oregon don’t have onsite staff...so to have the manager of a building trying

to look at every single person and who can and who can't use was ridiculous...there's just no way any of my members could have possibly monitored that.”

Regulating the vape industry

Several stakeholders noted a general need for vape industry regulations as a reason for bill support. Stakeholders called for state and local regulations on e-cigarettes in the absence of federal restrictions, and noted a “wide recognition” that the products could not continue operating in a “regulatory dead space.” One partner stakeholder commented on this lack of regulation:

“Remember, it was the Wild West before this. If you were under age it didn't matter — it wasn't regulated. And that was outrageous and it needed to change.”

Lack of research

Related to concerns about the need for vape industry regulation, several stakeholders highlighted the lack of research on e-cigarette product safety and the long-term health effects of e-cigarette use and secondhand exposure. Stakeholders noted the absence of “long-term empirical evidence as to the effect” of e-cigarette use and “valid questions about its safety.” One stakeholder also commented that product regulations are required to establish a consistent baseline for accurate product testing and collection of product consistency data. In general, stakeholders invoked the precautionary principle when discussing e-cigarette regulations, opting for early regulation given unknown health effects. One stakeholder noted that this approach “bought some time for the literature and guidelines to continue to come out.”

Although evaluation stakeholders viewed lack of research as a reason to support industry regulation, one stakeholder noted other legislators who viewed lack of research as a reason to delay regulations:

“Some of my colleagues...do not like additional government regulations, and thought that it was premature to pass a bill until additional research came out on e-cigarettes. Whereas I felt the onus should be on the industry to prove that it was safe to be in the public realm.”

Marijuana legalization

Most stakeholders identified legalization of recreational marijuana in Oregon as a reason for bill support. Marijuana was legalized for recreational use by a voter-approved ballot initiative in November 2014 and further translated into state law through House Bill 3400 during the 2015 legislative session. In anticipation of legalization implementation, stakeholders in the pre-session workgroup included

“cannabinoids” in the bill definitions. One legislative stakeholder described the early consideration of marijuana legalization in the pre-session workgroup:

“That fall the marijuana measure was going to be on the ballot. And many of us believed, and obviously we were correct, that it would pass. So, we were able to get some folks who maybe would not have voted for the e-cigarette bill to vote for it because it makes it easier, because 2546 includes inhaling marijuana regarding the clean indoor air act.”

Stakeholders also discussed the role of marijuana legalization in obtaining support from partners not typically involved in tobacco regulations, as well as legislators who are historically opposed to tobacco regulations. Stakeholders highlighted marijuana legalization as a catalyst for more diverse voices in support of the bill during session, including representatives from law enforcement and building managers and owners. Marijuana legalization was also noted as a key reason for eventual Republican support, including a Republican lobbyist who testified in favor of the bill during session and a key Republican legislator who was a strong opponent of marijuana legalization. One legislative stakeholder commented on the role of marijuana legalization in drawing bipartisan support for the bill:

Of note, one legislative stakeholder expressed concern that including marijuana in the product definition would provoke scrutiny of the ICAA in future legislative sessions.

Vape industry missteps

Several stakeholders cited the behavior of the vape industry itself as a reason for supporting the bill. These stakeholders noted missteps in testimony from the industry and its supporters that led to support for regulations, rather than sympathy for the industry. One legislative stakeholder recalled an industry supporter vaping a flavored e-cigarette during the 2014 legislative session and how “the smell just wafted over the room.” Another stakeholder commented on vape industry testimony creating the impression of an industry too large not to regulate:

“And frankly one of the factors that I found somewhat compelling were the number of shop owners who came to testify so benevolently about how this was going to injure their business. And I thought, my goodness, if it’s that strong a market, then I do need to be concerned.”

The same stakeholder also highlighted vape industry representatives emphasizing business profitability over potential health concerns with their products:

“I think another piece was the overreaction of the grocers, and the smoke shops. They came down in some force to complain about the adverse impact this was going to have on their business. But I think that for a lot of us it was pretty self-serving, and pretty short sighted and

not very public health oriented. When people come down to protect their territory without respect for its impact, I think it damages their credibility.”

A partner stakeholder noted testimony from a vape shop employee that characterized e-liquid manufacturing as homegrown and haphazard:

“In some ways I think it was detrimental to them when they would say that an employee of a vape shop, with no certification, no license, no professional background, would go into a room in the back and literally concoct a liquid form and then sell it to a member of the public to inhale.”

Effect on local policy

One local government stakeholder commented on a keen interest in the bill stemming from concern that state-level policy could negatively affect progressive local e-cigarette policies already in place. This stakeholder noted eventual support of the bill as it maintained local control of e-cigarette regulations (i.e., did not preempt local jurisdictions from passing and enforcing policy stronger than state law). This stakeholder discussed the tension between local autonomy and cohesive state-wide policy present in every policy discussion:

“...we have some fairly well advanced local ordinances around tobacco, inhalants, indoor air...so we had a huge amount of interest, and continue to have a huge amount of interest, in legislation that either will enhance or potentially adversely affect local ordinances.”

External factors

Stakeholders described several factors during the policy process that were generally outside of their control, but nonetheless played a role in the bill’s chances for success. Stakeholders noted these “external factors” as both opportunities for policy success and barriers to be overcome. These external factors included the growing vape industry, support from the tobacco industry, recreational marijuana legalization, e-cigarette laws outside of Oregon, increased awareness of vaping, and the presence of a “window of opportunity”.

Growing, but diffuse vape industry

Nearly all stakeholders commented on the role of a burgeoning, but diffuse vape industry in the policy process. Stakeholders noted the “ineffectiveness” of both the vape industry lobbyist and industry testimony as helpful to the bill’s passage. Specifically, stakeholders thought the vape industry “lacked the expertise in their testimony to prove that they [e-cigarettes] were safe” and arguments from industry

representatives that e-cigarettes are a cessation product were “not solid all the way through.” Some stakeholders were surprised that the vape industry did not stimulate more opposition to the bill during session, and attributed this to the relative infancy of the industry and general lack of legislative experience. Stakeholders noted that although the vape industry became more organized in message as the session progressed, they had lost too much ground by the time the bill reached the Senate. Stakeholders commented that the impact of this inexperience was compounded by the fact that pre-session work to draft the bill allowed a relatively rapid introduction and progression through the House. One stakeholder recalled the difference in preparation between public health advocates and the vape industry representatives:

“There were people who wanted to have e-cigarette smoke shops or tastings. And they were not as effective as they could have been. I think if they had done their job a little better, they might have been able to defeat some of those things [no exception for indoor sampling], but we jumped right in and we were right on the ball ready to go and it took them a long time to fire up and they weren’t as experienced.”

It is important to note that the vape industry may exist as a barrier rather than an opportunity in future e-cigarette policy processes as the industry continues to grow and galvanize a lobbying force.

Support of the tobacco industry

The tobacco industry was also noted by stakeholders as an external factor in the policy process. Representing the other half of the “industry” stakeholders, the tobacco lobbyist eventually expressed support for the bill because proposed packaging and labeling requirements would not adversely affect their existing pre-packaged products. One stakeholder commented on the gap in legislative experience between the veteran tobacco industry and a new vape industry:

“You know, big tobacco had their people and they pretty much got what they wanted, but these are the little guys that have the little e-cigarette vape shops and they just aren’t experienced with the system, so they [tobacco industry] weren’t around really when we did the Indoor Clean Air Act.”

Marijuana legalization

Several stakeholders commented on the influence of recreational marijuana legalization in Oregon on the policy process. In response to impending implementation of legalization in Oregon, stakeholders involved in the pre-session workgroup included marijuana in the product definition of inhalant delivery systems,

which ensured marijuana would be covered by the state's ICCA. Specifically, stakeholders credited marijuana legalization with gaining support from “colleagues on both sides of the aisle”, particularly Republican legislators not historically supportive of tobacco regulations. One legislative stakeholder noted a key Republican legislator who supported the bill based on his concern with marijuana legalization, which in turn gave other Republican legislators the political cover to vote in support as well. One stakeholder commented on the role of marijuana legalization in gaining bipartisan support for the bill:

“There was a lot of concern about the legalization of marijuana and where it will be consumed and how it will be part of our society.”

Stakeholders also described marijuana legalization as bringing new, diverse voices in support of tobacco regulation. Stakeholders noted valuable involvement from building owners and managers and law enforcement who supported the bill based on the promise of easier ICAA enforcement.

Other laws or regulations

Several stakeholders noted the e-cigarette regulatory environment outside of Oregon as helpful to the policy process. These stakeholders referred to e-cigarette regulations in other states as helpful in gaining support for the bill, particularly for restrictions on e-cigarette sales to minors. One stakeholder commented on Oregon regulations lagging behind other states:

“They [legislators] knew that something had to pass because at that point we were only one of a handful of states...that didn't prohibit sales [to those under 18] and they knew they had to get out with that.”

A few stakeholders also highlighted regulatory inaction at the federal level as contributing to support for state-level policy. These stakeholders also noted language in the bill that would align state law with federal law to account for future e-cigarette regulation by the U.S. Food and Drug Administration. One stakeholder commented on the role of federal inaction in the Oregon policy process:

“I would explain to the other members of the legislature that e-cigarettes...are not currently regulated by the FDA to be a cessation product and in the bill it says that if the FDA does decide that it's a cessation product, then it has a trigger mechanism in there that the bill will be reevaluated the way that it was passed.”

Referencing potential FDA regulation in the bill helped gain support from some conservative law makers who wanted acknowledgement that the devices could someday be used as a cessation aid (but not until FDA approval).

