House Bill 2305

Sponsored by Representative READ; Representative GARRETT (Presession filed.)

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.**

Implements House Joint Resolution 3 (2013). Limits amount of excess personal income tax revenues returned to personal income taxpayers to $500 per taxpayer. Transfers any remainder of excess to Oregon Fund. Transfers corporate kicker to Oregon Fund.

Changes statutory references to Oregon Rainy Day Fund to Oregon Fund. Repeals obsolete statutory provisions relating to Oregon Rainy Day Fund.

Takes effect only if House Joint Resolution 3 (2013) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed in House Joint Resolution 3 (2013).

1 **A BILL FOR AN ACT**

2 Relating to state finance; creating new provisions; amending ORS 291.349, 293.146, 305.792, 317.853

3   and 318.074; repealing ORS 293.144 and 293.148; and prescribing an effective date.

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

5   **SECTION 1.** ORS 291.349, as amended by section 22, chapter 107, Oregon Laws 2012, is

6 amended to read:

7   291.349. (1) As soon as practicable after adjournment sine die of the odd-numbered year regular

8 session of the Legislative Assembly, the Oregon Department of Administrative Services shall report

9 to the Legislative Revenue 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 that will be received

11 by the state during that biennium. The Oregon Department of Administrative Services shall base its

12 estimate on the last forecast given to the Legislative Assembly before adjournment sine die of the

13 odd-numbered year regular session on which the printed, adopted budget prepared in the Oregon

14 Department of Administrative Services is based, adjusted only insofar as necessary to reflect

15 changes in laws adopted at that session. The report shall contain the estimated revenues from cor-

16 porate income and excise taxes separately from the estimated revenues from other General Fund

17 sources. The Oregon Department of Administrative Services may revise the estimate if necessary

18 following adjournment sine die of a special session or an even-numbered year regular session of the

19 Legislative Assembly, but any revision does not affect the basis of the computation described in

20 subsection (3) or (4) of this section.

21   (2) As soon as practicable after the end of the biennium, the Oregon Department of Adminis-

22 trative Services shall report to the Legislative Revenue Officer and the Legislative Fiscal Officer,

23 or the Legislative Assembly if it is in session, the amount of General Fund revenues collected as

24 of the last June 30 of the preceding biennium. The report shall contain the collections from corpo-

25 rate income and excise taxes separately from collections from other sources.

26   (3) If the revenues received from the corporate income and excise taxes during the biennium

27 exceed the amounts estimated to be received from such taxes for the biennium, as estimated after

28 adjournment sine die of the odd-numbered year regular session, by two percent or more, the total

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 amount of that excess shall be [*credited to corporate income and excise taxpayers in a percentage*

2 *amount of prior year corporate excise and income tax liability as determined under subsection (5) of*

3 *this section. However, no credit shall be allowed against tax liability imposed by ORS 317.090*]

4 **transferred to the Oregon Fund established by Article IX, section 16, of the Oregon Consti-**

5 **tution**.

6 (4) **Except as provided in Article IX, section 16 (5) of the Oregon Constitution,** if the re-

7 venues received from General Fund revenue sources, exclusive of those described in subsection (3)

8 of this section, during the biennium exceed the amounts estimated to be received from such sources

9 for the biennium, as estimated after adjournment sine die of the odd-numbered year regular session,

10 by two percent or more, there shall be credited to personal income taxpayers an amount [*equal to*

11 *the total amount of that excess*] **of the excess not to exceed $500 per individual taxpayer**, reduced

12 by the cost certified by the Department of Revenue under ORS 291.351 as being allocable to credits

13 described under this subsection. The excess amount to be credited shall be credited to personal in-

14 come taxpayers in a percentage amount of prior year personal income tax liability as determined

15 under subsection (5) of this section. **Any remaining amount of the excess shall be transferred**

16 **to the Oregon Fund established by Article IX, section 16, of the Oregon Constitution.**

17 [*(5)(a)*] **(5) Subject to the $500 limit in subsection (4) of this section:**

18 **(a)** If there is an excess to be credited under subsection [*(3) or*] (4) of this section, [*or both,*] on

19 or before October 1, following the end of each biennium, the Oregon Department of Administrative

20 Services shall determine and certify to the Department of Revenue the percentage [*amounts*]

21 **amount** of credit for purposes of subsection [*(3) or*] (4) of this section. The percentage [*amounts*]

22 **amount** determined shall be **a** percentage [*amounts*] **amount** to the nearest one-tenth of a percent

23 that will distribute the excess to be credited [*either to corporate excise and income taxpayers or*] to

24 personal income taxpayers.

