

Monday, May 21, 2018 – Morning Session

Senate convened at 8:00 a.m., President Courtney in Chair. The following members were present: Baertschiger Jr, Bentz, Beyer, Boquist, Burdick, DeBoer, Dembrow, Frederick, Gelser, Girod, Hansell, Hass, Heard, Johnson, Knopp, Linthicum, Manning Jr, Monnes Anderson, Monroe, Olsen, Prozanski, Riley, Roblan, Steiner Hayward, Taylor, Thatcher, Thomsen, Wagner, Winters. Colors were posted and the Senate pledged allegiance to the flag. Invocation was a moment of silence in observance of the approaching Memorial Day.

The following Proclamation from the Governor was read:

PROCLAMATION

WHEREAS: Small businesses are the backbone of Oregon's economy, yet the state's smallest businesses – sole proprietorships – are prohibited from participating in Oregon's preferential tax structure for pass-through entities; and

WHEREAS: Oregon's smallest businesses should have the chance to grow by allowing them the same reduced tax rates that other qualified businesses already receive; and

WHEREAS: Many types of businesses may operate as sole proprietorships across a number of industries - agriculture, construction, manufacturing, health care, technology and food services - and simply because of their legal structure, they cannot claim this benefit; and

WHEREAS: The success of small businesses is key to continuing Oregon's economic growth and contributing to strong local economies in every community in the state; and

WHEREAS: With the large number of federal tax law changes beginning in 2018, some businesses may actually see tax increases; and

WHEREAS: It is important to do this now for small businesses this year as waiting until 2019 to make this change will only cost the businesses themselves.

NOW THEREFORE: I, Kate Brown, Governor of the State of Oregon, pursuant to Article V, section 12, of the Oregon Constitution, find an extraordinary occasion exists, and do by this proclamation call the Seventy-ninth Oregon Legislative Assembly to convene in special session on May 21, 2018, at 8:00 a.m.

Although the Constitution does not allow me to limit the length of the special session or the issues considered, I ask that the members of the Assembly act expeditiously in enacting legislation relating to the matter referenced above.

IN WITNESS WHEREOF, I hereunto set my hand and cause the Great Seal of the State of Oregon to be affixed. Done at the Capitol in the City of Salem in the State of Oregon on this day, May 9, 2018.

Kate Brown, Governor

Dennis Richardson, Secretary of State

Senate at ease while the Credentials Committee met.
Senate reassembled.

President Courtney announced that the Senate is in receipt of a copy of the following letters and ordered that they be read and recorded in the Journal:

February 8, 2018

Secretary of State Dennis Richardson
900 Court Street
Salem, OR 97301

Re: Notification of Resignation

Dear Mr. Secretary,

Please accept this notice of my resignation from the office of State

Senator – District 1, effective March 15, 2018.

I understand that after February 13, 2018, this notification becomes irrevocable.

Senator Jeff Kruse
Senate District 1

The following report by the committee on Credentials was read at the request of the Chair.

May 21, 2018

President Courtney:

We, your Committee on Credentials, after inspecting the official certificate from the Secretary of State, respectfully submit the following report:

That Jeff Kruse, a duly-elected Senator from Senate District 1 for a term of four years beginning the second Monday in January 2017 and terminating the second Monday in January 2021, resigned on March 15, 2018.

That Dallas Heard, a qualified elector from Senate District 1 was duly appointed to fill the vacancy of State Senator by the Board of Commissioners for the County of Douglas, to serve until the second Monday in January 2019. The certificate of appointment is attached.

That Dallas Heard was sworn into office on April 17, 2018.

Respectfully submitted,

Senator Roblan, Chair
Senator Baertschiger Jr.
Senator Riley

(Certificates of appointment included in original documents file.)

Burdick moved that the Senate Rules of the Seventy-ninth Legislative Assembly be adopted, as amended, for the Senate Rules for this Special Session of the Seventy-ninth Legislative Assembly.

With Boquist voting nay, the motion carried by voice vote. Special Session Rules adopted.

(Rule changes for the Special Session are noted below.)

SPECIAL SESSION RULES OF THE SENATE
SEVENTY-NINTH LEGISLATIVE ASSEMBLY
Adopted January 9, 2017 and amended July 6, 2017
May 21, 2018

1.01 Definitions.

(17) “Special session” means the Special Session of the 79th Legislative Assembly convening May 21, 2018.

2.20 Rules of the Senate

These rules adopted for the special session shall expire upon the adjournment sine die of the special session, at which time the Senate Rules as last amended on July 6, 2017, shall continue in effect. Notwithstanding the special session, all rules governing drafting requests and measure introductions in advance of the Long Session remain in effect without regard to whether the rules are termed interim or session rules.