Vape awareness

Stakeholders noted increased awareness of vaping as an important trend that supported policy passage. Between the 2014 and 2015 legislative sessions, legislators were seeing public use of the products in everyday life, particularly among youth, and were hearing from concerned friends and family members about the products. One stakeholder commented on his personal observations of youth e-cigarette use:

“It was amazing who I saw vaping. I’ve seen little mini generations come and go and they weren’t allowed on the [school] grounds, that was the rule. However, on the streets where I saw them gathering, there were just too darn many young people smoking the stuff.”

Sympathetic legislature

Two stakeholders noted a “sympathetic” legislature as supporting the bill’s passage. One stakeholder commented that “legislators did not ask a lot of tough questions.” The composition of the legislature is not necessarily an external factor beyond stakeholder control as legislators are voted in by the people; however, this legislature composition was identified as particularly friendly to this type of policy.

Window of opportunity

Three stakeholders commented on the opportune timing of the bill in which several of the external factors listed above converged to support policy passage. One stakeholder termed this “luck” while another referred to the timing as “happenstance” and that “sometimes it’s the right piece of legislation for the right time, and it just goes.” A lobbyist stakeholder went a bit further to describe the policy process in general as unpredictable:

“It is not a logical process. It’s an emotional and political [process] and so you can do everything perfectly, or screw everything up and it passes. You could do nothing, you could do everything right and not have it pass.”

Evaluation advisory group members also noted the supportive environment in which the bill was introduced and called this a “window of opportunity”. While stakeholders characterized this as chance innate to the policy process, evaluation advisory group members representing state public health noted that tobacco prevention programs and advocates can position themselves to take advantage of these windows when they appear through active monitoring of the environment and internal capacity building.

Policy process challenges

Stakeholders commented on 12 key challenges with the policy process. Challenges reported by the most stakeholders are detailed first, and include keeping out the ICAA exemption for vape shop sampling, responding to claims that the policy would hurt small businesses, responding to vaping health and cessation claims, conservative values of limited government interference, the absence of public health voluntary organizations, lack of diverse supportive voices during session, writing the product definition in the pre-session work group, lack of health research on vaping use and exposure, the state taking a neutral stance on the bill, lack of state-wide tobacco retail licensing, and the legislative process in general. Responses to these challenges are also reported where applicable.

Indoor Clean Air Act exemption

Nearly all stakeholders identified the indoor sampling exemption for vape shops as the largest challenge in passing the bill as originally conceived in the pre-session workgroup. While the bill quickly passed the House without a sampling exemption, passage through the Senate proved more “contentious.” One legislative stakeholder acknowledged that “at one point the Rs [Republicans] weren’t going to support anything unless it allowed vaping in vape shops, sampling in vape shops.” Republican legislators in the Senate were noted as sympathetic to the potential use of e-cigarettes as a cessation aid for current smokers, as well as arguments from vape shop owners that product sampling was essential to business success. One legislative stakeholder understood the need for indoor sampling and drew a parallel to trying products in a grocery store:

“You go to the grocery store and you want to try a bunch of different mustards. Well, they have times when they sample a bunch of mustards and they let you try them. You know, a lot of the liquids that go into e-cigarettes are flavored, right? So, you can kind of understand why they would want people to be able to try them.”

In addition to concerns from Republican legislators, the exemption issue revealed differences on what Democrat legislators were and were not willing to concede. One legislative stakeholder commented that “getting the main concept through was more important than getting it 100 percent right” and viewed the indoor sampling exemption as “a minor compromise.” However, most stakeholders commented that the industry did not adequately address safety and health concerns from e-cigarette use and secondhand exposure. Stakeholders noted work by then-Representative Taylor and lobbyists during session to keep the bill exemption-free with messages focused on lack of research and unknown health effects, preserving a strong ICAA, and the difficulty of ICAA enforcement given that marijuana can also be used in the device.

One legislative stakeholder recalled the tension between sympathizing with tobacco users' desire to quit and maintaining the integrity of the ICAA:

“They felt that if they had group settings where they came together and talked about their nicotine addiction...if they are able to vape together in a public space it would help them. And that was their perspective, and that is not a crazy concept to me. Unfortunately, we can't have an exception to that.”

While the bill was signed into law without the indoor sampling exemption, it was amended to allow six months for the inclusion of e-cigarettes into the state ICAA. Stakeholders noted the delayed implementation of ICAA restrictions as an essential compromise that allowed the industry time to adjust its business model (i.e., no indoor product sampling) and comply with state law.

During the 2017 Oregon legislative session, a bill was introduced to amend the ICAA to allow indoor use of non-nicotine, non-cannabinoid e-cigarettes in vape shops for sampling purposes (Senate Bill 799).⁹ Although this bill did not pass, its introduction suggests that policy maintenance is constant.

Vape industry as small business

Related to challenges with the vape shop exemption were industry arguments that regulations would harm small businesses. One legislative stakeholder noted the sympathetic position of established vape shops facing new regulations:

“If the state comes in and sets up a lot of rules, these young companies have the argument, and I think it's a decent one, ‘well, you regulated us into a corner before we really even had a chance to find our feet.’ There were vape shops that started, because they were not part of the Clean Indoor Air Act, and of course they made a level of financial investment in those stores.”

The same legislative stakeholder also noted the tension between regulating a burgeoning industry to ensure a safe and consistent product and giving e-cigarette manufacturers and retailers in surrounding states a competitive advantage:

“There's a lot of very careful work and very expensive work that goes into helping these relatively few large actors [big tobacco companies] make a consistent product that are just totally absent from the e-cigarette world. The e-cigarette world has not reached any sort of a consensus about how much nicotine should be in the e-juice, what the delivery device should look like, what the heating element should look like, how the battery should be housed, what the housing of the battery looks like, you know the voltage for all of that, it's all still up in the air.”

However, one partner stakeholder noted that “self-serving” and “short-sighted” vape shop owner testimony damaged industry credibility during session by clearly putting business interests before concerns with community health. Another stakeholder commented that the small business argument lost traction in the legislature due to complaints from other small businesses:

“There was contact to my office and there was contact to other people’s offices that other small businesses had been complaining about the vape shops. Let’s say you have a coffee shop or a bakery or whatever... you make your bread there and then next door is the vape shop with vaping coming out. One could argue that’s hurting their business because we’re having this inconsistent standard.”

Several stakeholders highlighted vape shop representation on the pre-session workgroup as essential to countering industry arguments that they were not involved in the legislative process. Stakeholders also noted delayed implementation of ICAA restrictions as a key compromise with vape shop owners.

Vaping health and cessation claims

Stakeholders commented on the challenge of responding to vape shop owner and e-cigarette user testimony about the health benefits of e-cigarettes over regular tobacco products. The benefits of e-cigarettes as a cessation tool were particularly compelling to Republican legislators in the Senate. One legislative stakeholder reflected on e-cigarette user testimony during the policy process:

“I really do feel for people who are so seriously addicted to traditional cigarettes. They came and provided some very heartfelt, very real testimony that e-cigarettes are really, in their opinion, helping them because they started smoking at a very young age, which we know is the way that nicotine addiction often happens.”

However, stakeholders responded that e-cigarettes are not an FDA-approved cessation device, there are concerns with device safety given the unregulated market, and there is limited research on the long-term health effects of e-cigarette use. Stakeholders thought vape shop owners and e-cigarette users did not alleviate health and safety concerns in their testimony. Stakeholders championed early public protections in the absence of health effects research, and noted that bill language specifies the law be revisited in five years to account for any change in the status of e-cigarettes as a cessation device.

Conservative values

Several stakeholders noted challenges with conservative values of limited government regulations, particularly on the Senate side. Stakeholders credited messages about

protecting children from the harms of e-cigarette use, accounting for legalization of recreational marijuana, and easier enforcement of the ICAA as compelling support reasons for conservative legislators. Another stakeholder also commented on the conservative appeal of including e-cigarettes into existing tobacco control programming to reduce the need for expanded government and associated costs.

Absence of voluntary organizations

Several stakeholders highlighted the opposition and absence of the voluntary organizations (i.e., American Cancer Society, American Lung Association, American Heart Association) during the 2014 and 2015 sessions as challenging. One stakeholder recalled the “very unusual opposition” during the 2014 session from voluntary organizations that wanted e-cigarettes included in the existing definition of tobacco products rather than in a newly-defined product category. On the other hand, one stakeholder noted this opposition as normal “in the public health world” and commented that “advocates often find themselves separated over the details of any given issue.”

Stakeholders also discussed the absence of the voluntary organizations during the 2015 legislative session. While the local representative for the American Lung Association was noted for providing testimony, stakeholders commented on how local affiliates were generally hamstrung as advocates while the national organizations waited for federal e-cigarette regulations and more research to take a stance on the issue. One stakeholder noted that national organizations become concerned with “seemingly small things” and the resulting inability of local organizations to advocate for policy “ultimately weakens our efforts.”

Product definition during bill writing

Several stakeholders involved in the pre-session workgroup commented on challenges in writing the product definition for e-cigarettes. One legislative stakeholder responsible for drafting the bill discussed working on multiple product definitions with the goal of not only regulating e-cigarettes in their current form, but also accounting for any industry innovation to come. A few stakeholders also commented on the difficulty of ensuring the definition did not conflict with the Tobacco Master Settlement Agreement, which was mitigated by early input from the Oregon Department of Justice. Most stakeholders who noted a challenge with the product definition referred to the tension between local advocates and the national voluntary organizations who wanted e-cigarettes included in the definition of tobacco products rather than the new definition of inhalant delivery systems. Ultimately, stakeholders settled on the inhalant delivery system definition, given the definition’s flexibility to include future substances that may be used in the devices, including marijuana.

