

## ESTIMATES OF STATE REVENUES

**291.342 Annual estimation of state revenues; apportionment among counties of any state property tax levy necessary to make up deficiency; quarterly estimates.** (1) By August 15 of each year, but not earlier than 90 days from the end of the regular session, if any, of the Legislative Assembly held in that calendar year, the Oregon Department of Administrative Services, with the assistance of the Department of Revenue, shall:

- (a) Ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year; and
- (b) Apportion the state tax levy on property, if any, among the several counties in the manner provided in ORS 291.445.

(2) In addition to the requirement in subsection (1) of this section, the Oregon Department of Administrative Services with the assistance of the Department of Revenue shall for each calendar quarter of the year ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year, as well as the amount of revenue received quarterly, cumulated throughout the biennium, and report its estimate to the Legislative Revenue Officer and to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee on Ways and Means.

(3) In carrying out its duties under subsection (2) of this section, the Oregon Department of Administrative Services shall issue quarterly a statement setting forth the methodology and assumptions used in making the revenue estimate. Nothing in this subsection requires the statement to set forth procedures used or methods used to determine either the methodology or the assumptions. [Formerly 309.510; 1971 s.s. c.5 §3; 1975 c.789 §10; 1980 c.11 §1]

**291.344** [Formerly 309.520; 1967 c.454 §97; 1981 c.804 §83; 1991 c.220 §1; renumbered 291.445 in 1991]

**291.348 Biennial estimate of General Fund and State Lottery Fund revenues; certification to Secretary of State.** (1) The Oregon Department of Administrative Services, with the assistance of the Secretary of State, as soon as possible after June 30, 1966, and each even-numbered year thereafter, shall ascertain the total of General Fund revenues obtained from all sources during the preceding fiscal year, so far as is practicable.

(2) The Director of the Oregon Department of Administrative Services shall certify to the total of General Fund and State Lottery Fund revenues during the preceding fiscal year as determined under subsection (1) of this section.

(3) As used in this section:

(a) “General Fund revenues” means all payments of money credited to the State Treasury that are placed or to be placed by the State Treasurer to the credit of the General Fund of the State of Oregon for general governmental purposes.

(b) “State Lottery Fund revenues” means the net proceeds of the state lottery authorized by section 4, Article XV of the Oregon Constitution. [1965 c.615 §12; 1967 c.454 §98; 1985 c.828 §18]

**291.349 Revenue estimate; disposition of revenue in excess of estimate.** (1) As soon as practicable after adjournment sine die of the regular session of the Legislative Assembly, the Oregon Department of Administrative Services shall report to the Emergency Board the estimate

as of July 1 of the first year of the biennium of General Fund and State Lottery Fund revenues that will be received by the state during that biennium. The Oregon Department of Administrative Services shall base its estimate on the last forecast given to the Legislative Assembly before adjournment sine die of the regular session on which the printed, adopted budget prepared in the Oregon Department of Administrative Services is based, adjusted only insofar as necessary to reflect changes in laws adopted at that session. The report shall contain the estimated revenues from corporate income and excise taxes separately from the estimated revenues from other General Fund sources. The Oregon Department of Administrative Services may revise the estimate if necessary following adjournment sine die of any special or emergency session of the Legislative Assembly but any revision does not affect the basis of the computation described in subsection (3) or (4) of this section.

(2) As soon as practicable after the end of the biennium, the Oregon Department of Administrative Services shall report to the Emergency Board, or the Legislative Assembly if it is in session, the amount of General Fund revenues collected as of the last June 30 of the preceding biennium. The report shall contain the collections from corporate income and excise taxes separately from collections from other sources.

(3) If the revenues received from the corporate income and excise taxes during the biennium exceed the amounts estimated to be received from such taxes for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited to corporate income and excise taxpayers in a percentage amount of prior year corporate excise and income tax liability as determined under subsection (5) of this section. However, no credit shall be allowed against tax liability imposed by ORS 317.090.

(4) If the revenues received from General Fund revenue sources, exclusive of those described in subsection (3) of this section, during the biennium exceed the amounts estimated to be received from such sources for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, there shall be refunded from personal income tax revenues an amount equal to the total amount of that excess, reduced by the cost certified by the Department of Revenue under ORS 291.351 as being allocable to payments described under this subsection. The excess amount to be refunded shall be paid to personal income taxpayers in a percentage amount of prior year personal income tax liability as determined under subsection (6) of this section.