25 [*(b) The percentage amount applicable to subsection (3) of this section shall equal the amount dis-*

26 *tributed under subsection (3) of this section divided by the estimated total corporate income and excise*

27 *tax liability for all corporate income and excise taxpayers for tax years beginning in the calendar year*

28 *immediately preceding the calendar year in which the excess is determined.*]

29 [*(c) The amount of the surplus credit under subsection (3) of this section is determined by multi-*

30 *plying the percentage amount determined under paragraph (b) of this subsection by the total amount*

31 *of a corporate income or excise taxpayer's tax liability for the tax year beginning in the calendar year*

32 *immediately preceding the calendar year in which the excess is determined in order to calculate the*

33 *amount to be credited to the taxpayer.*]

34 [*(d)*] **(b)** The percentage amount applicable to subsection (4) of this section shall equal the

35 amount distributed under subsection (4) of this section divided by the estimated total personal in-

36 come tax liability for all personal income taxpayers for tax years beginning in the calendar year

37 immediately preceding the calendar year in which the excess is determined.

38 [*(e)*] **(c)** The amount of the surplus credit under subsection (4) of this section is determined by

39 multiplying the percentage amount determined under paragraph [*(d)*] **(b)** of this subsection by the

40 total amount of a personal income taxpayer's tax liability for the tax year beginning in the calendar

41 year immediately preceding the calendar year in which the excess is determined in order to calcu-

42 late the amount to be credited to the taxpayer.

43 [*(f)*] **(d)** The credit shall be determined based on the tax liability as shown on the return of the

44 taxpayer or as corrected by the Department of Revenue.

45 [*(g)*] **(e)** The credit shall be computed after the allowance of a credit provided under ORS

1 316.082, 316.131 or 316.292, but before the allowance of any other credit or offset against tax liability

2 allowed or allowable under any provision of law of this state, and before the application of estimated

3 tax payments, withholding or other advance tax payments.

4 [*(h) For corporate income and excise taxpayers, if a credit applied against tax liability as described*

5 *in paragraph (g) of this subsection reduces tax liability to zero and an amount of the credit remains*

6 *unused, the remaining unused amount shall be carried forward and applied against tax liability as*

7 *prescribed in paragraph (g) of this subsection in the succeeding tax year. Following application of the*

8 *credit against tax liability in a succeeding tax year, any amount continuing to remain unused shall be*

9 *carried forward and applied against tax liability in a succeeding tax year until all remaining amounts*

10 *of unused credit are offset against tax liability.*]

11 [*(i)*] **(f)** For personal income taxpayers, if a credit applied against tax liability as described in

12 paragraph [*(g)*] **(e)** of this subsection reduces tax liability to zero and an amount of the credit re-

13 mains unused, the remaining unused amount shall be refunded to the taxpayer. For purposes of ORS

14 chapters 305, 314, 315 and 316, refunds issued under this paragraph are refunds of an overpayment

15 of tax imposed under ORS chapter 316.

16 [*(j) Notwithstanding paragraph (g) of this subsection, if an excess is credited under subsection (3)*

17 *of this section for a tax year and an unused credit amount from a prior tax year is carried forward*

18 *to the tax year as prescribed under paragraph (h) of this subsection, the amount of the carryforward*

19 *credit shall be applied against tax liability prior to applying the new credit.*]

20 [*(k)*] **(g)** The Department of Revenue may prescribe by rule the manner of calculating and

21 claiming a credit if the filing status of a taxpayer changes between the tax year for which a credit

22 may be claimed and the succeeding tax year.

23 (6) A refund may not be made under this section to a taxpayer if the amount of the refund is

24 less than $1.

25 (7) Not later than October 15 following the end of the biennium, the Department of Revenue

26 shall provide information and guidance to taxpayers relating to the calculation of the credit. The

27 department may make the information and guidance available electronically or otherwise.

28 (8) The Department of Revenue may adopt rules specifying the manner for issuing refunds under

29 this section to taxpayers who filed returns [*in*] **for** the tax year on which the credit is computed but

30 who are not required to file returns [*in*] **for** the year in which the credit could be claimed.

31 **SECTION 2.** ORS 293.146 is amended to read:

32 293.146. (1) As used in this section:

33 (a) "Ending balance" means the difference between the amount of General Fund revenues col-

34 lected during a biennium and the amount of General Fund appropriations for the biennium.

35 (b) "General Fund appropriations" means the amount of moneys appropriated from the General

36 Fund for a biennium in the legislatively approved budget for the biennium, minus the amount of any

37 General Fund appropriation balances for that biennium that revert to the General Fund under ORS

38 293.190.

39 (c) "Legislatively approved budget" has the meaning given that term in ORS 291.002.

40 (2) [*Except as provided in ORS 293.148,*] As soon as possible after the ending balance for a

41 biennium is determined, an amount equal to one percent of the amount of General Fund appropri-

42 ations for that biennium shall be transferred to the [*Oregon Rainy Day Fund established by ORS*

43 *293.144*] **Oregon Fund established by Article IX, section 16, of the Oregon Constitution**. If the

44 ending balance does not equal or exceed one percent of the amount of General Fund appropriations,

45 an amount equal to the ending balance shall be transferred to the [*Oregon Rainy Day Fund*] **Oregon**

1 **Fund**.

