

HOUSE AMENDMENTS TO HOUSE BILL 3543

By COMMITTEE ON REVENUE

April 20

1 On page 1 of the printed bill, line 2, after “291.349” insert “, 291.351”.

2 In line 3, delete “291.351 and”.

3 In line 30, delete the boldfaced material.

4 On page 2, lines 8 through 10, delete the boldfaced material and insert “there shall be credited
5 to personal income taxpayers an amount equal to the total amount of that excess, reduced by the
6 cost certified by the Department of Revenue under ORS 291.351 as being allocable to credits de-
7 scribed under this subsection. The excess amount to be credited shall be credited to personal income
8 taxpayers in a percentage amount of prior year personal income tax liability as determined under
9 subsection (5) of this section.”.

10 On page 3, delete lines 4 through 8 and insert:

11 “(i) For personal income taxpayers, if a credit applied against tax liability as described in par-
12 agraph (g) of this subsection reduces tax liability to zero and an amount of the credit remains un-
13 used, the remaining unused amount shall be refunded to the taxpayer. For purposes of ORS chapters
14 305 and 314, 315 and 316, refunds issued under this paragraph are refunds of an overpayment of tax
15 imposed under ORS chapter 316.”.

16 Delete lines 13 through 15 and insert:

17 “(k) The Department of Revenue may prescribe by rule the manner of calculating and claiming
18 a credit if the filing status of a taxpayer changes between the tax year for which a credit may be
19 claimed and the succeeding tax year.”.

20 On page 4, delete lines 2 through 41 and insert:

21 “(7) Not later than October 15 following the end of the biennium, the Department of Revenue
22 shall provide information and guidance to taxpayers relating to the calculation of the credit. The
23 department may make the information and guidance available electronically or otherwise.

24 “(8) The Department of Revenue may adopt rules specifying the manner for issuing refunds un-
25 der this section to taxpayers who filed returns in the tax year on which the credit is computed but
26 who are not required to file returns in the year in which the credit could be claimed.

27 “**SECTION 2.** ORS 305.792 is amended to read:

28 “305.792. (1) The Department of Revenue shall [*cause a checkoff box to be printed on the*] **provide**
29 **a means by which** personal income and corporate income or excise tax [*returns for the appropriate*
30 *tax year, by which a taxpayer*] **return filers** may indicate that a surplus refund [*payment or*] credit
31 [*that*] **to which** the taxpayer may otherwise be entitled to under ORS 291.349 shall instead be used
32 for funding education.

33 “[*(2)(a) A personal income taxpayer may elect to donate a surplus refund payment to be made un-*
34 *der ORS 291.349 to public elementary and secondary school education. The taxpayer may make the*
35 *election by checking the appropriate checkoff box on the taxpayer’s return indicating the taxpayer’s*”

1 *intention to donate the surplus refund payment to public elementary and secondary education.]*

2 *“(b) Once made, the election is irrevocable for any surplus refund payments received until a sub-*
3 *sequent return is filed for a later tax year, and on which the checkoff box is not checked.]*

4 *“(3)(a) (2)(a) A **personal income or** corporate excise or income taxpayer may elect **not** to*
5 *[not] claim a surplus refund credit that the taxpayer would otherwise be entitled to pursuant to ORS*
6 *291.349, in order to achieve a corresponding transfer of such moneys from the General Fund to the*
7 *State School Fund for the support of public elementary and secondary school education. The tax-*
8 *payer may make the election [by checking the appropriate checkoff box on the taxpayer’s return and*
9 *by not using the surplus refund credit percentage to reduce the taxpayer’s tax liability] **in the form***
10 ***and manner prescribed by the department by rule.***

11 *“(b) A taxpayer that [checks the appropriate checkoff box indicating] **indicates** that the credit*
12 *will not be claimed but that nevertheless claims the credit in determining the taxpayer’s tax liability*
13 *shall be considered to **not** have [not] made the election under this subsection.*

14 *“(c) The election **not** to [not] claim a credit under this subsection may not be revoked by filing*
15 *an amended return.*

16 *“(4) After the determination that surplus refund payments are to be made under ORS 291.349 (4)*
17 *and (6), the department shall determine the total amount of such payments for which an election to*
18 *donate to public elementary and secondary education has been made and shall certify this amount to*
19 *the State Treasurer. Following the department’s certification to the State Treasurer, an election to*
20 *donate that biennium’s surplus refund payments under subsection (2) of this section is irrevocable.]*

21 *“(5) (3) Following the determination to credit **personal income or** corporate income and ex-*
22 *cise taxes pursuant to ORS 291.349 [(3) and (5)], the department shall annually certify **to the State***
23 ***Treasurer** the total amount of allowable credits that have not been claimed pursuant to an election*
24 *made under subsection [(3)] (2) of this section. The certification shall be made on or before Decem-*
25 *ber 31 of each year, until the tax year for which the credit would otherwise be claimed becomes a*
26 *closed tax year.*

27 *“**SECTION 3.** ORS 291.351 is amended to read:*

28 *“291.351. If, based on the report made under ORS 291.349 (2), [refund will be made] **an amount***
29 ***will be credited** under ORS 291.349 (4), the Department of Revenue shall certify the costs that are*
30 *incurred in calculating and [making the refunds] **administering the credits** under ORS 291.349 (4).*
31 ***The amount of the costs certified by the department under this section may not exceed***
32 ***\$250,000.** Costs shall be certified by the department within 15 days of the date the report under ORS*
33 *291.349 (2) is made. As used in this section, ‘costs’ means and is limited to those costs that, absent*
34 *the requirement of [making a refund] **providing credits** under ORS 291.349 (4), would not be in-*
35 *curring by the department.”.*

36 *In line 42, delete “3” and insert “4”.*

37 *Delete line 45 and insert:*

38 *“**SECTION 5. ORS 291.353 is repealed.**”.*

39 *On page 5, line 1, delete “5” and insert “6”.*

40 *Delete lines 3 through 5 and insert:*

41 *“**SECTION 7. The amendments to ORS 291.349, 291.351 and 305.792 by sections 1 to 3 of***
42 ***this 2011 Act and the repeal of ORS 291.353 by section 5 of this 2011 Act apply to biennia***
43 ***beginning on or after July 1, 2011.”.***