

House Bill 2398

Sponsored by Representative KOMP (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**.

Increases percentage of federal earned income tax credit allowable as credit against Oregon personal income tax. Phases in increase over six-year period. Makes refundability of earned income tax credit permanent.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to earned income tax credits; creating new provisions; amending ORS 315.266 and 316.502;
3 repealing section 61, chapter 832, Oregon Laws 2005; and prescribing an effective date.

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

5 **SECTION 1. Notwithstanding ORS 315.266 (1), the percent of the federal earned income**
6 **tax credit allowed under section 32 of the Internal Revenue Code that shall be used to cal-**
7 **culate the amount of the Oregon earned income tax credit allowed under ORS 315.266 is:**

8 (1) **Seven percent for tax years beginning on or after January 1, 2007, and before January**
9 **1, 2008;**

10 (2) **Eight percent for tax years beginning on or after January 1, 2008, and before January**
11 **1, 2009;**

12 (3) **Nine percent for tax years beginning on or after January 1, 2009, and before January**
13 **1, 2010;**

14 (4) **Ten percent for tax years beginning on or after January 1, 2010, and before January**
15 **1, 2011; and**

16 (5) **Eleven percent for tax years beginning on or after January 1, 2011, and before Janu-**
17 **ary 1, 2012.**

18 **SECTION 2.** ORS 315.266, as amended by sections 57 and 59, chapter 832, Oregon Laws 2005,
19 is amended to read:

20 315.266. (1) In addition to any other credit available for purposes of ORS chapter 316, an eligible
21 resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316
22 for the tax year in an amount equal to six percent of the earned income credit allowable to the in-
23 dividual for the same tax year under section 32 of the Internal Revenue Code.

24 (2) An eligible nonresident individual shall be allowed the credit computed in the same manner
25 and subject to the same limitations as the credit allowed a resident by subsection (1) of this section.
26 However, the credit shall be prorated using the proportion provided in ORS 316.117.

27 (3) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
28 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
29 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

30 (4) If a change in the status of a taxpayer from resident to nonresident or from nonresident to

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 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
 2 ORS 316.117.

3 (5) *[The credit allowed under this section may not exceed the tax liability of the taxpayer and may*
 4 *not be carried forward to a succeeding tax year.]* **If the amount allowable as a credit under this**
 5 **section, when added to the sum of the amounts allowable as payment of tax under ORS**
 6 **316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, ex-**
 7 **ceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of**
 8 **any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the**
 9 **amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.**

10 (6) The Department of Revenue may adopt rules for purposes of this section, including but not
 11 limited to rules relating to proof of eligibility and the furnishing of information regarding the federal
 12 earned income credit claimed by the taxpayer for the tax year.

13 (7) Refunds attributable to the earned income credit allowed under this section shall not bear
 14 interest.

15 **SECTION 3. The amendments to ORS 315.266 by section 2 of this 2007 Act apply to tax**
 16 **years beginning on or after January 1, 2007.**

17 **SECTION 4.** ORS 315.266, as amended by sections 57 and 59, chapter 832, Oregon Laws 2005,
 18 and section 2 of this 2007 Act, is amended to read:

19 315.266. (1) In addition to any other credit available for purposes of ORS chapter 316, an eligible
 20 resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316
 21 for the tax year in an amount equal to *[six]* **12** percent of the earned income credit allowable to the
 22 individual for the same tax year under section 32 of the Internal Revenue Code.

23 (2) An eligible nonresident individual shall be allowed the credit computed in the same manner
 24 and subject to the same limitations as the credit allowed a resident by subsection (1) of this section.
 25 However, the credit shall be prorated using the proportion provided in ORS 316.117.

26 (3) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
 27 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
 28 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

29 (4) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 30 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
 31 ORS 316.117.

32 (5) If the amount allowable as a credit under this section, when added to the sum of the amounts
 33 allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other
 34 refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year
 35 after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax
 36 year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

37 (6) The Department of Revenue may adopt rules for purposes of this section, including but not
 38 limited to rules relating to proof of eligibility and the furnishing of information regarding the federal
 39 earned income credit claimed by the taxpayer for the tax year.

40 (7) Refunds attributable to the earned income credit allowed under this section shall not bear
 41 interest.

42 **SECTION 5. The amendments to ORS 315.266 by section 4 of this 2007 Act apply to tax**
 43 **years beginning on or after January 1, 2012.**

44 **SECTION 6.** ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, and sec-
 45 tion 60, chapter 832, Oregon Laws 2005, is amended to read:

1 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall
2 be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts avail-
3 able generally to meet any expense or obligation of the State of Oregon lawfully incurred.

4 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
5 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year
6 exceed the sum of \$1 million.

7 (3) Moneys are continuously appropriated to the Department of Revenue to make:

8 (a) The refunds authorized under subsection (2) of this section; and

9 (b) The refund payments in excess of tax liability authorized under ORS 315.262 **and 315.266**.

10 **SECTION 7. The amendments to ORS 316.502 by section 6 of this 2007 Act apply to tax**
11 **years beginning on or after January 1, 2007.**

12 **SECTION 8. Section 61, chapter 832, Oregon Laws 2005, is repealed.**

13 **SECTION 9. This 2007 Act takes effect on the 91st day after the date on which the reg-**
14 **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

15