

# D R A F T

## SUMMARY

Proposes amendment to Oregon Constitution to create Oregon Rainy Day Fund. Sets conditions for appropriation of moneys in fund. Transfers surplus personal income tax revenues that do not exceed six percent of revenue estimate to fund. Transfers surplus personal income tax revenues exceeding six percent of revenue estimate to taxpayers.

Repeals corporate kicker provision.

Transfers amount equal to \_\_\_\_\_ percent of personal income tax revenue attributable to net capital gain to Oregon Rainy Day Fund.

Refers proposed amendment to people for their approval or rejection at next general election.

## 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, 15, 16 and 16a to be added to and made a part of Article IX, and by amending section 14, Article IX, such sections to read:

**SECTION 15. (1) The Oregon Rainy Day Fund is established as an account in the General 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 less than appropriations from the General Fund for the current biennium;**

**(b) That there has been a decline for two or more consecutive**

1 **quarters in the last 12 months in seasonally adjusted nonfarm payroll**  
2 **employment; or**

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

8 **(3) Once each month, in the manner provided by law, a state agency**  
9 **designated by law shall calculate the amount of General Fund interest**  
10 **that is attributable to moneys in the Oregon Rainy Day Fund. Except**  
11 **as provided in subsection (5) of this section, the State Treasurer shall**  
12 **transfer the amount calculated under this subsection to the Oregon**  
13 **Rainy Day Fund.**

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

21 **(5) If the moneys in the Oregon Rainy Day Fund just prior to the**  
22 **time of a transfer scheduled under subsection (3) of this section or**  
23 **section 14 or 16 of this Article equal at least 12 percent of the amount**  
24 **of General Fund revenues collected during the prior biennium, moneys**  
25 **that would otherwise be transferred to the Oregon Rainy Day Fund**  
26 **under subsection (3) of this section or section 14 or 16 of this Article**  
27 **shall be deposited in the General Fund.**

28 **(6) If the moneys in the Oregon Rainy Day Fund just prior to the**  
29 **time of a transfer scheduled under subsection (3) of this section or**  
30 **section 14 or 16 of this Article do not equal at least 12 percent of the**  
31 **amount of General Fund revenues collected during the prior biennium,**

1 **the transfer to the Oregon Rainy Day Fund shall be made regardless**  
2 **of whether that transfer increases the amount in the Oregon Rainy**  
3 **Day Fund to at least 12 percent of the amount of General Fund reve-**  
4  **nues collected during the prior biennium.**

5 (7) As used in this section, “legislatively adopted budget” means the  
6 budget enacted by the Legislative Assembly during a regular session.

7 **SECTION 16. Except as provided in section 15 of this Article, on or**  
8 **before July 1 of each year, a state agency designated by law shall:**

9 (1) For tax years beginning on or after January 1 of the preceding  
10 year and ending before January 1 of the current year, estimate the  
11 amount of personal income tax revenue received by this state that is  
12 attributable to net capital gain; and

13 (2) Transfer an amount equal to \_\_\_\_\_ percent of the estimate re-  
14 quired under subsection (1) of this section to the Oregon Rainy Day  
15 Fund established in section 15 of this Article.

16 **Sec. 14.** (1) As soon as is practicable after adjournment sine die of an  
17 odd-numbered year regular session of the Legislative Assembly, the Governor  
18 shall cause an estimate to be prepared of revenues that will be received by  
19 the General Fund for the biennium beginning July 1. The estimated revenues  
20 from corporate income and excise taxes shall be separately stated from the  
21 estimated revenues from other General Fund sources.

22 (2) As soon as is practicable after the end of the biennium, the Governor  
23 shall cause actual collections of revenues received by the General Fund for  
24 that biennium to be determined. The revenues received from corporate in-  
25 come and excise taxes shall be determined separately from the revenues re-  
26 ceived from other General Fund sources.

27 *[(3) If the revenues received by the General Fund from corporate income and*  
28 *excise taxes during the biennium exceed the amount estimated to be received*  
29 *from corporate income and excise taxes for the biennium, by two percent or*  
30 *more, the total amount of the excess shall be returned to corporate income and*  
31 *excise taxpayers.]*

1        [(4)] (3) Subject to section 15 of this Article:

2        (a) If the revenues received from General Fund revenue sources,  
3 exclusive of corporate excise and income taxes, during the biennium  
4 exceed the amount estimated to be received from such sources for the  
5 biennium, to the extent that the excess does not exceed six percent  
6 of the estimate, the excess shall be transferred to the Oregon Rainy  
7 Day Fund established by section 15 of this Article.

8        (b) If the revenues received from General Fund revenue sources, exclusive  
9 of [*those described in subsection (3) of this section*] **corporate income and**  
10 **excise taxes**, during the biennium exceed the amount estimated to be re-  
11 ceived from such sources for the biennium, by [*two percent or*] more **than**  
12 **six percent**, the total amount of the excess **above six percent** shall be re-  
13 turned to personal income taxpayers.

14        [(5)] (4) The Legislative Assembly may enact laws:

15        (a) Establishing a tax credit, refund payment or other mechanism by  
16 which the excess revenues are returned to taxpayers, and establishing ad-  
17 ministrative procedures connected therewith.

18        (b) Allowing the excess revenues to be reduced by administrative costs  
19 associated with returning the excess revenues.

20        (c) Permitting a taxpayer's share of the excess revenues not to be re-  
21 turned to the taxpayer if the taxpayer's share is less than a de minimis  
22 amount identified by the Legislative Assembly.

23        (d) Permitting a taxpayer's share of excess revenues to be offset by any  
24 liability of the taxpayer for which the state is authorized to undertake col-  
25 lection efforts.

26        [(6)(a)] (5)(a) Prior to the close of a biennium for which an estimate de-  
27 scribed in subsection (1) of this section has been made, the Legislative As-  
28 sembly, by a two-thirds majority vote of all members elected to each  
29 [*House*] **house**, may enact legislation declaring an emergency and increasing  
30 the amount of the estimate prepared pursuant to subsection (1) of this sec-  
31 tion.

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

4 [(7)] **(6)** This section does not apply:

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

7 [(b) *To revenues derived from any minimum tax imposed on corporations*  
8 *for the privilege of carrying on or doing business in this state that is imposed*  
9 *as a fixed amount and that is nonapportioned (except for changes of accounting*  
10 *periods).*]

11 [(c)] **(b)** To biennia beginning before July 1, 2001.

12 **SECTION 14a. (1) Section 15 of this Article and the amendment to**  
13 **section 14 of this Article by \_\_\_\_\_ Joint Resolution \_\_\_\_\_ (2011) (LC**  
14 **3597) apply to biennia beginning on or after July 1, 2011.**

15 **(2) This section is repealed on June 30, 2015.**

16 **SECTION 16a. (1) The estimates and transfers required by section**  
17 **16 of this Article shall begin July 1, 2012.**

18 **(2) Section 16 of this Article applies to tax years beginning on or**  
19 **after January 1, 2011.**

20 **(3) This section is repealed on June 30, 2015.**

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22 **PARAGRAPH 2. The amendment proposed by this resolution shall**  
23 **be submitted to the people for their approval or rejection at the next**  
24 **regular general election held throughout this state.**

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