

# Senate Bill 774

Sponsored by Senators FREDERICK, JAMA

## 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**.

Discontinues return of surplus revenue refunds to taxpayers. Modifies statutory provisions.  
Applies to biennia ending on or after June 30, 2025.

Takes effect only if Senate Joint Resolution 26 (2023) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed in Senate Joint Resolution 26 (2023).

## A BILL FOR AN ACT

1  
2 Relating to surplus revenue disposition; creating new provisions; amending ORS 291.349; repealing  
3 ORS 291.351, 305.792 and 305.794; and prescribing an effective date.

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

5 **SECTION 1.** ORS 291.349 is amended to read:

6 291.349. (1) As soon as practicable after adjournment sine die of the odd-numbered year regular  
7 session of the Legislative Assembly, the Oregon Department of Administrative Services shall report  
8 to the Legislative Revenue Officer and the Legislative Fiscal Officer the estimate as of July 1 of the  
9 first year of the biennium of General Fund and State Lottery Fund revenues that will be received  
10 by the state during that biennium. The Oregon Department of Administrative Services shall base its  
11 estimate on the last forecast given to the Legislative Assembly before adjournment sine die of the  
12 odd-numbered year regular session on which the printed, adopted budget prepared in the Oregon  
13 Department of Administrative Services is based, adjusted only insofar as necessary to reflect  
14 changes in laws adopted at that session. The report shall contain the estimated revenues from cor-  
15 porate income and excise taxes separately from the estimated revenues from other General Fund  
16 sources. The Oregon Department of Administrative Services may revise the estimate if necessary  
17 following adjournment sine die of a special session or an even-numbered year regular session of the  
18 Legislative Assembly, but any revision does not affect the basis of the computation described in  
19 subsection (3) [*or (4)*] of this section.

20 (2) As soon as practicable after the end of the biennium, the Oregon Department of Adminis-  
21 trative Services shall report to the Legislative Revenue Officer and the Legislative Fiscal Officer,  
22 or the Legislative Assembly if it is in session, the amount of General Fund revenues collected as  
23 of the last June 30 of the preceding biennium. The report shall contain the collections from corpo-  
24 rate income and excise taxes separately from collections from other sources.

25 (3) If the revenues received from the corporate income and excise taxes during the biennium  
26 exceed the amounts estimated to be received from such taxes for the biennium, as estimated after  
27 adjournment sine die of the odd-numbered year regular session, by two percent or more, the total  
28 amount of that excess shall be retained in the General Fund and used, in the manner described in  
29 ORS 291.345, to provide additional funding for public education, kindergarten through grade 12.

30 [*(4) If the revenues received from General Fund revenue sources, exclusive of those described in*

**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 subsection (3) of this section, during the biennium exceed the amounts estimated to be received from  
2 such sources for the biennium, as estimated after adjournment sine die of the odd-numbered year reg-  
3 ular session, by two percent or more, there shall be credited to personal income taxpayers an amount  
4 equal to the total amount of that excess, reduced by the cost certified by the Department of Revenue  
5 under ORS 291.351 as being allocable to credits described under this subsection. The excess amount  
6 to be credited shall be credited to personal income taxpayers in a percentage amount of prior year  
7 personal income tax liability as determined under subsection (5) of this section.]

8 [(5)(a) If there is an excess to be credited under subsection (4) of this section, on or before October  
9 1, following the end of each biennium, the Oregon Department of Administrative Services shall deter-  
10 mine and certify to the Department of Revenue the percentage amounts of credit for purposes of sub-  
11 section (4) of this section. The percentage amounts determined shall be percentage amounts to the  
12 nearest one-tenth of a percent that will distribute the excess to be credited to personal income  
13 taxpayers.]

14 [(b) The percentage amount applicable to subsection (4) of this section shall equal the amount dis-  
15 tributed under subsection (4) of this section divided by the estimated total personal income tax liability  
16 for all personal income taxpayers for tax years beginning in the calendar year immediately preceding  
17 the calendar year in which the excess is determined.]

18 [(c) The amount of the surplus credit under subsection (4) of this section is determined by multi-  
19 plying the percentage amount determined under paragraph (b) of this subsection by the total amount  
20 of a personal income taxpayer's tax liability for the tax year beginning in the calendar year imme-  
21 diately preceding the calendar year in which the excess is determined in order to calculate the amount  
22 to be credited to the taxpayer.]

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

25 [(e) The credit shall be computed after the allowance of a credit provided under ORS 316.082,  
26 316.131 or 316.292, but before the allowance of any other credit or offset against tax liability allowed  
27 or allowable under any provision of law of this state, and before the application of estimated tax pay-  
28 ments, withholding or other advance tax payments.]

29 [(f) For personal income taxpayers, if a credit applied against tax liability as described in para-  
30 graph (e) of this subsection reduces tax liability to zero and an amount of the credit remains unused,  
31 the remaining unused amount shall be refunded to the taxpayer. For purposes of ORS chapters 305,  
32 314, 315 and 316, refunds issued under this paragraph are refunds of an overpayment of tax imposed  
33 under ORS chapter 316.]

34 [(g) The Department of Revenue may prescribe by rule the manner of calculating and claiming a  
35 credit if the filing status of a taxpayer changes between the tax year for which a credit may be claimed  
36 and the succeeding tax year.]

37 [(6) A refund may not be made under this section to a taxpayer if the amount of the refund is less  
38 than \$1.]

39 [(7) Not later than October 15 following the end of the biennium, the Department of Revenue shall  
40 provide information and guidance to taxpayers relating to the calculation of the credit. The department  
41 may make the information and guidance available electronically or otherwise.]

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

45 **SECTION 2. ORS 291.351, 305.792 and 305.794 are repealed.**

1        **SECTION 3.** The amendments to ORS 291.349 by section 1 of this 2023 Act and the repeal  
2 of ORS 291.351, 305.792 and 305.794 by section 2 of this 2023 Act apply to biennia ending on  
3 or after June 30, 2025.

4        **SECTION 4.** This 2023 Act does not take effect unless the amendment to the Oregon  
5 Constitution proposed by Senate Joint Resolution 26 (2023) is approved by the people at the  
6 next regular general election held in November 2024. This 2023 Act takes effect on the ef-  
7 fective date of that constitutional amendment.

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