

Senate Bill 1573

Sponsored by Senator WHITSETT; Senator OLSEN (Pre-session 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 credit allowed as credit against personal income taxes. Provides that amount of credit attributable to increase is nonrefundable. Adjusts dollar amounts for certain personal income tax subtractions and credits using Consumer Price Index. Creates personal income tax credit equal to portion of federal child credit. New and amended provisions apply to tax years beginning on or after January 1, 2015.

Adjusts income amounts for optional reduced rates of personal income tax on nonpassive income using Consumer Price Index. Applies to tax years beginning on or after January 1, 2016.

Creates personal income tax credit for contributions to organization that is organized for purpose of funding construction of World War II memorial. Applies to tax years beginning on or after January 1, 2015, and before January 1, 2021.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax reduction; creating new provisions; amending ORS 315.050, 315.266, 316.043, 316.078,
3 316.085, 316.693 and 317.061; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.266 is amended to read:

6 315.266. (1) In addition to any other credit available for purposes of ORS chapter 316, an eligible
7 resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316
8 for the tax year in an amount equal to *[eight]* **12** percent of the earned income credit allowable to
9 the individual for the same tax year under section 32 of the Internal Revenue Code.

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

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

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

19 (5) If the amount *[allowable as a credit under this section]* **equal to eight percent of the earned**
20 **income credit allowable to the individual for the same tax year under section 32 of the**
21 **Internal Revenue Code**, when added to the sum of the amounts allowable as payment of tax under
22 ORS 316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, exceeds
23 the taxes imposed by ORS chapters 314 and 316 for the tax year after application of any
24 nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the
25 excess shall be refunded to the taxpayer as provided in ORS 316.502.

26 (6) The Department of Revenue may adopt rules for purposes of this section, including but not

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 limited to rules relating to proof of eligibility and the furnishing of information regarding the federal
2 earned income credit claimed by the taxpayer for the tax year.

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

5 **SECTION 2.** Section 3 of this 2014 Act is added to and made a part of ORS chapter 315.

6 **SECTION 3.** (1) In addition to any other credit available for purposes of ORS chapter 316,
7 an eligible resident individual shall be allowed a credit against the tax otherwise due under
8 ORS chapter 316 for the tax year in an amount equal to five percent of the child tax credit
9 allowable to the individual for the same tax year under section 24 of the Internal Revenue
10 Code.

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

15 (3) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
16 if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the
17 credit allowed by this section shall be prorated or computed in a manner consistent with ORS
18 314.085.

19 (4) If a change in the status of a taxpayer from resident to nonresident or from nonres-
20 ident to resident occurs, the credit allowed by this section shall be determined in a manner
21 consistent with ORS 316.117.

22 (5) The Department of Revenue may adopt rules for purposes of this section.

23 **SECTION 4.** ORS 316.693 is amended to read:

24 316.693. (1)(a) In addition to the other modifications to federal taxable income contained in this
25 chapter, there shall be subtracted from federal taxable income the amount paid for medical care of
26 an individual and not compensated for by insurance or otherwise, as described in section [213(a)]
27 **213** of the Internal Revenue Code, if the individual meets the age requirement for the tax year under
28 subsection (2) of this section. The amount subtracted under this section may not exceed:

29 (A) \$3,600 for a joint return if both spouses meet the age requirement for the tax year under
30 subsection (2) of this section, with no more than \$1,800 attributable to the medical care of either
31 spouse;

32 (B) \$1,800 for a joint return if only one spouse meets the age requirement for the tax year under
33 subsection (2) of this section, with no more than \$1,800 attributable to the medical care of that
34 spouse; or

35 (C) \$1,800 for each individual filing a return who meets the age requirement for the tax year
36 under subsection (2) of this section, with no more than \$1,800 attributable to the medical care of
37 that individual.

38 (b) The subtraction under this section may not include amounts that have previously been de-
39 ducted in the calculation of Oregon taxable income.

40 (2) The subtraction under this section is available only if the individual has attained the fol-
41 lowing age before the close of the tax year:

42 (a) For tax years beginning on or after January 1, 2013, and before January 1, 2014, an indi-
43 vidual must attain 62 years of age before the close of the tax year.