(5)(a) If there is an excess to be credited under subsection (3) of this section, on or before October 1, following the end of each biennium, the Oregon Department of Administrative Services shall determine and certify to the Department of Revenue the percentage amount of credit for purposes of subsection (3) of this section. The percentage amount determined shall be a percentage amount to the nearest one-tenth of a percent that will distribute the excess to be credited to corporate excise and income taxpayers.

(b) The percentage amount shall equal the amount distributed under subsection (3) of this section divided by the estimated total corporate income and excise tax liability for all corporate income and excise taxpayers for tax years beginning in the calendar year immediately preceding the calendar year in which the excess is determined.

(c) The amount of the surplus credit is determined by multiplying the percentage amount determined under paragraph (b) of this subsection by the total amount of a corporate income or excise taxpayer's tax liability for the tax year beginning in the calendar year immediately preceding the calendar year in which the excess is determined in order to calculate the amount to be credited to the taxpayer.

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

(e) The credit shall be computed before the allowance of any other credit or offset against tax liability allowed or allowable under any provision of law of this state, and before the application of estimated tax payments, withholding or other advance tax payments.

(f) If a credit applied against tax liability as described in paragraph (e) of this subsection reduces tax liability to zero and an amount of the credit remains unused, the remaining unused amount shall be carried forward and applied against tax liability as prescribed in paragraph (e) of this subsection in the succeeding tax year. Following application of the credit against tax liability in a succeeding tax year, any amount continuing to remain unused shall be carried forward and applied against tax liability in a succeeding tax year until all remaining amounts of unused credit are offset against tax liability.

(g) Notwithstanding paragraph (e) of this subsection, if an excess is credited under subsection (3) of this section for a tax year and an unused credit amount from a prior tax year is carried forward to the tax year as prescribed under paragraph (f) of this subsection, the amount of the carry forward credit shall be applied against tax liability prior to applying the new credit.

(h) The Department of Revenue may prescribe by rule the manner of calculating and claiming a credit if the filing status of a corporation changes between the tax year described in paragraph (b) of this subsection and the succeeding tax year.

(6)(a) If there is an excess to be refunded under subsection (4) of this section, on or before September 15, following the end of each biennium, the Oregon Department of Administrative Services shall determine and certify to the Department of Revenue the percentage amount of refund payment for purposes of subsection (4) of this section. The percentage amount so determined shall be a percentage amount to the nearest one-hundredth of a percent that will distribute the excess to be refunded to personal income taxpayers under subsection (4) of this section. The percentage amount shall equal the amount distributed under subsection (4) of this section divided by the estimated total personal income tax liability for all personal income taxpayers for tax years beginning in the calendar year immediately preceding the calendar year in which the excess is determined.

(b) The Department of Revenue shall multiply the percentage amount determined under paragraph (a) of this subsection by the total amount of a personal income taxpayer's tax liability for the tax year beginning in the calendar year immediately preceding the calendar year in which the excess is determined in order to calculate the amount of the refund to be made to the taxpayer. For purposes of this paragraph, the taxpayer's tax liability is the amount as shown on the return of the taxpayer or as corrected by the Department of Revenue, and is determined:

(A) Before the allowance of any other credit or offset against tax liability allowed or allowable on the return for the tax year; and

(B) Before the application of estimated tax payments, withholding or other advance tax payments.

(c) The refund described under this subsection shall be mailed by the Department of Revenue to personal income taxpayers eligible for the payment on or before December 15 following the end of the biennium for which the payment described under this subsection is being made.

(d) Notwithstanding paragraph (c) of this subsection, the Department of Revenue shall mail the refund at the earliest date of practicable convenience in the case of a return:

(A) For a tax year beginning in the calendar year immediately preceding the calendar year in which the excess is determined for which refund is being made; and

(B) That is first filed on or after August 15 after the end of the biennium.

(7) No refund shall be made to a taxpayer if, after making the calculation described under subsection (6) of this section, the amount calculated is less than \$1.