Lack of research

While a lack of research on the health benefits or harms of e-cigarettes was noted by stakeholders as a reason for bill support, one stakeholder viewed the lack of research as a challenge. One Republican stakeholder noted that some colleagues “thought that it was premature to pass a bill until additional research came out on e-cigarettes.” Opponents of the policy appealed to values of less government interference with a budding local industry by citing the lack of science to justify restrictions on indoor use. One stakeholder commented on the difficulty of advancing regulations in the face of limited research:

“I think that with a new product like this a lot of folks wanted science and evidence-based data to support some of the policies we were pursuing. It’s such a new product that obviously there hasn’t been enough time of the product on the market to have solid evidence-based research.”

Policy advocates countered these arguments by referencing lessons from tobacco prevention where “we allowed those [cigarettes] to go on and on and on and then people started to know about it and it’s even harder to pull it back in.” Stakeholders noted that the industry should be responsible for proving product safety and questioned “why should the general public be the guinea pig?” Stakeholders also referenced language in the bill that requires the law be revisited in the future if the FDA approves e-cigarettes as an evidence-based cessation aid.

Other voices

Although most stakeholders highlighted the diversity of partners who provided testimony during session, one stakeholder commented that hearings would have benefited from more perspectives outside of public health, and referenced medical doctors and nurses as credible and respected voices on health issues:

“It’s very different when you get someone from outside saying, I agree with public health. And I think that really resonates with our policy makers.”

Effect on local law

A few stakeholders, including those representing local government, commented on the difficulty of advocating for strong state-wide policy while also preserving progress at the local level. Stakeholders representing counties who had already passed strong e-cigarette ordinances expressed concern that a state-level policy could weaken local ordinances. Although the state policy ultimately passed without an exemption for vape shop sampling, one local government stakeholder commented on the ever-present challenge of advocating for state-wide policy:

“You know, in all these things there’s always that tension, even local level, of trying to work with the places that have made local progress and not wind anything back there, but also meet the needs of the majority of locals where local ordinances and limitation aren’t even a possibility.”

Neutral state government

One lobbyist stakeholder commented on the difficulty of advocating for state-level policy in the absence of support from the state public health agency ultimately tasked with implementing the policy. This stakeholder acknowledged that state agencies are often required to be neutral on policy issues, but noted the challenge nonetheless:

“Frankly, the huge frustration for me is, like most state government agencies, they’re not able to lobby, even for things that are good public policy. Pretty much all state agencies now have to say they are neutral unless they’ve been given permission from the Governor’s office to weigh in.”

Lack of state-wide tobacco retail licensing

A few stakeholders noted the lack of statewide tobacco retail licensure as a challenge. One stakeholder described the absence of tobacco retail licensure as “the elephant in the room” and noted the difficulty of passing additional requirements for tobacco retailers without a mechanism for identifying tobacco retailers and the foundation for efficient enforcement that licensure would provide.

Legislative process

Stakeholders involved in shepherding the bill through session expressed general frustration with barriers typical to a policy process. While stakeholders commented on the wisdom of introducing the bill on the more liberal House side, one legislative stakeholder noted that bills can “very easily die in the Senate” despite pre-session preparatory work and “overwhelming” passage in the House. One lobbyist stakeholder described the continuous work required to gain support for the bill in the Senate, particularly around not including an exemption for indoor product sampling:

“Every time, it was like whack-a-mole. Every time you thought that you’d survived the last onslaught, there it would be again and somebody else would be championing it.”

The same lobbyist also detailed the frustration of securing legislators’ opinions:

“As much as you try to inoculate legislators against certain arguments, you can have them with you and then somebody else comes and talks to them and they completely change their minds. As much as you talk to them ahead of time, it doesn’t guarantee results down the road.”

Future concerns

A few stakeholders expressed concern with aspects of the bill itself, the policy process, and the external environment that may affect the law's success in the future.

Federal regulations

One legislative stakeholder expressed initial concern that state-developed bill language may not align with federal regulations of e-cigarettes in the future. However, this stakeholder noted the fidelity of bill definitions in light of FDA e-cigarette regulations that went into effect on August 8, 2016, more than one year after bill passage:

“For me, it was just the legality of those terms [inhalant delivery system and inhalant] and how to write them so they'd broadly apply, and I think we did a pretty good job. Because when the federal regs [regulations] came out, their terminology was a little bit narrower, but there's nothing we need to do to necessarily fix our own definition. Our own definition works legally right now.”

Missed opportunity for taxation

While nearly every stakeholder commented that excluding an e-cigarette tax from the bill was essential to successful passage, one stakeholder was concerned that stakeholders “missed their window permanently” for an e-cigarette tax in a future legislative session and believed “everyone will rail against it [future tax bill] as a tax against small business.”

Further regulation of a growing industry

One stakeholder was concerned that future regulation of the industry would prove difficult and noted the industry's rapid growth as complicating future regulations related to taxation and other youth-oriented policies like flavor restrictions:

“If you wait, major players start to get involved. And this is happening in e-cigarettes...Where all of the sudden it's a billion-dollar industry, and that billion-dollar industry can afford lobbyists. And the longer you wait, the bigger the fight.”

Marijuana backlash

One stakeholder was concerned with future implications from the inclusion of “cannabinoids” in the inhalant delivery system definition and therefore in the state ICAA. The stakeholder acknowledged the benefit of including marijuana in the policy to mitigate future difficulty regulating the newly-legal product, while also acknowledging the potential backlash from the marijuana community:

“You can either say ‘my goodness, what a smart move that was’ because now you don’t have to worry about fighting the same fight for tasting rooms and employees who are working indoors with cannabinoids, that you just finish fighting with e-cigarettes. On the other side of that, you’ve got what I think is a rising tide of angry people who didn’t realize at the point that 2546 passed that they were potentially strangling this [marijuana] tourism industry. Because it doesn’t work well or doesn’t work as well if you can’t sample.”

Indeed, the 2017 Oregon legislative session saw two bills introduced (Senate Bills 307 and 788) to allow indoor use of marijuana in licensed cannabis lounges and outdoor use at licensed temporary events.^{10,11} Neither of these bills passed.

Overstating health harms

One stakeholder was concerned that the health harms of e-cigarette use and secondhand vapor were overstated by policy advocates, especially relative to regular cigarettes. This stakeholder noted public health advocates as “well meaning” for taking a strong stance on e-cigarettes, but suggested “leaving ourselves a little bit more of an open door for that [harm reduction] conversation” in future policy processes. The stakeholder described the role of harm reduction messages in policy process discussions:

“Public health strategizing around leaving ourselves a little bit more of an out, realizing that on the whole an adult heavy smoker is going to be better off using electronic cigarettes. It felt like there was not a lot of room for acknowledging that in this initial policy push.”

Part 2: Characterizing the role of state and local government and lobbyists

This section will focus on stakeholders’ characterization of the role of state and local government and lobbyists in the policy process.

State government role

Stakeholders identified four roles the Oregon Public Health Division assumed in the policy process: contributing to bill writing in the pre-session workgroup, responding to legislator requests for data and information, providing capacity-building grants to local public health departments, and providing communications assistance to partners during policy implementation.

General gratitude

Several stakeholders expressed general gratitude to the state government, noting the Public Health Division as helpful in the legislative process, but offering few concrete examples (some examples are discussed later). These stakeholders specifically referred to assistance provided by the Health Promotion and Chronic Disease Prevention Section Manager and “her team,” as well as the Public Health Division’s Policy Director.

Contribution to pre-session workgroup

Two stakeholders recognized the state Public Health Division for helping craft the inhalant delivery system definition during the pre-session workgroup, including close work with legislative counsel to draft the bill. One legislative stakeholder responsible for drafting the bill noted the assistance provided by the state in the pre-session workgroup:

“You know what, I give it all to the state. They were very well organized. I work on a lot of groups with the City and the State and this was a very easy process for me.”

Information sharing

One legislative stakeholder acknowledged the state Public Health Division for providing information to legislators throughout the policy process. The stakeholder specifically mentioned the state providing legislators with information on the number of vape shops in Oregon to understand the impact of the policy.

“She [Health Promotion and Chronic Disease Prevention Section Manager] had a bunch of data about how fast the sales of e-cigarettes were growing and also about the shops that were opening up, so that was helpful.”

State funding for local capacity

One local government stakeholder noted the state-provided Strategies for Policy and Environmental Change (SPaRC) grants as a helpful resource that allowed for local data collection in the retail environment. These data would ultimately contribute to testimony provided at both local and state hearings on e-cigarettes. The stakeholder described how the state-supported assessments, which included collection of retail environment photos, helped make testimony more tangible for legislators:

“When you actually go and photograph these things for sale in real stores, in real counties, I think that’s very compelling. So, the more pictures and tangibles like that, I think goes a long way rather than just saying ‘let’s protect the children.’”

Communications assistance

One partner stakeholder representing building owners and managers commented on work with the state Public Health Division to educate the public and affected sectors on the new law:

“The communication was great [with state Public Health Division]. In fact, after the process was done, I worked with a few people at Public Health on getting the word out and messaging and things from building owners. It was just really easy and they were incredibly efficient.”