2   **SECTION 3.** ORS 305.792 is amended to read:

3   305.792. (1) The Department of Revenue shall provide a means by which personal income [*and*

4 *corporate income or excise*] tax return filers may indicate that a surplus refund credit to which the

5 taxpayer may otherwise be entitled to under ORS 291.349 shall instead be used for funding educa-

6 tion.

7   (2)(a) A personal income [*or corporate excise or income*] taxpayer may elect not to claim a sur-

8 plus refund credit that the taxpayer would otherwise be entitled to pursuant to ORS 291.349, in or-

9 der to achieve a corresponding transfer of such moneys from the General Fund to the State School

10 Fund for the support of public elementary and secondary school education. The taxpayer may make

11 the election in the form and manner prescribed by the department by rule.

12   (b) A taxpayer that indicates that the credit will not be claimed but that nevertheless claims the

13 credit in determining the taxpayer's tax liability shall be considered to not have made the election

14 under this subsection.

15   (c) The election not to claim a credit under this subsection may not be revoked by filing an

16 amended return.

17   (3) Following the determination to credit personal income [*or corporate income and excise*] taxes

18 pursuant to ORS 291.349, the department shall annually certify to the State Treasurer the total

19 amount of allowable credits that have not been claimed pursuant to an election made under sub-

20 section (2) of this section. The certification shall be made on or before December 31 of each year,

21 until the tax year for which the credit would otherwise be claimed becomes a closed tax year.

22   **SECTION 4.** ORS 317.853 is amended to read:

23   317.853. (1) For tax years beginning on or after January 1, 2013, any revenue that is received

24 as a result of a rate of tax above six and six-tenths percent imposed under this chapter and that is

25 in excess of the revenue that would be received under this chapter at a rate of six and six-tenths

26 percent shall be deposited into the [*Oregon Rainy Day Fund established by ORS 293.144*] **Oregon**

27 **Fund established by Article IX, section 16, of the Oregon Constitution**.

28   (2) Before the end of each biennium, beginning with the biennium ending on June 30, 2015, the

29 Department of Revenue shall estimate the revenue described in subsection (1) of this section that

30 is received during the biennium. An amount equal to that estimate shall be transferred into the

31 [*Oregon Rainy Day Fund established by ORS 293.144*] **Oregon Fund established by Article IX,**

32 **section 16, of the Oregon Constitution,** on or before June 30 of each odd-numbered year.

33   **SECTION 5.** ORS 318.074 is amended to read:

34   318.074. (1) For tax years beginning on or after January 1, 2013, any revenue that is received

35 as a result of a rate of tax above six and six-tenths percent imposed under this chapter and that is

36 in excess of the revenue that would be received under this chapter at a rate of six and six-tenths

37 percent shall be deposited into the [*Oregon Rainy Day Fund established by ORS 293.144*] **Oregon**

38 **Fund established by Article IX, section 16, of the Oregon Constitution**.

39   (2) Before the end of each biennium, beginning with the biennium ending on June 30, 2015, the

40 Department of Revenue shall estimate the revenue described in subsection (1) of this section that

41 is received during the biennium. An amount equal to that estimate shall be transferred into the

42 [*Oregon Rainy Day Fund established by ORS 293.144*] **Oregon Fund established by Article IX,**

43 **section 16, of the Oregon Constitution,** on or before June 30 of each odd-numbered year.

44   **SECTION 6. Pursuant to Article IX, section 16 (3), of the Oregon Constitution, once each**

45 **month, the Oregon Department of Administrative Services shall calculate the amount of**

General Fund interest that is attributable to moneys in the Oregon Fund, exclusive of any subaccount in the Oregon Fund. The amount calculated under this section shall be transferred to the Oregon Fund.

SECTION 7. Section 6 of this 2013 Act, the amendments to ORS 291.349, 293.146, 305.792, 317.853 and 318.074 by sections 1 to 5 of this 2013 Act and the repeal of ORS 293.144 and 293.148 by section 8 of this 2013 Act apply to biennia beginning on or after July 1, 2013.

SECTION 8. ORS 293.144 and 293.148 are repealed.

SECTION 9. The Oregon Fund established by Article IX, section 16, of the Oregon Constitution, is intended to be a continuation of the Oregon Rainy Day Fund established by ORS 293.144. Moneys contained on the effective date of this 2013 Act in the Oregon Rainy Day Fund established by ORS 293.144 are considered to be moneys in the Oregon Fund established by Article IX, section 16, of the Oregon Constitution.

SECTION 10. This 2013 Act does not become effective unless the amendment to the Oregon Constitution proposed by House Joint Resolution 3 (2013) is approved by the people at the regular general election held in November 2014. This 2013 Act takes effect on the effective date of that amendment.

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