(8) For purposes of ORS chapters 305 and 314 to 318, refunds issued under subsection (6) of this section are refunds of an overpayment of tax imposed under ORS chapter 316, but do not bear interest. [1979 c.241 §30; 1981 c.885 §1; 1985 c.828 §19; 1995 c.815 §2; 1997 c.99 §1; 1997 c.654 §4; 1999 c.23 §1; 1999 c.73 §5; 2007 c.680 §1; 2007 c.896 §3]

**Note:** The amendments to 291.349 by section 1, chapter 680, Oregon Laws 2007, and section 3, chapter 896, Oregon Laws 2007, apply to calculations of refunds for biennia ending on or after June 30, 2007. See section 2, chapter 680, Oregon Laws 2007, and section 2, chapter 896, Oregon Laws 2007, as amended by section 4, chapter 896, Oregon Laws 2007.

**Note:** 291.349 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**291.350** [1965 c.615 §13; repealed by 1971 c.544 §7]

**291.351 Certification of refund costs.** If, based on the report made under ORS 291.349 (2), refund will be made under ORS 291.349 (4), the Department of Revenue shall certify the costs that are incurred in calculating and making the refunds under ORS 291.349 (4). Costs shall be certified by the department within 15 days of the date the report under ORS 291.349 (2) is made. As used in this section, “costs” means and is limited to those costs that, absent the requirement of making a refund under ORS 291.349 (4), would not be incurred by the department. [1995 c.815 §4; 1999 c.23 §2]

**Note:** 291.351 and 291.353 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**291.352** [Renumbered 293.105]

**291.353 Surplus Kicker Cost Account.** (1) The Surplus Kicker Cost Account is established in the General Fund of the State Treasury.

(2) Upon cost certification by the Department of Revenue under ORS 291.351, an amount equal to the total amount certified shall be credited from the General Fund to the Surplus Kicker Cost Account. All moneys in the account are appropriated continuously to the Department of Revenue for the purpose of carrying out the provisions of ORS 291.349. [1995 c.815 §5]

**Note:** See note under 291.351.

**291.354** [Amended by 1959 c.273 §7; 1961 c.280 §3; 1961 c.308 §2; renumbered 293.110]

**291.355** [1979 c.241 §29; repealed by 2001 c.956 §4]

**291.356** [Amended by 1963 c.333 §2; renumbered 293.115]

## RATE OF GROWTH OF APPROPRIATIONS

**291.357 Limitation on rate of growth of appropriations for general governmental purposes; exceeding limitation.** (1) As used in this section, “general governmental purposes” means:

(a) Those activities defined as governmental activities under the accounting standards promulgated by the Governmental Accounting Standards Board of the Financial Accounting Foundation that are in effect on August 10, 2001; and

(b) Post-secondary educational activities that are partially funded by student tuition and fees.

(2) Each biennium, state governmental appropriations for general governmental purposes shall be no greater than eight percent of projected personal income in Oregon for the same biennium. Projected personal income shall be based on the United States Department of Commerce projections used by the Oregon Department of Administrative Services in the last forecast given to the Legislative Assembly before adjournment sine die of the regular session on which the printed, adopted budget is based.

(3) For purposes of this section, the following are considered to be appropriations:

(a) An authorization, given by law, to expend moneys in a biennium;

(b) A limitation, imposed by law, on the expenditure in a biennium of moneys that are continuously appropriated; and

(c) An estimate of amounts of moneys that are continuously appropriated that will be spent in a biennium without limitation.

(4) The following appropriations are not subject to the limitation on appropriations contained in this section:

(a) Appropriations for the construction or acquisition of assets that are financed by state bonds, certificates of participation or other forms of borrowing.

(b) Appropriations of moneys received directly or indirectly from the federal government.

(c) Appropriations for fee remission programs of the Department of Higher Education.

(d) Appropriations of moneys voluntarily donated to a state agency.

(e) Appropriations of moneys from revenue increases or new revenue sources if the increases or sources result from approval of a measure by the people at an election held on or after August 10, 2001.

(f) Appropriations to fund new programs or to increase funding for existing programs if the need for new or increased funding results from approval of a measure by the people at an election held on or after August 10, 2001.

(5) The limitation on appropriations established by this section may be exceeded for a biennium if the Governor declares an emergency and three-fifths of the members serving in each house of the Legislative Assembly affirmatively vote to exceed the limitation for the biennium. [2001 c.956 §1]

**Note:** 291.357 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**291.358** [Renumbered 293.120]