44 (b) For tax years beginning on or after January 1, 2014, and before January 1, 2016, an indi-
45 vidual must attain 63 years of age before the close of the tax year.

(c) For tax years beginning on or after January 1, 2016, and before January 1, 2018, an individual must attain 64 years of age before the close of the tax year.

(d) For tax years beginning on or after January 1, 2018, and before January 1, 2020, an individual must attain 65 years of age before the close of the tax year.

(e) For tax years beginning on or after January 1, 2020, an individual must attain 66 years of age before the close of the tax year.

(3) Notwithstanding the amount calculated under subsection (1) of this section, the maximum amount allowed for a subtraction under this section may not exceed:

(a) \$1,400 per individual, if the federal adjusted gross income of the taxpayer for the tax year is \$50,000 or more and less than \$100,000 for a taxpayer who files a return jointly, as a head of household or as a surviving spouse, or for all other taxpayers, \$25,000 or more and less than \$50,000.

(b) \$1,000 per individual, if the federal adjusted gross income of the taxpayer for the tax year is \$100,000 or more *[and less than]* **but does not exceed** \$200,000 for a taxpayer who files a return jointly, as a head of household or as a surviving spouse, or for all other taxpayers, \$50,000 or more *[and less than]* **but does not exceed** \$100,000.

(4) A subtraction may not be claimed under this section if the federal adjusted gross income of the taxpayer for the tax year exceeds:

(a) \$200,000 for joint return filers, a surviving spouse or a head of household; or

(b) \$100,000 for an individual who is not a married individual and is not a surviving spouse, or is a married individual who files a separate return.

(5)(a) The Department of Revenue shall annually adjust the subtraction amounts in subsections (1) and (3) of this section and the income amounts in subsections (1), (3) and (4) of this section according to the cost-of-living adjustment for the calendar year. The department shall make this adjustment by multiplying the dollar amounts in subsections (3) and (4) of this section by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2014.

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

SECTION 5. ORS 316.078 is amended to read:

316.078. (1) A resident individual shall be allowed a credit against the tax otherwise due under this chapter in an amount equal to a percentage of employment-related expenses allowable pursuant to section 21 of the Internal Revenue Code, notwithstanding the limitation imposed by section 26 of the Internal Revenue Code. The percentage shall be determined on the basis of federal taxable income, as defined in section 63 of the Internal Revenue Code and as reflected on the federal return, whether or not a joint return, of the taxpayer for the taxable year, in accordance with the following table:

If federal taxable
income is:

The percentage is:

Not over \$5,000

30%

1	Over \$5,000 but not	
2	over \$10,000	15%
3	Over \$10,000 but not	
4	over \$15,000	8%
5	Over \$15,000 but not	
6	over \$25,000	6%
7	Over \$25,000 but not	
8	over \$35,000	5%
9	Over \$35,000 but not	
10	over \$45,000	4%
11	Over \$45,000	0%

12
13

14 **(2)(a) The Department of Revenue shall annually adjust the income amounts in sub-**
 15 **section (1) of this section according to the cost-of-living adjustment for the calendar year.**
 16 **The department shall make this adjustment by multiplying the dollar amounts in subsection**
 17 **(1) of this section by the percentage (if any) by which the monthly averaged U.S. City Aver-**
 18 **age Consumer Price Index for the 12 consecutive months ending August 31 of the prior cal-**
 19 **endar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the**
 20 **12 consecutive months ending August 31, 2014.**

21 **(b) As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S.**
 22 **City Average Consumer Price Index for All Urban Consumers (All Items) as published by the**
 23 **Bureau of Labor Statistics of the United States Department of Labor.**

24 [(2)] (3) A nonresident individual shall be allowed the credit computed in the same manner and
 25 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)] (4) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if
 28 the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the credit
 29 allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

30 [(4)] (5) If a change in the status of a taxpayer from resident to nonresident or from nonresident
 31 to resident occurs, the credit allowed by this section shall be determined in a manner consistent
 32 with ORS 316.117.