Concurrent tobacco counter-marketing

One partner stakeholder unknowingly referenced a state-created tobacco counter marketing ad while describing the youth appeal of flavored tobacco and need for e-cigarette restrictions:

“You probably saw some of the packaging they brought for this stuff. And the smell of it, you know, so you go, ‘Is that candy?’ There was a commercial that ran - I don’t know if you’ve seen it - using little five and six-year-olds and their cute little voices saying, ‘Look at that, this is strawberry.’ It’s not, it’s tobacco products. So, the fact that it was available to youth without any restriction was pretty outrageous.”

Local government contribution

Stakeholders mentioned four key ways in which local public health contributed to the policy process: passing local e-cigarette policies, contributing to the bill drafting and bill strategy pre-session workgroups, providing testimony during bill hearings, and bringing a broader health perspective to bill conversations about e-cigarettes.

Passing local policy

Several stakeholders commented on the role of local e-cigarette ordinances in passing strong state-wide policy. One local government stakeholder believed the legislature may have used a local ordinance as a “guideline” for the state law, and a partner stakeholder who participated in the pre-session workgroup confirmed the benefit of a local policy example in drafting the bill:

“I think we benefited a lot from the very strong involvement of the community in Multnomah County that had already started down this road.”

One lobbyist stakeholder representing an Oregon county described the intention of strategically passing local policy to influence strong state-level laws:

“We made sure that we passed what we wanted in Multnomah County first, because we truly believed that we can enforce and push good public policy by taking the reins up here.”

One local government stakeholder commented on the helpfulness of a strong local policy precedent in advocating for equally strong state policy:

“My amateur understanding was that Multnomah County kind of blazed ahead with these regulations, and then that gave the state a good reason to say, ‘well, let’s take this on, rather than the patch work.’ And it’s really nice for me as a public health person to go to the state to say, ‘my county really believes this and we’re actually walking our talk here, so please do the same statewide.’ I think that’s really powerful.”

Contribution to pre-session workgroup

Several stakeholders mentioned the helpfulness of having representation of local public health in the pre-session workgroups - one workgroup responsible for drafting the bill and the other workgroup tasked with developing bill strategy and messaging for session. One local government stakeholder commented that local public health provided example bill language to the drafting workgroup and lessons learned from the local policy process to inform the state-level strategy workgroup.

Providing testimony

Local government stakeholders noted their role in providing testimony during legislative session. One of these stakeholders described her role as a medical doctor in furthering messages related to the health harms of nicotine use among youth, the potential for e-cigarettes to recruit new users to nicotine, and the importance of preserving the success of the state and local ICAA. This stakeholder also commented on the group effort of preparing testimony and the ability for county-generated testimony to make proposed regulations more tangible:

“I think the props were really effective. And I would not have thought of that on my own, except the fabulous people I work with handed me a bag of different vape liquids, and pens, and it’s instantly engaging. Policy makers want to look at them, they want to see them. You know you can see the interest.”

However, this local government stakeholder noted that not all county health departments have the capacity to engage in the state policy process equally.

One local government stakeholder, serving as a county public health department administrator, described his role and the functions of local public health specialists in the state policy process:

“My role was making sure or at least offering the consultation, the services, the opinions of my local [tobacco prevention and policy] specialists to the workgroups, to the people who were creating legislative testimony, and to tracking bill progress.”

Providing broader perspective

While state government efforts focused on providing requested information to legislators in the form of surveillance data and policy options, one local government stakeholder noted the unique contribution of county government in applying an equity lens to state policy discussions. This stakeholder described advancements in local public health’s knowledge, understanding, and ability to communicate on the social determinants of health to supplement traditional presentation methods. The stakeholder noted that typical public health presentations “rely almost completely on statistics, and charts, and graphs, and biostatistics, and the hard sciences” and “while those are important and we are science-based and we can’t let go of that, those aren’t the most compelling things.” To complement this data-oriented approach, the stakeholder commented on local public health “intentionally breaking those boundaries between behavioral health and public health” to not only focus on smoking and vaping issues, but also linking these topics to the “whole social milieu of adolescent risk.” The stakeholder describes the benefit of this approach in engaging legislators:

“Things like suicide, and graduation rates, other youth risk issues were already on their mind, so we weren’t going in, as we too often did in the past, ‘yeah, those are important, but think about this.’ And instead saying ‘Yes, all are important and here’s a piece of that that this bill, this initiative addresses.’”

A lobbyist stakeholder similarly commented on acknowledging the overlap between health behaviors and social factors often, which is often not discussed in a public policy process:

“It’s like ok so this is going to have economic effect and youth are highly economically sensitive, but there are all these social pressures, and location is a big piece, and there’s bleed-over between other risk factors, and we can’t really talk about this and not talk about that. . .we need to be aware and message things in such a way that they’re, for lack of a better term, more ecological.”

Lobbyist contribution

Stakeholders mentioned two key ways in which lobbyists contributed to the policy process: being on the ground during legislative session to shepherd the bill and participating in the Oregon Partners for Tobacco Prevention group that worked on bill strategy for session. Stakeholders also noted differences in the roles of local lobbyists compared to lobbyists for the national voluntary organizations, like the American Heart Association.

On the ground during legislative session

Stakeholders noted lobbyists' contribution to on-the-ground shepherding of the bill through the legislature, particularly when it reached the Senate side. One lobbyist stakeholder described work to keep the bill intact, and specifically referred to conversations with legislators about how an exemption for vape shops would undermine the state ICAA and local efforts to pass strong e-cigarette regulations. A legislative stakeholder commented on "lots of really good advocates" during the process who "did the bulk of the work." Another legislative stakeholder attributed policy success to "good lobbying and persistence" and noted lobbyists' "huge time commitment and personal commitment to pass legislation like this."

Local tobacco prevention partner group

Two lobbyist stakeholders commented on their participation in the Oregon Partners for Tobacco Prevention group that met both pre-session and during session "to discuss what sort of regulation and policy would best work to help ensure that minors no longer have access to e-cigarettes."

Locals vs. nationals

Stakeholders made a distinction between lobbyists representing local organizations and jurisdictions and lobbyists representing national partners (e.g., American Heart Association). While local lobbyists were involved in policy strategy meetings both before and during session and helped usher the bill through the Senate, lobbyists for the national organizations were in opposition to the bill during the 2014 legislative session and were mostly silent during the 2015 legislative session.

Tobacco norms and data

Although stakeholders did not provide many specifics on the roles of state, local, and national tobacco prevention programs during the policy process, they did refer to components of the tobacco control movement to which state, local, and national programs likely contribute. Stakeholders referenced past experiences with the tobacco industry, details of Oregon's ICAA, general tobacco use trends, data on smoking initiation, changing social norms around tobacco, and industry targeting

of youth with flavored tobacco. Stakeholder knowledge and perceptions of these issues can feasibly be attributed in part to the local, state, and national tobacco control programs that have worked with legislators on tobacco policy and filled the information environment with prevention messaging over decades of policy, systems, and environmental change work.

History of tobacco control

Several stakeholders commented on the history of tobacco control and experiences with the tobacco industry as reasons for not waiting to regulate e-cigarettes and the vaping industry. One partner stakeholder referenced difficulties regulating the tobacco industry as a reason for early e-cigarette policies:

“Let’s err on the side of caution and make sure that we know what we’re doing because you cannot put the genie back in the bottle. That’s been very clear from cigarettes and tobacco products.”

Another stakeholder noted the historical effort to remove tobacco products from the public eye and the potential for e-cigarettes to reverse that progress:

“We worked so hard in this society to get traditional cigarette smoking beaten out of our day-to-day life, so why would we want to reintroduce that?”

Strong Oregon ICAA

Several stakeholders noted Oregon’s ICAA and the history of the ICAA as reasons for bill support and integral to policy messaging. Two legislative stakeholders recalled an ICAA exemption for smoke shops that allowed the opening of youth-appealing hookah lounges, and a partner stakeholder referred to the “very strong” ICAA in discussing enforcement of the e-cigarette bill:

“Luckily, Oregon has a very strong, and I think an appropriate, Clean Indoor Air Act already, so what we did was just say, ‘okay we’re going to have it [e-cigarettes] follow the exact same rules and that will make enforcement easier.’”

A legislative stakeholder highlighted positive social norms around the ICAA:

“It’s [the Indoor Clean Air Act] one of those public policy things where it’s kind of easy to take advantage of it. We have this strict Indoor Clean Air Act, but then people realize, ‘oh wow, I actually really enjoy that. I really enjoy the fact that I don’t have to worry about if I go to a restaurant I won’t be hit with any smoke around me.’”

Another legislative stakeholder referenced the history of passing smokefree laws in Oregon while discussing the inclusion of e-cigarettes in the state ICAA:

“How do you argue with keeping this stuff out of the lobby of an apartment building? You can’t argue against that, it’s just not possible. You know the issue about smoke-filled bars we dealt with a long time ago; we’re not going to have them.”

Lack of science

In discussing both policy support reasons and tailored messages, both partner and legislative stakeholders referenced the lack of e-cigarettes research and that e-cigarettes are not an FDA-approved cessation device:

“We talk about what we do know about nicotine, and also remind folks that the products are completely unregulated...and not having any data about the health impacts and we didn’t know what was in the product.”

Messages on the lack of e-cigarettes research and absence of evidence as an effective cessation aid were widely touted by state and local public health departments and lobbyists; it is feasible that these stakeholders contributed to the information environment in which legislators and partners learned, retained and passed on these messages.

