

(Including Amendments to Resolve Conflicts)

B-Engrossed House Bill 2752

Ordered by the Senate June 23
Including House Amendments dated June 8 and Senate Amendments
dated June 23

Sponsored by Representatives CLEM, HOLVEY; Representatives BARKER, BUCKLEY, C EDWARDS, GALIZIO,
KOTEK, KRUMMEL, SHIELDS, WITT

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.

Provides that taxpayer is not disqualified from claiming working family child care income tax credit solely because taxpayer's spouse has disability, if disability is such that it prevents taxpayer's spouse from providing child care, being gainfully employed, seeking employment and attending school.

Applies to tax years beginning on or after January 1, 2007.

Sunsets working family child care income tax credit on January 2, 2014.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the working family child care tax credit; creating new provisions; amending ORS 315.262
3 and 316.502; repealing ORS 315.262; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.262 is amended to read:

6 315.262. (1) As used in this section:

7 (a) "Child care" means care provided to a qualifying child of the taxpayer for the purpose of
8 allowing the taxpayer to be gainfully employed, to seek employment or to attend school on a full-
9 time or part-time basis, except that the term does not include care provided by:

10 (A) The child's parent or guardian, unless the care is provided in a certified or registered child
11 care facility; or

12 (B) A person who has a relationship to the taxpayer that is described in section 152(a) of the
13 Internal Revenue Code who has not yet attained 19 years of age at the close of the tax year.

14 (b) "Child care expenses" means the costs associated with providing child care to a qualifying
15 child of a qualified taxpayer.

16 (c) "**Disability**" means a **physical or cognitive condition that results in a person requiring**
17 **assistance with activities of daily living.**

18 [(c)] (d) "Earned income" has the meaning given that term in section 32 of the Internal Revenue
19 Code.

20 [(d)] (e) "Qualified taxpayer" means a taxpayer:

21 (A) Who is an Oregon resident with at least \$6,000 of earned income for the tax year or who is
22 a nonresident of Oregon with at least \$6,000 of earned income from Oregon sources for the tax year;

23 (B) With federal adjusted gross income for the tax year that does not exceed 250 percent of the

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 federal poverty level;

2 (C) With Oregon adjusted gross income for the tax year that does not exceed 250 percent of the
3 federal poverty level; and

4 (D) Who does not have more than the maximum amount of disqualified income under section
5 32(i) of the Internal Revenue Code that is allowed to a taxpayer entitled to the earned income tax
6 credit for federal tax purposes.

7 [(e)] (f) “Qualifying child” has the meaning given that term in section 152 of the Internal Re-
8 venue Code except that it is limited to an individual who is under 13 years of age, or who is a dis-
9 abled child, as that term is defined in ORS 316.099.

10 **(2) A taxpayer is not disqualified from claiming the credit under this section solely be-**
11 **cause the taxpayer’s spouse has a disability, if the disability is such that it prevents the**
12 **taxpayer’s spouse from providing child care, being gainfully employed, seeking employment**
13 **and attending school. The Department of Revenue may require that a physician verify the**
14 **existence of the disability and its severity.**

15 [(2)] (3) A qualified taxpayer shall be allowed a credit against the taxes otherwise due under
16 ORS chapter 316 equal to the applicable percentage of the qualified taxpayer’s child care expenses
17 (rounded to the nearest \$50).

18 [(3)] (4) The applicable percentage to be used in calculating the amount of the credit provided
19 in this section shall be determined in accordance with the following table:

22	Applicable	Greater of Oregon
23	Percentage	Adjusted Gross Income or
24		Federal Adjusted
25		Gross Income, as Percent
26		of Federal Poverty Level
27		
28	40	200 or less
29	36	Greater than 200 and less than
30		or equal to 210
31	32	Greater than 210 and less than
32		or equal to 220
33	24	Greater than 220 and less than
34		or equal to 230
35	16	Greater than 230 and less than
36		or equal to 240
37	8	Greater than 240 and less than
38		or equal to 250
39	0	Greater than 250 percent
40		of federal poverty level

41
42
43 [(4)] (5) The department [of Revenue] may:

44 (a) **Adopt rules for carrying out the provisions of this section; and**

45 (b) **Prescribe the form used to claim a credit and the information required on the form. The**

1 **form may provide for verification of an individual's disability by a physician, if applicable, as**
2 **described in subsection (2) of this section.**

3 [(5)] (6) In the case of a credit allowed under this section:

4 (a) A nonresident shall be allowed the credit under this section in the proportion provided in
5 ORS 316.117.

6 (b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
7 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
8 ORS 316.117.

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

12 (d) In the case of a qualified taxpayer who is married, a credit shall be allowed under this sec-
13 tion only if:

14 (A) The taxpayer files a joint return;

15 (B) The taxpayer files a separate return and is legally separated or subject to a separate main-
16 tenance agreement; or

17 (C) The taxpayer files a separate return and the taxpayer and the taxpayer's spouse reside in
18 separate households on the last day of the tax year with the intent of remaining in separate
19 households in the future.

20 [(6)] (7) If the amount allowable as a credit under this section, when added to the sum of the
21 amounts allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax),
22 other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by
23 ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for
24 purposes of ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the
25 taxpayer as provided in ORS 316.502.

