

Expenditure Section

STATUTORY LIMITS

Revenues in Excess of Estimate (ORS 291.349)

This law was passed in 1979. It directs the state to give credits to taxpayers if certain conditions are met. Corporations receive a credit if actual income tax collections are more than two percent above forecast. Personal income taxpayers receive a credit if all other General Fund revenue is more than two percent above forecast. This is commonly known as the “kicker.” In November 2000, voters passed Measure 86 which places the “kicker” in the Oregon Constitution.

The calculation is based on the forecast that is issued at the end of each legislative session. Actual receipts collected for the two-year period are compared with this forecast. If revenue is two percent or more above the forecast, a credit is due to taxpayers. The Department of Administrative Services (DAS) certifies the amount of any credit in September of odd-numbered years.

Individual taxpayers receive their credits in the form of a refund against the prior tax year. The Department of Revenue manages this process. Refund checks are mailed out by December 1 following the end of the biennium. For corporations, the credit appears on tax forms for the year the biennium ends.

The Governor’s balanced budget proposal for the next two years is based on the December 2004 revenue forecast. This forecast anticipates corporate surplus kicker credits of \$43.3 million for 2003-05. No individual surplus kicker credits are anticipated.

Appropriations Limit (ORS 291.357)

The 2001 Legislature passed House Bill 3997 that set a new limit on state appropriations. It replaced ORS 391.355 that set limits only on the General Fund. The new law places limits on all “governmental activities” as defined by the Governmental Accounting Standards Board. The budget cannot exceed eight percent of the projected personal income in Oregon. The income data comes from the U.S. Department of Commerce and is printed by the Oregon Department of Administrative Services. The law states that the final comparison shall be based on the last forecast before the Legislature adjourns.

- **Personal income.** The December 2004 revenue forecast projects Oregon’s total personal income for the next biennium to be \$241.74 billion. Based on that figure, the eight percent limit is \$19.34 billion.
- **Subject appropriations.** By definition, certain activities are exempt from the statute. Fiduciary activities (retirement, unemployment, benefit funds, etc.) and business activities (loan programs, enterprise programs, etc.) are excluded.

For 2005-07, the Governor’s balanced budget, when adjusted as described above, totals about 7.21 percent of personal income.

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Full-Time Equivalent Positions (ORS 240.185)

This law limits the number of state positions. The limit equals 1.5 percent of the state's population in the previous year. This is counted on a full-time equivalent basis.

The Office of the Governor, the Secretary of State, the Treasurer of State, the Judicial and Legislative Branch agencies are not counted under the limit. Some positions in the Employment Department and Department of Higher Education are also exempted.

The state's population is estimated at 3,579,100 as of July 1, 2004, and 3,665,000 as of July 1, 2006. Using these numbers, the position cap is at 53,687 and 54,975 full-time equivalent at the beginning and end of the 2005-07 biennium.

The Governor's balanced budget includes 46,878.33 full-time equivalent. Of these, 5,600.63 are exempt from the limit. This puts the number of counted full-time equivalent at 41,277.70. This is well below the legal limit.