Knowledge of data and counter-marketing

Nearly all stakeholders referenced increasing use of e-cigarettes among both adults and youth as reasons for product regulations. One partner stakeholder referenced e-cigarettes as a “sort of gateway to regular cigarettes and other tobacco products,” referenced a “commercial that ran using little five and six-year-olds,” and noted the industry “coming up with many different flavors to really aim at the taste buds of the youngsters.” State and local public health departments provided surveillance data and emerging research on these issues to legislators, partners and lobbyists throughout the policy process. For example, the Oregon Public Health Division produced two issue briefs during this time, including one on e-cigarettes and another on flavored tobacco that contained many of the messages later heard from partners and legislators.

Tobacco industry targeting of children through flavored tobacco was also featured in state-developed counter-marketing television and billboard ads that ran in the two months before the 2015 legislative session, including the television ad featuring the “little five and six-year-olds” mentioned by the stakeholder. Also during this time, the Centers for Disease Control and Prevention (CDC) released a tobacco use report highlighting e-cigarettes as the most used tobacco product among youth, which garnered national attention through earned media. In addition to general awareness of tobacco use trends, research and messages, a partner stakeholder also recited a specific tobacco use statistic in recalling a family member affected by tobacco use:

“You know, when I was in the third grade, my sister started smoking. Now you know, you’re well aware of the statistic that said that 90% of the adult smokers started before they were 18?”

General awareness of tobacco danger and social norms

In addition to familiarity with more specific data, research, and messages, stakeholders also expressed general awareness of the dangers of tobacco use and changing social norms.

A legislative stakeholder referenced trends in national and local social norms around public smoking:

“And then of course there’s the national data. There’s all sorts of research showing nationally Americans, and I believe it trickles all the way down to Oregonians, are just frankly done with smoking in public places.”

The same legislative stakeholder commented on the current social norms around tobacco use in considering the e-cigarette policy:

“A lot of people have really caught on to the dangers of smoking and understand that really smoking is such a thing of the past and we really need to make it more of the past. There’s no reason to introduce this [e-cigarettes], and especially to youth.”

In addition to recognition of changing social norms and population trends in tobacco use, one partner stakeholder noted that legislators also generally “recognize the danger of addiction and how dangerous nicotine is, and so how addictive nicotine is.”

Previous tobacco legislation set the stage

A few legislative stakeholders commented that previous tobacco legislation (including prior to the 2014 legislative session) contributed to an easier policy process. A legislative stakeholder noted the benefit of past tobacco legislation in setting the stage for the House Bill 2546 policy process:

“We talk a lot of times about bills being one, two, or three session bills. A lot of times it takes a while to get people up to speed, and get people informed, and to build support. I think that in fairness, some of the previous smoking legislation had helped set this up. So that this was a modest extension rather than a large or a new concept. Otherwise, you know it can get bogged down in a lot of discussion about whether this is good policy.”

This stakeholder also commented that previous clean air legislation prepared policy stakeholders to respond to opposing arguments, and highlighted “they weren’t new arguments, we had the same fight when we talked about the ICAA [as it relates to regular tobacco products].”

Another legislative stakeholder expressed a similar sentiment about the history of tobacco legislation building a movement to policy support in the 2015 legislative session:

“I think we had been focusing on clean air and getting out the message that smoking is harmful. And I think that in previous sessions we’d begun to create that tenor in the discussion. . .my initial reaction [to HB 2546] was this was a gigantic step, but after getting into it, I thought, ‘no, this is a natural progression and a good one.’”

Conclusions

Through interviews with stakeholders in local and state public health departments, lobbyists, public health partners, and legislators, this evaluation identified aspects of the bill itself and the policy process that contributed to successful passage of a strong law regulating e-cigarettes. The evaluation also revealed stakeholders' reasons for supporting the bill and the role of external factors in the policy process. In reflecting on both the opportunities and challenges of the bill process, stakeholders identified several lessons learned that are potentially applicable to Oregon's internal legislative process and tobacco control policy work in other states.

Applying lessons learned to other Oregon policy processes

Stakeholders considered the following bill and policy process elements as essential to success:

- Legislative champions and continuity of leadership (e.g., then-Representative Tomei passing bill lead duties to then-Representative Taylor, with key support from legislative assistant Debbie Runciman)
- Pre-session workgroup with representation from all stakeholder groups, including partners and the vape industry; organizers who ensured consistent, well-planned meetings with a clear and narrow scope of work; and early involvement from legislative counsel and the Oregon Department of Justice to ensure bill language did not conflict with other state laws
- Diverse partners from sectors not traditionally involved in tobacco legislation (e.g., law enforcement and building managers and owners) to provide differing perspectives in workgroups and new voices through legislative testimony
- Establishing lines in the sand prior to legislative session ensured most policy stakeholders were communicating similar messages and had the same bill priorities (e.g., no sampling exemption)
- Separating taxation ensured the bill would not be delayed in the Committee on Revenue, stakeholders would not need to address legislators' opposition to a new tax, and the bill would not need to address the complexities of creating a tax structure for a new product type

- Existing local ordinances that offer bill advocates examples of strong e-cigarette policy and the leverage to enact exemption-free statewide regulations
- State public health assistance to legislators, participating in bill writing workgroup prior to legislative session and providing legislators with requested information during session

Applying lessons learned for other states working on tobacco control

Many of the internal lessons learned may also be applied to other states interested in passing similar tobacco prevention policies. Tobacco control advocates in other states could consider the following lessons learned in their policy work:

- Securing legislative champions
- Establishing a pre-session workgroup with well-defined scope of work and clear policy priorities
- Involving “non-traditional” tobacco prevention partners, like law enforcement and building managers and owners, who are concerned with easy enforcement of state smokefree laws
- Strategically involving vape industry representatives in early policy planning to ensure perspectives are understood and considered
- Supporting local jurisdictions in passing strong, exemption-free local ordinances to leverage during statewide policy discussions (assumes jurisdictions are not preempted from working on local tobacco prevention policies)
- If applicable, leverage recreational marijuana legalization to garner support from more conservative legislators concerned with exposure to secondhand smoke and the potential effects on social norms and youth perceptions (however, prepare for possible opposition from the marijuana industry to create ICAA exemptions related to public use of marijuana)
- Messages on preventing youth addiction, mitigating tobacco use initiation, and easier ICAA enforcement were most effective with stakeholders
- The tobacco industry will likely not be in opposition if policy does not change packaging requirements for pre-packaged e-cigarette products (e.g., disposable e-cigarette brands like Blu)
- Creating a broadly-defined product category like “inhalant delivery system” that accounts for future industry innovation rather than including e-cigarettes in the existing definition for tobacco products

- Not including a tax component will moderate opposition from tobacco and e-cigarette users, more conservative legislators, and maintain the focus on preventing youth nicotine addiction and protecting the public from the unknown effects of secondhand vape
- While stakeholders referred to a disorganized, diffuse vape industry as contributing to policy success, the industry continues to grow and, as such, this policy opportunity may not present itself again. Being ready to capitalize on these windows of opportunity is key
- Ensure there are open lines of communication between state tobacco programs and legislators to respond to information and data requests throughout the policy process

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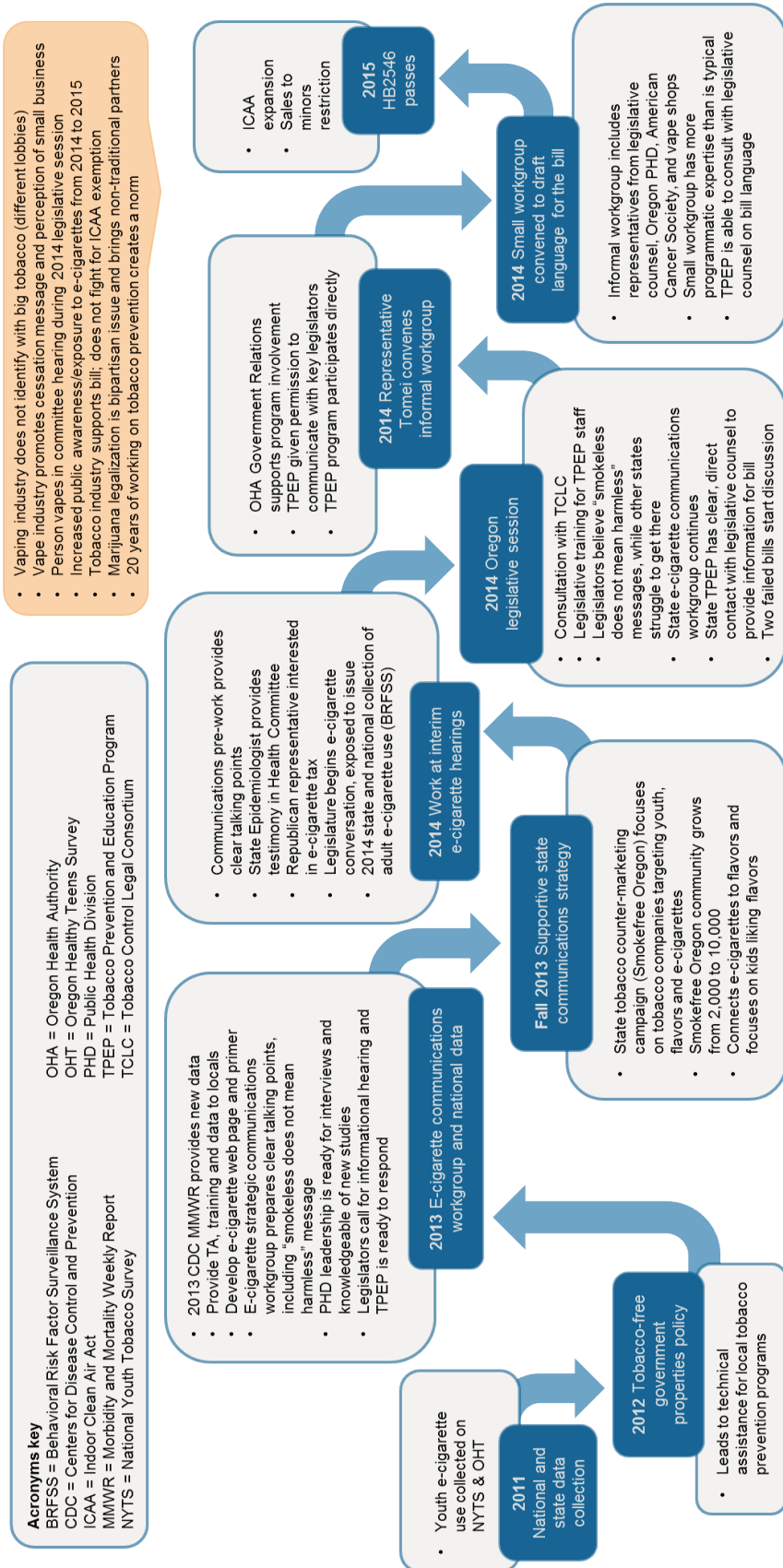
Appendices

