

# D R A F T

## SUMMARY

Modifies methodology for determining amount of surplus tax credit received by personal income taxpayers under statutory kicker provision. Requires excess kicker revenues be credited to taxpayers in equal amounts instead of as percentage of personal income tax liability.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to disposition of revenue in excess of revenue estimate; creating  
3 new provisions; amending ORS 291.349; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 291.349 is amended to read:

6 291.349. (1) As soon as practicable after adjournment sine die of the odd-  
7 numbered year regular session of the Legislative Assembly, the Oregon De-  
8 partment of Administrative Services shall report to the Legislative Revenue  
9 Officer and the Legislative Fiscal Officer the estimate as of July 1 of the  
10 first year of the biennium of General Fund and State Lottery Fund revenues  
11 that will be received by the state during that biennium. The Oregon De-  
12 partment of Administrative Services shall base its estimate on the last fore-  
13 cast given to the Legislative Assembly before adjournment sine die of the  
14 odd-numbered year regular session on which the printed, adopted budget  
15 prepared in the Oregon Department of Administrative Services is based, ad-  
16 justed only insofar as necessary to reflect changes in laws adopted at that  
17 session. The report shall contain the estimated revenues from corporate in-  
18 come and excise taxes separately from the estimated revenues from other  
19 General Fund sources. The Oregon Department of Administrative Services

1 may revise the estimate if necessary following adjournment sine die of a  
2 special session or an even-numbered year regular session of the Legislative  
3 Assembly, but any revision does not affect the basis of the computation de-  
4 scribed in subsection (3) or (4) of this section.

5 (2) As soon as practicable after the end of the biennium, the Oregon De-  
6 partment of Administrative Services shall report to the Legislative Revenue  
7 Officer and the Legislative Fiscal Officer, or the Legislative Assembly if it  
8 is in session, the amount of General Fund revenues collected as of the last  
9 June 30 of the preceding biennium. The report shall contain the collections  
10 from corporate income and excise taxes separately from collections from  
11 other sources.

12 (3) If the revenues received from the corporate income and excise taxes  
13 during the biennium exceed the amounts estimated to be received from such  
14 taxes for the biennium, as estimated after adjournment sine die of the odd-  
15 numbered year regular session, by two percent or more, the total amount of  
16 that excess shall be retained in the General Fund and used, in the manner  
17 described in ORS 291.345, to provide additional funding for public education,  
18 kindergarten through grade 12.

19 (4) If the revenues received from General Fund revenue sources, exclusive  
20 of those described in subsection (3) of this section, during the biennium ex-  
21 ceed the amounts estimated to be received from such sources for the  
22 biennium, as estimated after adjournment sine die of the odd-numbered year  
23 regular session, by two percent or more, there shall be credited to personal  
24 income taxpayers an amount equal to the total amount of that excess, re-  
25 duced by the cost certified by the Department of Revenue under ORS 291.351  
26 as being allocable to credits described under this subsection. The excess  
27 amount to be credited shall be credited to personal income taxpayers [*in a*  
28 *percentage amount of prior year personal income tax liability*] as determined  
29 under subsection (5) of this section.

30 (5)(a) If there is an excess to be credited under subsection (4) of this  
31 section, on or before October 1, following the end of each biennium, the

1 Oregon Department of Administrative Services shall determine and certify  
2 to the Department of Revenue the [percentage amounts of] **amount of the**  
3 credit for purposes of subsection (4) of this section. [*The percentage amounts*  
4 *determined shall be percentage amounts to the nearest one-tenth of a percent*  
5 *that will distribute the excess to be credited to personal income taxpayers.*]

6 [(b) *The percentage amount applicable to subsection (4) of this section shall*  
7 *equal the amount distributed under subsection (4) of this section divided by*  
8 *the estimated total personal income tax liability for all personal income tax-*  
9 *payers for tax years beginning in the calendar year immediately preceding the*  
10 *calendar year in which the excess is determined.*]

11 [(c) *The amount of the surplus credit under subsection (4) of this section*  
12 *is determined by multiplying the percentage amount determined under para-*  
13 *graph (b) of this subsection by the total amount of a personal income taxpayer's*  
14 *tax liability for the tax year beginning in the calendar year immediately pre-*  
15 *ceding the calendar year in which the excess is determined in order to calcu-*  
16 *late the amount to be credited to the taxpayer.*]

17 [(d) *The credit shall be determined based on the tax liability as shown on*  
18 *the return of the taxpayer or as corrected by the Department of Revenue.*]

19 [(e) *The credit shall be computed after the allowance of a credit provided*  
20 *under ORS 316.082, 316.131 or 316.292, but before the allowance of any other*  
21 *credit or offset against tax liability allowed or allowable under any provision*  
22 *of law of this state, and before the application of estimated tax payments,*  
23 *withholding or other advance tax payments.*]

24 **(b) The amount of the surplus credit under subsection (4) of this**  
25 **section shall equal the amount distributed under subsection (4) of this**  
26 **section divided by the total number of individuals and spouses filing**  
27 **a return for the tax year beginning in the calendar year immediately**  
28 **preceding the calendar year in which the excess is determined. Each**  
29 **individual and spouse shall receive a surplus credit in an equal**  
30 **amount.**

31 [(f)] (c) For personal income taxpayers, if a credit applied against tax li-

1 ability as described in paragraph [(e)] (b) of this subsection reduces tax li-  
2 ability to zero and an amount of the credit remains unused, the remaining  
3 unused amount shall be refunded to the taxpayer. For purposes of ORS  
4 chapters 305, 314, 315 and 316, refunds issued under this paragraph are re-  
5 funds of an overpayment of tax imposed under ORS chapter 316.

6 [(g)] (d) The Department of Revenue may prescribe by rule the manner  
7 of calculating and claiming a credit if the filing status of a taxpayer changes  
8 between the tax year for which a credit may be claimed and the succeeding  
9 tax year.

10 (6) A refund may not be made under this section to a taxpayer if the  
11 amount of the refund is less than \$1.

12 (7) Not later than October 15 following the end of the biennium, the De-  
13 partment of Revenue shall provide information and guidance to taxpayers  
14 relating to the calculation of the credit. The department may make the in-  
15 formation and guidance available electronically or otherwise.

16 (8) The Department of Revenue may adopt rules specifying the manner for  
17 issuing refunds under this section to taxpayers who filed returns for the tax  
18 year on which the credit is computed but who are not required to file returns  
19 for the year in which the credit could be claimed.

20 **SECTION 2. The amendments to ORS 291.349 by section 1 of this**  
21 **2016 Act apply to calculations made under ORS 291.349 on or after the**  
22 **effective date of this 2016 Act.**

23 **SECTION 3. This 2016 Act takes effect on the 91st day after the date**  
24 **on which the 2016 regular session of the Seventy-eighth Legislative**  
25 **Assembly adjourns sine die.**

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