

Senate Joint Resolution 41

Sponsored by COMMITTEE ON FINANCE AND REVENUE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Proposes amendment to Oregon Constitution providing for imposition of business privilege tax on gross receipts derived from Oregon sales and establishing Oregon Rainy Day Fund. Sets conditions for appropriation of moneys in fund.

Transfers excess business privilege tax revenues to fund.

Refers proposed amendment to people for their approval or rejection at special election to be held May 16, 2017.

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating new sections 14a, 16 and 17 to be added to and made a part of Article IX, and by amending section 14, Article IX, such sections to read:

SECTION 16. (1) A business privilege tax is imposed on gross receipts derived from sales in the Oregon market.

(2) The tax imposed under this section:

(a) Applies to all types of business entities organized in this state.

(b) May not have a marginal rate in excess of 0.7 percent of the taxpayer's gross receipts.

(3)(a) If a taxpayer's sales in this state for the tax year are less than \$5 million, the tax under this section shall be imposed as a flat amount, set by the Legislative Assembly and not to exceed \$250 per tax year.

(b) If a taxpayer's sales in this state for the tax year are less than \$150,000, the taxpayer is not required to file a return under this section.

(c) The Legislative Assembly may annually increase the amount of tax and the thresholds under this section based on inflation.

(4) Notwithstanding section 3a of this Article and except as provided in paragraph (b) of subsection (3) of section 14 of this Article, after the deduction of refunds, the net revenue from the tax imposed under this section shall be credited to the General Fund to be available to meet any expense or obligation of this state lawfully incurred.

SECTION 17. (1) The Oregon Rainy Day Fund is established as an account in the General Fund. The Legislative Assembly may establish subaccounts within the Oregon Rainy Day Fund.

(2) The Legislative Assembly may appropriate moneys from the Oregon Rainy Day Fund only if the appropriation is approved by three-fifths of the members serving in each house of the Legislative Assembly and the Legislative Assembly finds one of the following:

(a) That the last quarterly economic and revenue forecast for a biennium indicates that moneys available to the General Fund for the next biennium will be at least three percent

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 less than appropriations from the General Fund for the current biennium;

2 (b) That there has been a decline for two or more consecutive quarters in the last 12
3 months in seasonally adjusted nonfarm payroll employment; or

4 (c) That a quarterly economic and revenue forecast projects that revenues in the General
5 Fund in the current biennium will be at least two percent below what the revenues were
6 projected to be in the revenue forecast on which the legislatively adopted budget for the
7 current biennium was based.

8 (3) Once each month, in the manner provided by law, a state agency designated by law
9 shall calculate the amount of General Fund interest that is attributable to moneys in the
10 Oregon Rainy Day Fund. The amount calculated under this subsection shall be transferred
11 to the Oregon Rainy Day Fund. The Legislative Assembly by law may attribute interest on
12 moneys in a subaccount in the Oregon Rainy Day Fund to the subaccount.

13 (4) The Legislative Assembly may not appropriate for any one biennium more than two-
14 thirds of the amount that is in the Oregon Rainy Day Fund at the beginning of that
15 biennium. If the appropriation is for a biennium that has not yet begun, the Legislative As-
16 sembly may use as the base the most recent estimate of the amount that will be in the
17 Oregon Rainy Day Fund at the beginning of the biennium for which the appropriation is
18 made.

19 (5) As used in this section, "legislatively adopted budget" means the budget enacted by
20 the Legislative Assembly during an odd-numbered year regular session.

21 **Sec. 14.** (1) As soon as is practicable after adjournment sine die of an odd-numbered year reg-
22 ular session of the Legislative Assembly, the Governor shall cause an estimate to be prepared of
23 revenues that will be received by the General Fund for the biennium beginning July 1. The esti-
24 mated revenues from corporate income and excise taxes **and from business privilege taxes** shall
25 be separately stated from the estimated revenues from other General Fund sources.

26 (2) As soon as is practicable after the end of the biennium, the Governor shall cause actual
27 collections of revenues received by the General Fund for that biennium to be determined. The re-
28 venues received from corporate income and excise taxes **and from business privilege taxes** shall
29 be determined separately from the revenues received from other General Fund sources.

30 (3)(a) **Except as provided in paragraph (b) of this subsection, [I/]** if the revenues received
31 by the General Fund from corporate income and excise taxes during the biennium exceed the
32 amount estimated to be received from corporate income and excise taxes for the biennium[,] by two
33 percent or more, the total amount of the excess shall be retained in the General Fund and used to
34 provide additional funding for public education, kindergarten through twelfth grade.

35 (b) **If the revenues received by the General Fund from the business privilege tax estab-**
36 **lished in section 16 of this Article during the biennium exceed the amount estimated to be**
37 **received from the business privilege tax for the biennium by two percent or more, an amount**
38 **equal to the amount by which the revenues received exceed 102 percent of the estimate shall**
39 **be transferred to the Oregon Rainy Day Fund established by section 17 of this Article or to**
40 **any subaccount in the Oregon Rainy Day Fund.**

41 (4) If the revenues received from General Fund revenue sources, exclusive of those described in
42 subsection (3) of this section, during the biennium exceed the amount estimated to be received from
43 such sources for the biennium[,] by two percent or more, the total amount of the excess shall be
44 returned to personal income taxpayers.

45 (5) The Legislative Assembly may enact laws:

1 (a) Establishing a tax credit, refund payment or other mechanism by which the excess revenues
2 are returned to taxpayers, and establishing administrative procedures connected therewith.

3 (b) Allowing the excess revenues to be reduced by administrative costs associated with return-
4 ing the excess revenues.

5 (c) Permitting a taxpayer's share of the excess revenues not to be returned to the taxpayer if
6 the taxpayer's share is less than a de minimis amount identified by the Legislative Assembly.

7 (d) Permitting a taxpayer's share of excess revenues to be offset by any liability of the taxpayer
8 for which the state is authorized to undertake collection efforts.

9 (6)(a) Prior to the close of a biennium for which an estimate described in subsection (1) of this
10 section has been made, the Legislative Assembly, by a two-thirds majority vote of all members
11 elected to each [*House*] **house**, may enact legislation declaring an emergency and increasing the
12 amount of the estimate prepared pursuant to subsection (1) of this section.

13 (b) The prohibition against declaring an emergency in an act regulating taxation or exemption
14 in section 1a[, *Article IX of this Constitution,*] **of this Article** does not apply to legislation enacted
15 pursuant to this subsection.

16 (7) This section does not apply:

17 (a) If, for a biennium or any portion of a biennium, a state tax is not imposed on or measured
18 by the income of individuals.

19 (b) To revenues derived from any minimum tax imposed on corporations for the privilege of
20 carrying on or doing business in this state that is imposed as a fixed amount and that is nonappor-
21 tioned (except for changes of accounting periods).

22 (c) To biennia beginning before July 1, 2001.

23 **SECTION 14a. (1) Sections 16 and 17 of this Article and the amendment to section 14 of**
24 **this Article by Senate Joint Resolution 41 (2017) apply to biennia beginning on or after July**
25 **1, 2017, and to tax years beginning on or after January 1, 2018.**

26
27 **PARAGRAPH 2. The amendments proposed by this resolution shall be submitted to the**
28 **people for their approval or rejection at a special election to be held throughout this state**
29 **May 16, 2017.**