~~(1) — Except as modified or rescinded under SR 2.05, these rules shall be in effect for the entire term of the Legislative Assembly whether the Senate is in session or has adjourned sine die.~~

~~(2) — The Senate shall follow the recommendations of the concurrent resolution(s), if any, adopted by the 79th Legislative Assembly to set the legislative schedule for the regular sessions. The provisions of any such concurrent resolution may be suspended by a two thirds majority (20) of elected members. If no concurrent resolution sets a legislative schedule for the session, the Senate may adopt rules setting its own legislative schedule.~~

13.01 Requirements for Presentation of Measures for Introduction; Bill backs.

(4) All measure drafting requests from Legislative Counsel and measures introduced during the special session must be approved by the President.

The Secretary of the Senate was directed by the President to notify the Governor and the House of Representatives that the Senate has completed its organization and is ready for the business of the 2018 Special Session of the Seventy-ninth Legislative Assembly.

President Courtney made the following appointments:

SPECIAL SESSION COMMITTEE ON SOLE PROPRIETORS

Peter Courtney, Co-Chair
Jackie Winters, Co-Vice Chair
Brian Boquist
Ginny Burdick
Mark Hass

Effective May 21, 2018, President Courtney announced that he is invoking the provisions of the one-hour notice rule in accordance with Senate Rule 8.16:

“The committee chair may call a meeting of the committee with less than 24 hours notice if, at least one hour prior to the meeting, notice is given to the Secretary of the Senate’s office, posted outside the Senate Chamber and in any other place reasonably designed to give notice to the public and interested persons.”

Senate recessed until 3:00 p.m.

Monday, May 21, 2018 – Afternoon Session

Senate reconvened at 3:00 p.m., President Courtney in Chair. All present.

Message from the House announcing that the House of Representatives has organized and is ready for the business of the 2018 Special Session of the Seventy-ninth Legislative Assembly.

HB 4301 – Message from the House announcing passage.

HCR 301 – Message from the House announcing adoption.

Senate, having recessed under the order of announcements, resumed under the order of First Reading of House Measures by unanimous consent at the request of the Chair.

HB 4301; HCR 301 – Read first time and referred to Committee on Sole Proprietorship.

Senate recessed until 3:35 p.m.

Senate reconvened at 3:35 p.m., President Courtney in Chair. All present.

Senate, having recessed under the order of First Reading of House Measures, resumed under the order of Reports from Committees by unanimous consent at the request of the Chair.

The following committee reports were read:

HB 4301 – Report by Committee on Sole Proprietors recommending passage.

HCR 301 – Report by Committee on Sole Proprietors recommending adoption.

Senate reverted to the order of Propositions and Motions by unanimous consent at the request of the Chair.

Burdick moved that in compliance with Article IV, section 19 of the Oregon Constitution, and notwithstanding any provision of the Senate Rules for the Seventy-ninth Legislative Assembly, the requirement that on its final passage each bill shall be read section by section be suspended; and that the requirement that every bill shall be read by title only on three several days in each house be suspended for the duration of this 2018 Special Session. Motion carried by voice vote. Constitutional provisions suspended.

HB 4301; HCR 301 – Burdick moved to suspend rules in order to take action immediately on second and third reading. Motion carried by unanimous consent.

Senate reverted to the order of Second Reading of House Measures by unanimous consent at the request of the Chair.

HB 4301; HCR 301 – Under rules suspension, read second time and passed to third reading.

Senate reverted to the order of Third Reading of House Measures by unanimous consent at the request of the Chair.

HB 4301 – Under rules suspension, read third time. Carried by Beyer.

HB 4301 – Boquist moved to rerefer to Committee on Sole Proprietors with the recommendation that the committee adopt the –6 Amendment. On motion to rerefer, the vote was: Ayes, 13; Nays, 17 – Beyer, Burdick, Dembrow, Frederick, Gelsner, Hass, Johnson, Manning Jr, Monnes Anderson, Monroe, Prozanski, Riley, Roblan, Steiner Hayward, Taylor, Wagner, President Courtney. Motion failed.

HB 4301 – Boquist moved to rerefer to Committee on Sole Proprietors with the recommendation that the committee adopt the –2 Amendment. On motion to rerefer, the vote was: Ayes, 13; Nays, 17 – Beyer, Burdick, Dembrow, Frederick, Gelsner, Hass, Johnson, Manning Jr, Monnes Anderson, Monroe, Prozanski, Riley, Roblan, Steiner Hayward, Taylor, Wagner, President Courtney. Motion failed.

HB 4301 – Debate resumed. On passage of bill, the vote was: Ayes, 18; Nays, 12 – Baertschiger Jr, Bentz, Boquist, DeBoer, Gelsner, Girod, Hansell, Hass, Heard, Linthicum, Olsen, Thomsen. Bill passed.