33 [(5)] (6) Any tax credit otherwise allowable under this section which is not used by the taxpayer
 34 in a particular year may be carried forward and offset against the taxpayer’s tax liability for the
 35 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be
 36 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
 37 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
 38 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
 39 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
 40 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
 41 thereafter.

42 **SECTION 6.** ORS 316.085 is amended to read:

43 316.085. (1)(a) There shall be allowed a personal exemption credit against taxes otherwise due
 44 under this chapter. The credit shall equal [~~\$90~~] **\$188** multiplied by the number of personal ex-
 45 emptions allowed under section 151 of the Internal Revenue Code.

1 (b) In the case of an individual with respect to whom a credit under paragraph (a) of this sub-
 2 section is allowable to another taxpayer for a taxable year beginning in the calendar year in which
 3 the individual's taxable year begins, the credit amount applicable to such individual for such
 4 individual's taxable year is zero.

5 (2)(a) A nonresident shall be allowed the credit provided under subsection (1) of this section
 6 computed in the same manner and subject to the same limitations as the credit allowed to a resident
 7 of this state. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

11 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 12 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
 13 ORS 316.117.

14 (3) The Department of Revenue shall recompute the **dollar amount of the income thresholds**
 15 **in subsection (5) of this section and the** dollar amount of the personal exemption credit allowed
 16 for state personal income tax purposes. The computation shall be as follows:

17 (a) Divide the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive
 18 months ending August 31 of the prior calendar year by the monthly averaged index for the first six
 19 months of [1986] **2014**.

20 (b) Recompute the dollar amount of the personal exemption credit by multiplying [~~\$90~~] **\$188** by
 21 the appropriate indexing factor determined as provided in paragraph (a) of this subsection. **Re-**
 22 **compute the dollar amount of the income thresholds in subsection (5) of this section by**
 23 **multiplying the amounts in subsection (5) of this section by the appropriate indexing factor**
 24 **determined as provided in paragraph (a) of this subsection.** Round off the amount obtained un-
 25 der this paragraph to the nearest \$1.

26 (4) As used in this section, "U.S. City Average Consumer Price Index" means the U.S. City Av-
 27 erage Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
 28 Labor Statistics of the United States Department of Labor.

29 (5) Notwithstanding subsections (1) [~~to (3)~~] **and (2)** of this section, a taxpayer may not claim the
 30 personal exemption credit otherwise allowed under this section if the taxpayer's federal adjusted
 31 gross income for the tax year exceeds \$200,000 for joint return filers, a surviving spouse or a head
 32 of household, or \$100,000 for an individual who is not a married individual and is not a surviving
 33 spouse, or is a married individual who files a separate return.

34 **SECTION 7.** ORS 317.061 is amended to read:

35 317.061. (1) The rate of the tax imposed by and computed under this chapter is:

36 [(1)] (a) Six and six-tenths percent of the first \$1 million of taxable income, or fraction thereof;
 37 and

38 [(2)] (b) Seven and six-tenths percent of any amount of taxable income in excess of \$1 million.

39 (2)(a) **The Department of Revenue shall annually adjust the income amounts in sub-**
 40 **section (1) of this section according to the cost-of-living adjustment for the calendar year.**
 41 **The department shall make this adjustment by multiplying the dollar amounts in subsection**
 42 **(1) of this section by the percentage (if any) by which the monthly averaged U.S. City Aver-**
 43 **age Consumer Price Index for the 12 consecutive months ending August 31 of the prior cal-**
 44 **endar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the**
 45 **12 consecutive months ending August 31, 2014.**

1 **(b) As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S.**
 2 **City Average Consumer Price Index for All Urban Consumers (All Items) as published by the**
 3 **Bureau of Labor Statistics of the United States Department of Labor.**

4 **SECTION 8.** ORS 315.050 is amended to read:

5 315.050. (1) As used in this section, “tax expenditure” has the meaning given that term in ORS
 6 291.201.