Appendix A. Evaluation advisory group members

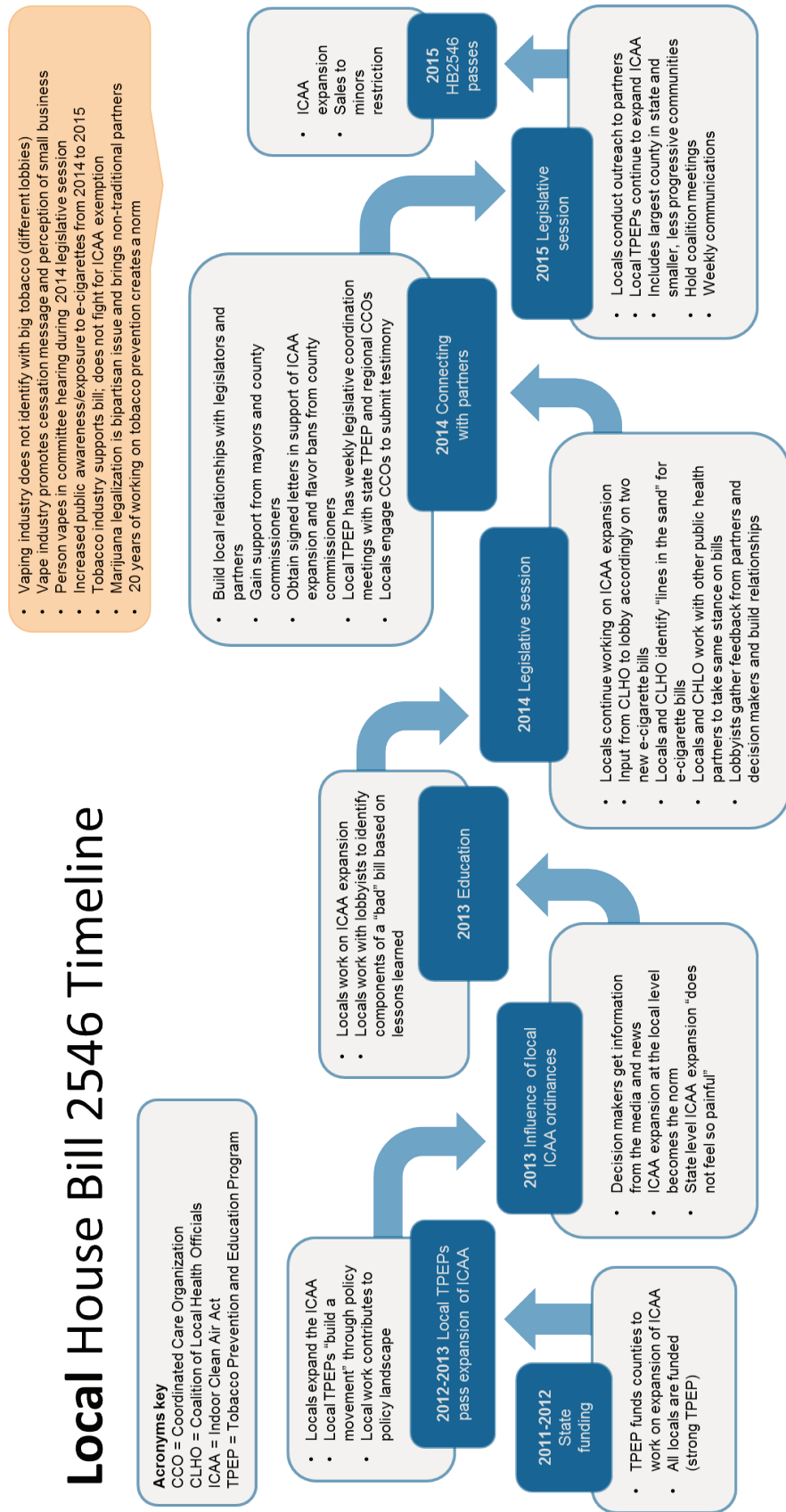
Member name (in alphabetical order)	Organization	Position
Morgan Cowling, MPA	Oregon Coalition of Local Health Officials (CLHO)	Executive Director (Lobbyist)
Karen Girard, MPA	Oregon Public Health Division, Health Promotion and Chronic Disease Prevention Section	Section Manager
Sara Hartstein, MPH	Benton County Health Department	Health Policy Specialist
Rosa Klein, MPP	Oregon Public Health Division, Office of the State Public Health Director	Legislative Coordinator
Kim La Croix, MPH, RD	Oregon Public Health Division, Health Promotion and Chronic Disease Prevention Section	Tobacco Policy Specialist
Michael Tynan, BA	Oregon Public Health Division, Office of the State Public Health Director	Policy Director

