

House Bill 3181

Sponsored by Representative THATCHER

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**.

Expands purposes for which surplus revenue "kicker" refund may be donated to include public safety and services for seniors and persons with disabilities. Creates Surplus Refund Donation Account and subaccounts.

Applies to tax years beginning on or after January 1, 2009.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to surplus revenue refunds; creating new provisions; amending ORS 305.792; repealing ORS
3 305.794; and prescribing an effective date.

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

5 **SECTION 1.** ORS 305.792 is amended to read:

6 305.792. (1) The Department of Revenue shall cause [a] checkoff [box] **boxes** to be printed on the
7 personal income and corporate income or excise tax returns for the appropriate tax year, by which
8 a taxpayer may indicate that a surplus refund payment or credit that the taxpayer may otherwise
9 be entitled to under ORS 291.349 shall instead be used for funding **any of the following purposes:**

10 (a) Education;

11 (b) **Public safety; or**

12 (c) **Services for seniors and persons with disabilities.**

13 (2)(a) A personal income taxpayer may elect to donate a surplus refund payment to be made
14 under ORS 291.349 to [*public elementary and secondary school education*] **one of the purposes listed**
15 **in subsection (1) of this section.** The taxpayer may make the election by checking the appropriate
16 checkoff box on the taxpayer's return indicating the taxpayer's intention to donate the surplus re-
17 fund payment [*to public elementary and secondary education*] **and the purpose for which the do-**
18 **nation is being made.**

19 (b) Once made, the election is irrevocable for any surplus refund payments received until a
20 subsequent return is filed for a later tax year, and on which the checkoff box is not checked.

21 (3)(a) A corporate excise or income taxpayer may elect to not claim a surplus refund credit that
22 the taxpayer would otherwise be entitled to pursuant to ORS 291.349, in order to achieve a corre-
23 sponding transfer of such moneys from the General Fund to the [*State School Fund for the support*
24 *of public elementary and secondary school education*] **purpose for which the taxpayer elects to**
25 **donate the revenues.** The taxpayer may make the election by checking the appropriate checkoff
26 box on the taxpayer's return and by not using the surplus refund credit percentage to reduce the
27 taxpayer's tax liability.

28 (b) A taxpayer that checks the appropriate checkoff box indicating that the credit will not be
29 claimed but that nevertheless claims the credit in determining the taxpayer's tax liability shall be
30 considered to have not made the election under this subsection.

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 (c) The election to not claim a credit under this subsection may not be revoked by filing an
 2 amended return.

3 (4) After the determination that surplus refund payments are to be made under ORS 291.349 (4)
 4 and (6), the department shall determine the total amount of such payments [*for which an election to*
 5 *donate to public elementary and secondary education has been made*] **for each purpose for which**
 6 **an election has been made** and shall certify [*this amount*] **these amounts** to the State Treasurer.
 7 Following the department's certification to the State Treasurer, an election to donate that
 8 biennium's surplus refund payments under subsection (2) of this section is irrevocable.

9 (5) Following the determination to credit corporate income and excise taxes pursuant to ORS
 10 291.349 (3) and (5), the department shall annually certify the total amount of allowable credits that
 11 have not been claimed pursuant to an election made under subsection (3) of this section **for each**
 12 **purpose for which an election has been made**. The certification shall be made on or before De-
 13 cember 31 of each year, until the tax year for which the credit would otherwise be claimed becomes
 14 a closed tax year.

15 **SECTION 2. (1) The Surplus Refund Donation Account is established in the General Fund.**
 16 **The Surplus Refund Donation Account shall consist of the following subaccounts, each of**
 17 **which is established within the Surplus Refund Donation Account:**

18 (a) **The Education Subaccount, dedicated to funding kindergarten through grade 12 public**
 19 **education;**

20 (b) **The Public Safety Subaccount, dedicated to law enforcement, fire and rescue services**
 21 **and emergency medical services; and**

22 (c) **The Senior and Disabled Services Subaccount, dedicated to funding programs bene-**
 23 **fitting persons 65 years of age or older and programs benefiting persons with disabilities.**

24 (2) **The State Treasurer shall transfer the amounts certified by the Department of Re-**
 25 **venue under ORS 305.792 from the General Fund to the appropriate subaccount of the Sur-**
 26 **plus Refund Donation Account.**

27 **SECTION 3. ORS 305.794 is repealed.**

28 **SECTION 4. The amendments to ORS 305.792 by section 1 of this 2009 Act apply to tax**
 29 **years beginning on or after January 1, 2009.**

30 **SECTION 5. This 2009 Act takes effect on the 91st day after the date on which the reg-**
 31 **ular session of the Seventy-fifth Legislative Assembly adjourns sine die.**

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