

# D R A F T

## SUMMARY

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 Legislature 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**

1 **tax and the thresholds under this section based on inflation.**

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

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

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

14 **(a) That the last quarterly economic and revenue forecast for a**  
15 **biennium indicates that moneys available to the General Fund for the**  
16 **next biennium will be at least three percent less than appropriations**  
17 **from the General Fund for the current biennium;**

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

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

26 **(3) Once each month, in the manner provided by law, a state agency**  
27 **designated by law shall calculate the amount of General Fund interest**  
28 **that is attributable to moneys in the Oregon Rainy Day Fund. The**  
29 **amount calculated under this subsection shall be transferred to the**  
30 **Oregon Rainy Day Fund. The Legislative Assembly by law may attri-**  
31 **bute interest on moneys in a subaccount in the Oregon Rainy Day**

1 **Fund to the subaccount.**

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

9 (5) **As used in this section, “legislatively adopted budget” means the**  
10 **budget enacted by the Legislative Assembly during an odd-numbered**  
11 **year regular session.**

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

19 (2) As soon as is practicable after the end of the biennium, the Governor  
20 shall cause actual collections of revenues received by the General Fund for  
21 that biennium to be determined. The revenues received from corporate in-  
22 come and excise taxes **and from business privilege taxes** shall be deter-  
23 mined separately from the revenues received from other General Fund  
24 sources.

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

1       **(b) If the revenues received by the General Fund from the business**  
2 **privilege tax established in section 16 of this Article during the**  
3 **biennium exceed the amount estimated to be received from the busi-**  
4 **ness privilege tax for the biennium by two percent or more, an amount**  
5 **equal to the amount by which the revenues received exceed 102 percent**  
6 **of the estimate shall be transferred to the Oregon Rainy Day Fund**  
7 **established by section 17 of this Article or to any subaccount in the**  
8 **Oregon Rainy Day Fund.**

9       (4) If the revenues received from General Fund revenue sources, exclusive  
10 of those described in subsection (3) of this section, during the biennium ex-  
11 ceed the amount estimated to be received from such sources for the  
12 biennium[,] by two percent or more, the total amount of the excess shall be  
13 returned to personal income taxpayers.

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

31       (b) The prohibition against declaring an emergency in an act regulating

1 taxation or exemption in section 1a[, *Article IX of this Constitution,*] **of this**  
2 **Article** does not apply to legislation enacted pursuant to this subsection.

3 (7) This section does not apply:

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

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

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

11 **SECTION 14a. (1) Sections 16 and 17 of this Article and the amend-**  
12 **ment to section 14 of this Article by \_\_\_\_\_ Joint**  
13 **Resolution \_\_\_\_\_ (2017) (LC 3548) apply to biennia beginning on or af-**  
14 **ter July 1, 2017, and to tax years beginning on or after January 1, 2018.**

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

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