HB 4301 – Boquist requested the following written explanation of vote be entered into the Journal:

HB 4301 passed 18-12 in special session but having been in the negotiations the same 'yes' votes intend to repeal it in 2019. There was no extraordinary occasion for the special session except bad polling for the Governor's reelection. We considered filing a law suit to block the special session but it would take months meaning it would have been meaningless. At the time of adoption in 1859 of the Oregon Constitution an extraordinary occasion would require a horseback ride of a week to Oregon City. The reelection of the Governor is not such an emergency. The claim of equity and fairness is just as lame. C-Corporations received a 40% tax cut in the federal law yet NO Democrat proposed raising their taxes as they did in SB 1528. Is it because corporations are campaign donors? Having been in the negotiations for HB 3601 in 2013 the lame statement sole proprietors were left out by omission five years ago is simply false. The Democrats in 2013 simply did not want to give small businesses a larger tax cut even if it grew jobs and small business expansion. ORS 316.044 automatic tax increase is not in HB 4301 but when the economy slows down, and it will as it runs in cycles, this bill will result in a tax increase on all small businesses in the State PTE in 2022. It is also noted the original bipartisan discussions were on a \$44 to 49 million dollar actual tax decrease. To these discussions, we brought the A1 and A2 amendments which are on OLIS in the Committee hearing and Floor letters. These two amendments reflect discussions on possible future changes. The A6 amendment was a repeal of SB 1528 which was turned down by the Senate Democrats. Oregon needs complete tax reform to encourage small business growth but this bill will be repealed next year unless the majority changes in the Legislature.

HB 4301 – DeBoer requested the following written explanation of vote be entered into the Journal:

In the 2017 Session the House voted to remove most of the tax reductions for business, in the 2013 Session bill referred to as the "Grand Bargain" by the Majority party. Today, the same House voted to expand the tax reductions in that same bill.

There are over 300,000 sole proprietors that will file returns this year. This bill only affects an estimated 6,000 filers that will see tax reductions that exceed \$11 million this year and \$24 million next biennium. Only 8 % of that money will benefit small business that make up to \$100,000 this year, the balance then goes to those that make over \$100,000 per year.

The 2019 Session will surely deal with tax reform, as it should be dealt with in a long session.

The failure to help small business in the 2015-2017 sessions make us wonder why it is now an emergency.

When we are cutting funding for so many programs, why are we giving large business a tax cut?

I urge my fellow Senators to vote "NO" on this special session one-day vote and work in 2019 to really help the many small businesses in Oregon.

HB 4301 – Frederick requested the following written explanation of vote be entered into the Journal:

Oregon has a confused and inherently unfair tax system that cannot be addressed unless we have an extensive discussion in the coming years, especially in the 2019 Session. The issues involved here are not black and white and they do not conform to a particular political dogma. This discussion on overhauling Oregon's tax system will not take place without bi-partisan efforts and I voted today to help ensure that this discussion takes place in coming sessions.

Furthermore, HB 4301 will have a minimal effect on our state revenue. It will mean a reduction in the reserve funds by \$11- \$15 million. That is a lot. But it will not mean taking money from any program presently funded. The bill will likely benefit higher income sole proprietors more than the small "mom & pop" businesses in the state; however, it will have an impact on the small companies who can benefit from a boost at any time.

While I wanted to lower the income cap on who could benefit from HB 4301 and to set a sunset on the cuts, those amendments were not brought to the floor. I understand that they were part of the original bill presented in the February Session by Governor Brown, but were rejected by various legislators at the time. Amendments were brought to the

Senate floor, but with the knowledge that that path was likely to result in failure because of the protocol in the Senate. It was clearly a symbolic gesture.

Yes, this bill was unabashedly political. However, I want to ensure that we will continue this revenue discussion in 2019.

HB 4301 – Heard requested the following written explanation of vote be entered into the Journal:

My no vote is simple. I refuse to let my constituents be part of Kate Brown's political games. She signed away hundreds of millions of dollars that would have gone back into the pockets of over 250,000 small business owners, and instead expects us to be happy with the crumbs that benefit just over 12,000 businesses.

This bill, simply put, did not do enough to truly help Oregon small businesses and small business owners. It only gave Brown another headline going into the general election. This blatant political theater is disgusting, and I am confident that the good people of Senate District 1 did not want me taking part in it!

HB 4301 – Taylor requested the following written explanation of vote be entered into the Journal:

As the State Senator for Senate District 21, I strive to represent my constituents and their values to the very best of my ability. Today, I voted in support of House Bill 4103, the Special Session bill, after a great deal of deliberation. During the 2018 Session, I worked diligently with the Chair of the Senate Committee on Finance and Revenue as well as my colleagues to pass Senate Bill 1528 to disconnect Oregon from the extra pass-through tax break from the federal tax bill. It was also important to me that I support Oregon's Governor who introduced the measure, as she sought fair treatment across business entities. I was hesitant about expanding Oregon's current tax break, and it is my opinion that the structure of the tax rates reinforces a system in which those who benefit the most are those who need it least. Going forward I would like to see the Legislative body reevaluate these rates and accomplish meaningful revenue reform.

HCR 301 – Under rules suspension, read in its entirety and placed on final adoption. Carried by Steiner Hayward. On adoption of resolution, the vote was: Ayes, 30. Resolution adopted.

Senate adjourned sine die at 4:22 p.m., May 21, 2018.

HCR 301; HB 4301 – Message from the House announcing the Speaker signed on May 22.

HCR 301; HB 4301 – President Courtney signed on May 22.

HB 4301 – Message from the Governor announcing she signed on May 22.