Appendix B. State government House Bill 2546 timeline

State House Bill 2546 Timeline

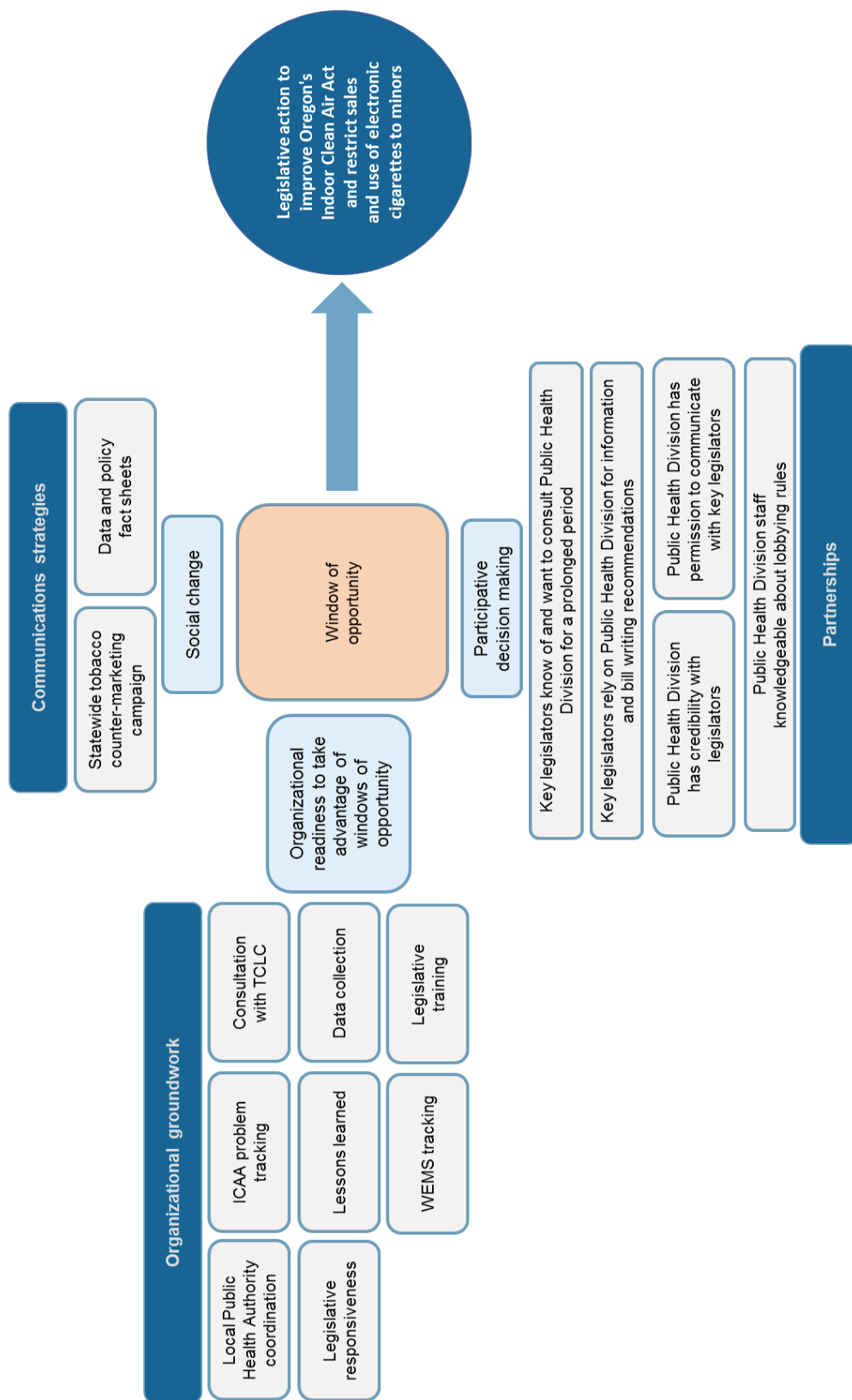


Appendix C. Local government House Bill 2546 timeline



Appendix D. Lobbyists House Bill 2546 timeline

Figure E. House Bill 2546 theory of change model



Appendix F. List of stakeholder interviewees

Stakeholder name (in alphabetical order)	Organization	Role
Local government		
Charlie Fautin	Benton County Health Department	Deputy Director
Jennifer Vines	Multnomah County Health Department	Deputy Health Officer
Lobbyists		
Jenn Baker	Oregon Nurses Association (ONA)	Lobbyist
Claudia Black	Multnomah County Government Relations	Director (lobbyist)
Other partners		
Aaron Knott	Oregon Department of Justice	Legislative Director, Office of the Attorney General
John Ludlow	Clackamas County Board of County Commissioners	Board Chair
Susan Steward	Building Owners and Managers Association (BOMA)	Executive Director
Legislative		
Phil Barnhart	Oregon Legislature	Representative (District 11)
Bill Kennemer	Oregon Legislature	Representative (District 11)
Mark Mayer	Office of Legislative Counsel	Deputy
Debbie Runciman	Oregon Legislature	Legislative Assistant
Kathleen Taylor	Oregon Legislature	Representative (District 11)
Carolyn Tomei	Oregon Legislature	Representative (District 11)
Elizabeth Steiner Hayward	Oregon Legislature	Senator (District 17)
Laurie Monnes Anderson	Oregon Legislature	Senator (District 25)

Appendix G. Stakeholder interview request template

Hello [stakeholder name],

I am an evaluator with the Oregon Public Health Division and will be conducting brief interviews with stakeholders of the House Bill 2546 policy process that occurred during the 2015 legislative session. As you know, House Bill 2546 led to the inclusion of e-cigarettes into existing state tobacco laws and expanded Oregon's Indoor Clean Air Act. Due to the successful passage of House Bill 2546, an evaluation of the policy process has been requested by the Director's Office of the Oregon Public Health Division.

You have been identified as a key stakeholder in this process and I would like to schedule some time with you for a 15-20 minute interview. We are hoping to complete interviews during the month of July or early August. If you are willing to participate in this brief interview, please provide me with your availability and preference for an in-person or phone interview. Alternatively, please provide me with the name and contact information for the staff person who handles your schedule.

The interview will focus on the following questions:

1. Please describe your role in the House Bill 2546 policy process.
2. From your perspective, what led to the successful passage of House Bill 2546 (the expansion of Oregon's Indoor Clean Air Act)?
3. What were the challenges in the policy process (if any)? How were these challenges overcome?
4. If you could do this policy process all over again, what (if anything) would you do differently?

Lessons learned from the evaluation will be used to improve the internal policy process of the Public Health Division, identify strengths and areas for improvement in collaboration across policy stakeholders, and inform the expansion of smokefree workplace laws in other states. We will also produce a brief summary of evaluation findings to share with all policy stakeholders.

Please let me know if you have any questions in the meantime.

Thank you in advance for your time!

Steve

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Appendix H. Stakeholder interview script

House Bill (HB) 2546 Evaluation

Key informant interviews script

OPENING

First, thank you again for making time for this interview.

[If needed] My name is Steven Fiala and I am with Program Design and Evaluation Services, a research and evaluation unit of Multnomah County Health Department and the Oregon Public Health Division.

These interviews are being conducted on the behalf of the Oregon Public Health Division among a select group of stakeholders for the House Bill 2546 policy process.

[If needed] As you know, House Bill 2546 included e-cigarettes into existing state tobacco laws and expanded Oregon’s Indoor Clean Air Act.

We will aim to complete the interview in 15-20 minutes, but I am available for longer if we need more time to fully capture your feedback.

I will be taking notes throughout the interview and I’d like to tape it with your permission. Is that OK?

[If needed] This interview will be transcribed from the audio recording. After transcription, the audio recording will be deleted.

[If needed] We will be looking at all stakeholder interviews for common themes and diverging opinions to characterize the House Bill 2546 policy process from each stakeholder’s perspective.

Due to the nature of this project, we want to be able to identify the stakeholders we are interviewing in the evaluation executive summary and report, so your comments will be attributed to you. Is that OK? Please let me know if there are any comments that you don’t want attributed to you and I will be sure to de-identify those.

I may use a quote from this interview in the evaluation executive summary and final report. You will have an opportunity to review the quote prior to publication. Is that OK?

Do you have any questions before we begin?

INTERVIEW QUESTIONS

1. Please describe your role in the House Bill 2546 policy process.

2. From your perspective, what led to the successful passage of House Bill 2546 (the expansion of Oregon’s Indoor Clean Air Act)?
3. What were the challenges in the policy process (if any)? How did you overcome these challenges?
4. If you could do this policy process all over again, what (if anything) would you do differently?
5. Which policy was the leading driver for your support (or opposition) of House Bill 2546 [prompt if needed: components of the bill include creating a minimum sales age of 18 to purchase electronic cigarettes, including e-cigarettes in Oregon’s Indoor Clean Air Act, establishing a unique definition for these products (“inhalant delivery system”), and including marijuana in the definition of these products]
6. [For state/local/lobby stakeholders] Does this timeline accurately reflect your experience with the policy process? (Is there anything that you would add, remove, or modify?)
7. Is there anything else you would like to share about the HB 2546 policy process?

Prompts (if needed)

That’s really helpful, and what about [insert prompt from below]? What role did that play?

- Collaboration between state and local government, lobbyists, partners, and legislators
- State and local tobacco control infrastructure
- Diverse (non-traditional) partnerships
- Trends or secular events in the environment (e.g., marijuana legalization)

CLOSING

That was the last question. Do you have any questions for me before we wrap up?

We are hoping to complete stakeholder interviews during the month of July or in early August.

Our plan is to produce an executive summary of evaluation findings for external audiences that we will share with you. We will also develop a more internally-focused full report that will be available upon request. Does this work for you? Do you have other suggestions for reporting evaluation results?

Thank you again for time today, we really appreciate your input.

Please do not hesitate to contact me if you have any additional feedback or questions.

Appendix I. Stakeholder interview coding scheme

Theme	Code	Code description	Example quote	
Policy process attributes	Legislators	Strong leaders within the legislature (“bill champions”).	“The coordinators of the effort that would become House Bill 2546 really went out of their way to make sure that those discussions [about drafting the bill] happened early.”	
	Workgroup	Function and attributes of pre-session workgroup to draft bill	“I work with a lot of different groups and I’m on a lot of committees. This one was so crazy well organized and had the details and everything ahead of time.”	
	Clear priorities	Focusing scope of bill (what to include and what not to include)	“We had a very, very circumscribed goal. We wanted to make sure these new devices were going to be proscribed under the Oregon Clean Air Act. We wanted to make it easy to enforce.”	
	Tailored messages	Selecting messages depending on audience and bill priorities	“When people say, ‘oh my gosh, you’re trying to outlaw e-cigarettes.’ No, that’s not what we’re doing. We are just saying don’t sell to minors and follow the Clean Indoor Air Act. Done.”	
	Diverse stakeholders	Multiple stakeholders and a diversity of viewpoints in process	“I think it [the workgroup] was inclusive. The work together between the workgroup members was so multidisciplinary.”	
	Bipartisan support	Support from both Republican and Democrat legislators	“This is about public health, and especially youth health. I mean, the number that it passed by was huge...I was really happy that the legislature came together on this important bill.”	
	2014 session	Influence of e-cigarette bills in 2014 legislative on 2015 policy process	“The first attempt at regulating e-cigarettes just face-planted right out of the gate...I think there were significant political problems, but also just maybe not as much familiarity [with the topic].”	
	Legislative Counsel and DOJ	Pre-session role of Legislative Counsel and Oregon DOJ	“If I were to talk to my clients, which are the legislators, I would say if you really, really want something [passed], model your process for developing the bill after 2546.”	
	Bill attributes	Novel definitions	New definitions created for bill (e.g., “inhalant delivery systems”).	“We wanted something that would apply not just to the current devices, but any crazy thing that somebody’s going to come up with in the future.”
		No exemption	No ICAA exemption for indoor sampling	“...we said no vaping in vape shops, no sampling in vape shops. That was one of the most contentious issues.”
Taxation separate		Taxation not in bill	“Folding nicotine and electronic cigarettes into all the other things that we do to protect youth, I think was a safe argument...as we get into the hairy questions of taxation...those are going to be more difficult waters to navigate.”	
Not penalizing minors		Penalties in bill related to minors	“There was some good scrutiny on the minors piece about not penalizing minors.”	