26 [(7)(a)] (8)(a) The minimum amount of earned income a taxpayer must earn in order to be a
27 qualified taxpayer shall be adjusted for tax years beginning in each calendar year by multiplying
28 \$6,000 by the ratio of the monthly averaged U.S. City Average Consumer Price Index for the 12
29 consecutive months ending August 31 of the prior calendar year over the monthly averaged index
30 for the second quarter of the calendar year 1998.

31 (b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City
32 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
33 Labor Statistics of the United States Department of Labor.

34 (c) If any adjustment determined under paragraph (a) of this subsection is not a multiple of \$50,
35 the adjustment shall be rounded to the nearest multiple of \$50.

36 (d) Notwithstanding paragraphs (a) to (c) of this subsection, the adjusted minimum amount of
37 earned income a taxpayer must earn may not exceed the amount an individual would earn if the
38 individual worked 1,040 hours at the minimum wage established under ORS 653.025 and in effect on
39 January 1 of the calendar year in which begins the tax year of the taxpayer, rounded to the next
40 lower multiple of \$50.

41 **SECTION 2. The amendments to ORS 315.262 by section 1 of this 2007 Act apply to tax**
42 **years beginning on or after January 1, 2007.**

43 **SECTION 3. ORS 315.262 is repealed on January 2, 2014.**

44 **SECTION 4.** 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.*]

10 **SECTION 5. The amendments to ORS 316.502 by section 4 of this 2007 Act apply to tax**
11 **years beginning on or after January 1, 2014.**

12 **SECTION 6. If House Bill 3201 becomes law, sections 4 (amending ORS 316.502) and 5 of**
13 **this 2007 Act are repealed and ORS 316.502, as amended by section 4a, chapter 826, Oregon**
14 **Laws 2005, section 60, chapter 832, Oregon Laws 2005, and section 86, chapter __, Oregon**
15 **Laws 2007 (Enrolled House Bill 3201), is amended to read:**

16 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall
17 be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts avail-
18 able generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

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

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

24 (b) The refund payments in excess of tax liability authorized under [*ORS 315.262 and*] section
25 **82, chapter __, Oregon Laws 2007 (Enrolled House Bill 3201) [*of this 2007 Act*].**

26 **SECTION 6a. If House Bill 3201 becomes law, ORS 316.502, as amended by section 4a, chapter**
27 **826, Oregon Laws 2005, section 60, chapter 832, Oregon Laws 2005, and sections 86 and 87, chapter**
28 **__, Oregon Laws 2007 (Enrolled House Bill 3201), is amended to read:**

29 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall
30 be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts avail-
31 able generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

35 (3) Moneys are continuously appropriated to the Department of Revenue to make[:]

36 [(a)] the refunds authorized under subsection (2) of this section.[: and]

37 [(b) *The refund payments in excess of tax liability authorized under ORS 315.262.*]

38 **SECTION 6b. If House Bill 3201 becomes law:**

39 **(1) The amendments to ORS 316.502 by section 6 of this 2007 Act become operative on**
40 **January 2, 2014.**

41 **(2) The amendments to ORS 316.502 by section 6a of this 2007 Act become operative on**
42 **January 2, 2018.**

43 **SECTION 6c. If House Bill 3201 becomes law, the amendments to ORS 316.502 by section**
44 **6 of this 2007 Act apply to tax years beginning on or after January 1, 2014.**

45 **SECTION 7. If both House Bill 2735 and House Bill 3201 become law, ORS 316.502, as amended**

1 by section 4a, chapter 826, Oregon Laws 2005, section 60, chapter 832, Oregon Laws 2005, and sec-
2 tion 20, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2735), is amended to read:

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

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

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

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

11 (b) The refund payments in excess of tax liability authorized under [*ORS 315.262 and*] section
12 17, **chapter ___, Oregon Laws 2007 (Enrolled House Bill 2735)** [*of this 2007 Act*].

13 **SECTION 7a.** If both House Bill 2735 and House Bill 3201 become law, ORS 316.502, as
14 amended by section 4a, chapter 826, Oregon Laws 2005, section 60, chapter 832, Oregon Laws 2005,
15 and sections 20 and 20a, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2735), is amended to
16 read:

17 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall
18 be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts avail-
19 able generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

23 (3) Moneys are continuously appropriated to the Department of Revenue to make[:]

24 [(a)] the refunds authorized under subsection (2) of this section.[: and]

25 [(b) *The refund payments in excess of tax liability authorized under ORS 315.262.*]

26 **SECTION 7b.** If both House Bill 2735 and House Bill 3201 become law:

27 (1) **The amendments to ORS 316.502 by section 7 of this 2007 Act become operative on**
28 **January 2, 2014.**

29 (2) **The amendments to ORS 316.502 by section 7a of this 2007 Act become operative on**
30 **January 2, 2018.**

31 **SECTION 7c.** If both House Bill 2735 and House Bill 3201 become law, the amendments
32 to ORS 316.502 by section 7 of this 2007 Act apply to tax years beginning on or after January
33 1, 2014.

34 **SECTION 8.** This 2007 Act takes effect on the 91st day after the date on which the reg-
35 ular session of the Seventy-fourth Legislative Assembly adjourns sine die.

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