Senate Bill 990

Sponsored by Senators KNOPP, GIROD, Representative RESCHKE; Senators ANDERSON, BOQUIST, FINDLEY, LINTHICUM, SMITH DB, THATCHER, WEBER, Representatives BOICE, DIEHL, GOODWIN, HELFRICH, HIEB, JAVADI, LEWIS, MORGAN, SCHARF

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.**

Requires Department of Revenue to make surplus revenue refunds, known as "kicker" refunds, in form of check.

Applies to surplus revenue refunds issued for biennia beginning on or after July 1, 2023.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to payment of surplus revenue refunds in form of check; creating new provisions; amending ORS 291.349 and 291.351; and prescribing an effective date.

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

SECTION 1. ORS 291.349 is amended to read:

291.349. (1) As soon as practicable after adjournment sine die of the odd-numbered year regular session of the Legislative Assembly, the Oregon Department of Administrative Services shall report to the Legislative Revenue Officer and the Legislative Fiscal Officer 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 odd-numbered year 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 a special session or an even-numbered year regular 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 Legislative Revenue Officer and the Legislative Fiscal Officer, 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 odd-numbered year regular session, by two percent or more, the total amount of that excess shall be retained in the General Fund and used, in the manner described in ORS 291.345, to provide additional funding for public education, kindergarten through grade 12.

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.

(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 odd-numbered year regular session, by two percent or more, there shall be [*credited*] **refunded** to personal income taxpayers 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 [*credits*] **refunds** described under this subsection. The excess amount to be [*credited shall be credited*] **refunded shall be paid** to personal income taxpayers in a percentage amount of prior year personal income tax liability as determined under subsection (5) of this section.

(5)(a) If there is an excess to be [*credited under subsection (4) of*] **refunded under** this section, on or before [*October 1*] **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 amounts of [*credit for purposes of subsection (4)*] **refund payment for purposes** of this section. The percentage amounts determined shall be percentage amounts to the nearest one-tenth of a percent that will distribute the excess to be [*credited*] **refunded** to personal income taxpayers.

(b) The percentage amount applicable to subsection (4) of this section 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.

(c) The amount of the surplus [*credit under subsection (4) of*] **refund under** this section is determined by multiplying the percentage amount determined under paragraph (b) 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 to be [*credited*] **refunded** to the taxpayer.

(d) The [*credit*] **refund** 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 after the allowance of a credit provided under ORS 316.082, 316.131 or 316.292, but 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) For personal income taxpayers, 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 refunded to the taxpayer. For purposes of ORS chapters 305, 314, 315 and 316, refunds issued under this paragraph are refunds of an overpayment of tax imposed under ORS chapter 316.*]

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

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

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

[*(8) The Department of Revenue may adopt rules specifying the manner for issuing refunds under this section to taxpayers who filed returns for the tax year on which the credit is computed but who*

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

(7)(a) The refund described under this section 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.

(b) Notwithstanding paragraph (a) of this subsection, the department shall mail the refund at the earliest date of practicable convenience in the case of a return that is first filed on or after August 15 after the end of the biennium.

SECTION 2. ORS 291.351 is amended to read:

291.351. If, based on the report made under ORS 291.349 (2), an amount will be [*credited*] **refunded to personal income taxpayers** under ORS 291.349 (4), the Department of Revenue shall certify the costs that are incurred in calculating and [*administering the credits*] **providing the refund checks** under ORS 291.349 (4). The amount of the costs certified by the department under this section may not exceed $250,000. 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 providing [*credits*] **refunds** under ORS 291.349 (4), would not be incurred by the department.

SECTION 3. (1) The amendments to ORS 291.349 and 291.351 by sections 1 and 2 of this 2023 Act apply to surplus revenue refunds issued for biennia beginning on or after July 1, 2023.

(2) ORS 305.792 applies to surplus revenue refunds issued for biennia ending on or before June 30, 2023.

SECTION 4. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.