

HB 3543-1  
(LC 3640)  
4/8/11 (TR/ps)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3543**

1 On page 1 of the printed bill, line 30, delete the boldfaced material.

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

3 “(i) For personal income taxpayers, if a credit applied against tax liability  
4 as described in paragraph (g) of this subsection reduces tax liability to zero  
5 and an amount of the credit remains unused, the remaining unused amount  
6 shall be refunded to the taxpayer. For purposes of ORS chapters 305 and 314,  
7 315 and 316, refunds issued under this paragraph are refunds of an overpay-  
8 ment of tax imposed under ORS chapter 316.”

9 Delete lines 13 through 15 and insert:

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

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

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

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

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

2        “305.792. (1) The Department of Revenue shall [*cause a checkoff box to be*  
3 *printed on the*] **provide a means by which** personal income and corporate  
4 income or excise tax [*returns for the appropriate tax year, by which a*  
5 *taxpayer*] **return filers** may indicate that a surplus refund [*payment or*]  
6 credit [*that*] **to which** the taxpayer may otherwise be entitled to under ORS  
7 291.349 shall instead be used for funding education.

8        “[(2)(a) *A personal income taxpayer may elect to donate a surplus refund*  
9 *payment to be made under ORS 291.349 to public elementary and secondary*  
10 *school education. The taxpayer may make the election by checking the appro-*  
11 *priate checkoff box on the taxpayer’s return indicating the taxpayer’s intention*  
12 *to donate the surplus refund payment to public elementary and secondary ed-*  
13 *ucation.*]

14        “[(b) *Once made, the election is irrevocable for any surplus refund payments*  
15 *received until a subsequent return is filed for a later tax year, and on which*  
16 *the checkoff box is not checked.*]

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

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

30        “(c) The election **not** to [*not*] claim a credit under this subsection may

1 not be revoked by filing an amended return.

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

9 “[5] (3) Following the determination to credit **personal income or cor-**  
10 **porate income** and excise taxes pursuant to ORS 291.349 [(3) and (5)], the  
11 department shall annually certify **to the State Treasurer** the total amount  
12 of allowable credits that have not been claimed pursuant to an election made  
13 under subsection [(3)] (2) of this section. The certification shall be made on  
14 or before December 31 of each year, until the tax year for which the credit  
15 would otherwise be claimed becomes a closed tax year.”

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