Appendix A
2 Percent Surplus Refund (Kicker) History

The 1979 Oregon Legislature passed the "2 percent kicker" law, which requires the state to refund excess revenue to taxpayers when actual General Fund revenues exceed the forecast amount by more than 2 percent.

This limitation is applied separately to corporate income tax revenue and the sum of personal income tax revenue and all other General Fund revenue. If revenues from the corporation income tax exceed their forecast by more than 2 percent, then all revenue in excess of the forecast is refunded to corporations. If revenues from all other General Fund sources exceed their forecast, the total excess is refunded to individuals through the personal income tax program. The information included here pertains only to the personal income tax kicker.

Prior to 1994, these refunds were made via a tax credit on the Oregon tax form for the calendar year in which the biennium ended. For example, actual revenues exceeded the forecast amount for the 1987–89 biennium (which ended on June 30, 1989), so the credit was allowed on 1989 tax returns.

The 1995 Oregon Legislature changed the method by which the refund was issued to taxpayers. Since 1995, the refunds have been made as direct payments to taxpayers via a check. Prior to the 2007 kicker, the amount of the refund was based on tax liability for the first full calendar year of the biennium. The 2007 Oregon Legislature changed the basis of the refund to tax before credits. This change increased refunds to filers with large credits relative to their pre-credit liability, and decreased the refund for others.

Refund checks are mailed to taxpayers in the year in which the biennium ends and are commonly referred to as "kicker checks." For example, actual revenues exceeded the forecast amount for the 2005–07 biennium, so refunds were required. Based on 2007 income tax liability before credits, taxpayers were issued checks in the fall of 2007. Since the inception of the kicker law, refunds have been issued for seven of the 14 biennia.

2 Percent Personal Income Kicker History

		Surplus/ Shortfall	Credit or Refund*		
Biennium	Year*	($ Million)	Percentage	Mean ($)	Median ($)
1979-81	1981	-141.0	None	----	----
1981-83	1983	-115.2	None	----	----
1983-85	1985	88.7	7.7%	81	48
1985-87	1987	224.2	16.6%	192	103
1987-89	1989	175.2	9.8%	133	69
1989-91	1991	185.9	Suspended	----	----
1991-93	1993	60.1	None	----	----
1993-95	1995	162.8	6.27%	111	55
1995-97	1997	431.5	14.37%	287	140
1997-99	1999	167.3	4.57%	103	49
1999-01	2001	253.6	6.02%	155	70
2001-03	2003	-1,249.5	None	---	---
2003-05	2005	-401.3	None	---	---
2005-07	2007	1,070.0	18.60%	609	295

** Prior to 1995, the kicker was returned to taxpayers via a credit on the tax return, so "Year" corresponds to the tax year. Since 1995, refund checks have been mailed directly to taxpayers. In these cases, "Year" reflects the year when the kicker was distributed.*

For the 1989–91 biennium, the surplus of $186 million would have resulted in a credit of approximately 10 percent, but the Legislature voted to suspend the kicker. The 2005-07 biennium had revenues that exceeded the forecast by $1.07 billion, resulting in a refund of 18.6 percent of pre-credit liability.

The state surplus refund, or kicker, refers to the provision in Oregon law that returns money to taxpayers if actual revenues exceed forecasted revenues by at least 2 percent.

The kicker is determined by separating all General Fund money into corporate taxes and all other General Fund revenue and comparing collections at the end of a biennium to the forecast at the close of the regular session. If collections of corporate taxes are at least 2 percent greater than the forecast, then all of the excess (including the 2 percent) is returned to corporate taxpayers. If the collections of all other Generals Fund revenues are at least 2 percent greater than the forecast, then all of the excess (including the 2 percent) is returned to personal income taxpayers.

If corporate tax collections exceed the forecast, the money is refunded as a credit on the tax return for the tax year in which the biennium ends. The current kicker law was part of Measure 86, passed in 2000. It provided that the Legislature may vote to suspend the kicker with a two-thirds majority vote. During the 2007 legislative session, the corporate kicker was suspended and diverted into the Rainy Day fund. Small corporations with Oregon sales of less than $5 million were allowed to claim one-time small sales credit. The amount of the credit was equal to 67 percent of the tax after all other credits. The 2007 Legislature also changed the kicker distribution. Beginning in 2009, any kicker will be calculated based on tax liability after credits, as opposed to how it was calculated for tax year 2005, using before-credit tax liability.

Exhibit D.1 shows the recent history of the corporation kicker.

Exhibit D.1—Recent Corporation Kicker History

Biennium	Tax Year	Surplus/Shortfall ($ Million)	Percentage	Surplus Credited* ($ Million)	Mean Credit for C Corps ($)	Mean for C Corps Receiving Benefit ($)
1989-91	1991	-$23	None	NA	NA	NA
1991-93	1993	$18	Suspended	NA	NA	NA
1993-95	1995	$167	50.1%	$224	$5,664	$12,239
1995-97	1997	$203	42.2%	$169	$4,378	$10,782
1997-99	1999	-$69	None	NA	NA	NA
1999-01	2001	-$44	None	NA	NA	NA
2001-03	2003	-$440	None	NA	NA	NA
2003-05	2005	$101	35.9%	$161	$4,829	$13,462
2005-07	2007	$344	Suspended	NA	NA	NA

* Since the percentage credit is based on estimated liability, the amount refunded as a "surplus credit" differs from the surplus amount.

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