Bill support reasons	Protecting children	Youth use, appeal of e-cigarettes or youth protection as support reason	“Young people are my biggest concern. Here are young people vaping. They don’t know what’s in that.”
	Nicotine addiction	Addictiveness of nicotine as support reason	“I’ve long believed...that it’s [electronic cigarettes] a gateway drug. Any kind of a stimulant like that, a mood alterer, is a gateway drug.”
	ICAA	Enforcing or maintaining integrity of ICAA as support reason	“They liked this definition for enforcement because they don’t have to figure out what’s in the device...you could put water in it, you could put marijuana in it, you could put nicotine in it, you could put rose water in it, it wouldn’t matter it’s still a violation either way.”
	Regulating vape industry	Regulation of e-cigarettes or the e-cigarette industry as support reason	“Remember, it was the wild, Wild West before this. If you were under age it didn’t matter - it wasn’t regulated.”
	Lack of research	Lack of research on the health effects of e-cigarette use or secondhand exposure as support reason	“You can’t dispute the impact of secondhand smoke. And you can’t dispute everything we don’t know about e-cigarettes.”
	Marijuana	Marijuana legalization as support reason	“...we were able to get some folks who maybe would not have voted for the e-cigarette bill to vote for it...because 2546 includes inhaling marijuana regarding the clean indoor air act.”
	Vape industry missteps	Actions by the vape industry or e-cigarette users as support reason	“They came down in some force to complain about the adverse impact this was going to have on their business...for a lot of us it was pretty self-serving, and pretty short sighted and not very public health oriented.”
	Local policy effect	Potential effect bill on local policy as support reason	“...we have some fairly well advanced local ordinances around tobacco, inhalants, indoor air...so we had a huge amount of interest and continue to have a huge amount of interest in legislation that either will enhance or potentially adversely affect local ordinances.”
External factors	Vape industry	Vape industry growth, organization	“There were people who wanted to have e-cigarette smoke shops or tastings. And they were not as effective as they could have been. I think if they had done their job a little better, they might have been able to defeat some of those things.”
	Tobacco industry	Role of tobacco industry	“You know, big tobacco had their people and they pretty much got what they wanted.”
	Marijuana	Recreational marijuana legalization in Oregon	“There was a lot of concern about the legalization of marijuana and where it will be consumed and how it will be part of our society.”

	Other laws	E-cigarette laws in other states and at federal level	“They [legislators] knew that something had to pass because at that point we were only one of a handful of states...that didn’t prohibit sales [to those under 18].”
	Vape awareness	Increased awareness of e-cigarette use and potential health harms	“It was amazing who I saw vaping...on the streets where I saw them gathering, there were just too darn many young people smoking the stuff.”
	Sympathetic legislature	Legislators sympathetic to bill, no or easy questions from legislators	“...we had very sympathetic legislatures. I don’t remember a lot of tough questions.”
	Window of opportunity	References to luck, timing of policy process	“It is not a logical process. It’s an emotional and political [process] and so you can do everything perfectly, or screw everything up and it passes.”
Policy process challenges	ICAA exemption	Keeping bill without ICAA exemption for indoor sampling	“They felt that if they had group settings where they came together and talked about their nicotine addiction...if they are able to vape together in a public space it would help them.”
	Small business	Vape industry as small Oregon businesses (“cottage industry”); regulations hurting small businesses	“If the state comes in and sets up a lot of rules, these young companies have the argument, and I think it’s a decent one, ‘well, you regulated us into a corner before we really even had a chance to find our feet.’”
	Health and cessation claims	E-cigarettes as safer than regular cigarettes; use of e-cigarettes as cessation aid	“I really do feel for people who are so seriously addicted to traditional cigarettes. They came and provided some very heartfelt, very real testimony that e-cigarettes are really, in their opinion, helping them.”
	Conservative values	Conservative values of limiting government, worries of infringing on personal freedoms	“...particularly those on the republican side... how much more regulation do we need? You know as kind of a general thought.”
	Voluntary organizations	Opposition from/absence of voluntary organizations (Heart, Lung, Cancer)	“...there were a couple of people who represented national organizations...that were slightly resistant because they were waiting for the federal rules to come out.”
	Product definition	Technical aspects of writing bill definitions	“The definition was always the hard part for us...figure out how we define this device and this stuff that you put in the device, and trying then to figure out how we were going to regulate it.”
	Lack of research	Lack of research used to support fewer industry regulations	“Some of my colleagues...do not like additional government regulations, and thought that it was premature to pass a bill until additional research came out on e-cigarettes.”

	Other voices	Too many public health voices in the discussion	“It’s very different when you get someone from outside saying, I agree with public health. And I think that really resonates with our policy makers.”
	Local law effect	Potential effect of weak state law on strong local policies	“...there’s always that tension, even local level, of trying to work with the places that have made local progress and not wind anything back there.”
	Neutral state government	Requirement that state public health be neutral	“Frankly, the huge frustration for me is, like most the state government agencies, they’re not able to lobby, even for things that are good public policy.”
	State TRL	Lack of state tobacco retail licensing as foundation for retailer regulations	“And then the elephant in the room...was how do we talk about restricting sells to minors when we don’t have retail licensing and those even selling.”
	Legislative process	General challenges typical to legislative process	“As much as you try to inoculate legislators against certain arguments, you can have them with you and then somebody else comes and talks to them and they completely change their minds.”
Future concerns	Federal regulations	Future federal regulations on e-cigarettes from the FDA	“...when the federal regs [regulations] came out, their terminology was a little bit narrower, but there’s nothing we need to do to necessarily fix our own definition. Our own definition works legally right now.”
	Taxation opportunity	Missing opportunity for taxing e-cigarettes	“Everyone will rail against it as a tax against small business. And my guess is it’s not even seriously attempted...they’ve missed their window permanently.”
	Regulation of growing industry	Imposing additional regulations on a growing industry	“If you wait, major players start to get involved... all of the sudden it’s a billion-dollar industry, and that billion-dollar industry can afford lobbyists.”
	Marijuana backlash	Inclusion of marijuana in product definition and ICAA (marijuana exemption for ICAA)	“...you’ve got what I think is a rising tide of angry people who didn’t realize at the point that 2546 passed that they were potentially strangling this [marijuana] tourism industry. Because it doesn’t work well or doesn’t work as well if you can’t sample.”
	Overstating health harms	Overstating health harms of e-cigarettes precludes future harm reduction discussions	“Public health strategizing around leaving ourselves a little bit more of an out...It felt like there was not a lot of room for acknowledging that in this initial policy push.”

State government role	General gratitude	Non-specific expressions of gratitude	“[Public Health Division staff] helped a lot too on stuff. I don’t remember exactly...”
	Workgroup	Contribution to pre-session workgroup	“You know what, I give it all to the state. They were very well organized. I work on a lot of groups with the City and the State and this was a very easy process for me.”
	Information sharing	Sharing information with legislators	She [Health Promotion and Chronic Disease Prevention Section Manager] had a bunch of data about how fast the sales of e-cigarettes were growing and also about the shops that were opening up, so that was helpful.”
	Funding locals	State-funded local capacity building grants	[Referring to state-funded local retail assessments] “When you actually go and photograph these things for sale in real stores, in real counties, I think that’s very compelling.”
	Communications	Communications assistance related to bill/law	“The communication was great [with state Public Health Division]...It was just really easy and they were incredibly efficient.”
	Tobacco ads	State public health tobacco ad campaigns	“There was a commercial that ran...using little five and six year olds and their cute little voices saying, ‘Look at that, this is strawberry.’ It’s not, it’s tobacco products.”
Local government contribution	Local policy	Effect of local e-cigarette policies on state policy process	“I think we benefited a lot from the very strong involvement of the community in Multnomah County that had already started down this road a bit.”
	Workgroups	Contribution to pre-session workgroups (bill drafting and partner groups)	“...we decided to have a small group that drafted the bill...And there were local governments, you know Multnomah County, Lane County had somebody...”
	Testimony	Providing testimony in session hearings	“I think the props were really effective...Policy makers want to look at them, they want to see them.”
	Broader perspective	Providing broader perspective to e-cigarette discussions	“...there are all these social pressures, and location is a big piece, and there’s bleed-over between other risk factors, and we can’t really talk about this and not talk about that...”
Lobbyists contribution	On the ground	On the ground shepherding of bill during session	“I bet this was almost a full-time job for her [lobbyist], at least half her time and that was true for many of the stakeholders. All the time they put into this so it takes a huge time commitment and a personal commitment to pass legislation like this.”

	Partner workgroup	Contribution to local tobacco prevention partner workgroup	“ONA [Oregon Nurses Association] was part of a group of stakeholders that came together... pre-session and during the legislative session to discuss what sort of regulation and policy would best work to help ensure that minors no longer have access to electronic cigarettes.”
	Locals vs. nationals	Distinction between local and national advocates/ partners	“...different organizations have different thresholds of support. ...a lot of it is national driven so they don’t have the ability to support the electronic cigarette regulation bill simply because they didn’t like the way that the legislature chose to define the product.”
Tobacco norms and data	Tobacco control history	Lessons learned from tobacco control history	“Let’s err on the side of caution and make sure that we know what we’re doing because you cannot put the genie back in the bottle. That’s been very clear from cigarettes and tobacco products.”
	Oregon ICAA	Experiences with Oregon ICAA	“How do you argue with keeping this stuff out of the lobby of an apartment building...You know the issue about smoke-filled bars we dealt with a long time ago; we’re not going to have them.”
	Lack of science	References to public health messages on lack of science on e-cigarettes	“We talk about what we do know about nicotine, and also remind folks that the products are completely unregulated. ...and not having any data about the health impacts and we didn’t know what was in the product.”
	Knowledge of data	Statements about national, state, or local data (specific or general data)	“You know, when I was in the third grade, my sister started smoking. Now you know, you’re well aware of the statistic that said that 90% of the adult smokers started before they were 18?”
	Awareness of tobacco danger and social norms	References to public health messages on tobacco dangers and social norms changes	“And then of course there’s the national data. There’s all sorts of research showing nationally Americans, and I believe it trickles all the way down to Oregonians, are just frankly done with smoking in public places.”
	Tobacco legislation	History of tobacco legislation as foundation for easier 2015 process	“I think that in fairness, some of the previous smoking legislation had helped set this up...this was a modest extension rather than a large or a new concept.”



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