7 (2) Any tax credit enacted by the Legislative Assembly on or after January 1, 2010, shall apply
 8 for a maximum of six tax years beginning with the initial tax year for which the credit is applicable,
 9 unless the Legislative Assembly expressly provides for another period of applicability.

10 (3) Any tax expenditure enacted by the Legislative Assembly on or after January 1, [2014]
 11 **2015**, shall apply for a maximum of six tax years beginning with the initial tax year for which the
 12 tax expenditure is applicable, unless the Legislative Assembly expressly provides for another period
 13 of applicability.

14 **SECTION 9.** ORS 316.043 is amended to read:

15 316.043. (1) As used in this section:

16 (a) “Nonpassive income” means income other than income from passive activity as determined
 17 under section 469 of the Internal Revenue Code. “Nonpassive income” does not include wages, in-
 18 terest, dividends or capital gains.

19 (b) “Nonpassive loss” means loss other than loss from passive activity as determined under
 20 section 469 of the Internal Revenue Code.

21 (2) If a taxpayer that meets the conditions of subsection [(6)] (7) of this section has nonpassive
 22 income attributable to any partnership or S corporation after reduction for nonpassive losses, that
 23 portion of the taxpayer’s income that meets the conditions of subsection [(6)] (7) of this section shall
 24 be taxed at a rate of:

25 (a)(A) Seven percent of the first \$250,000 of taxable income, or fraction thereof;

26 (B) Seven and two-tenths percent of taxable income exceeding \$250,000 but not exceeding
 27 \$500,000;

28 (C) Seven and six-tenths percent of taxable income exceeding \$500,000 but not exceeding \$1
 29 million;

30 (D) Eight percent of taxable income exceeding \$1 million but not exceeding \$2.5 million;

31 (E) Nine percent of taxable income exceeding \$2.5 million but not exceeding \$5 million; and

32 (F) Nine and nine-tenths percent of taxable income exceeding \$5 million; or

33 (b) At the election of the taxpayer, the rate otherwise applicable under ORS 316.037.

34 **(3)(a) The Department of Revenue shall annually adjust the income amounts in sub-**
 35 **section (2) of this section according to the cost-of-living adjustment for the calendar year.**
 36 **The department shall make this adjustment by multiplying the dollar amounts in subsection**
 37 **(2) of this section by the percentage (if any) by which the monthly averaged U.S. City Aver-**
 38 **age Consumer Price Index for the 12 consecutive months ending August 31 of the prior cal-**
 39 **endar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the**
 40 **12 consecutive months ending August 31, 2014.**

41 **(b) As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S.**
 42 **City Average Consumer Price Index for All Urban Consumers (All Items) as published by the**
 43 **Bureau of Labor Statistics of the United States Department of Labor.**

44 [(3)] (4) The reduced rates allowed under subsection (2) of this section may be adjusted as pro-
 45 vided in ORS 316.044.

1 [(4)] (5) A taxpayer shall use the subtractions, deductions or additions otherwise allowed under
 2 this chapter in the calculation of income that is taxed at the rates otherwise applicable under ORS
 3 316.037. The only addition or subtraction allowed in the calculation of nonpassive income for which
 4 the taxpayer uses the reduced rates allowed under subsection (2) of this section shall be any de-
 5 preciation adjustment directly related to the partnership or S corporation.

6 [(5)] (6) The election under subsection (2)(b) of this section shall be irrevocable and shall be
 7 made on the taxpayer's original return. If the taxpayer uses the reduced rates allowed under sub-
 8 section (2) of this section, the calculation of income shall be substantiated on a form prescribed by
 9 the Department of Revenue and filed with the taxpayer's tax return for the tax year or at such other
 10 time and manner as the department may prescribe by rule. A taxpayer who uses the reduced rates
 11 available under subsection (2) of this section may not join in the filing of a composite return under
 12 ORS 314.778.

13 [(6)] (7) The rates listed in subsection (2) of this section apply to nonpassive income attributable
 14 to a partnership or S corporation only if:

15 (a) The taxpayer materially participates in the day-to-day operations of the trade or business;

16 (b) The partnership or S corporation employs at least one person who is not an owner, member
 17 or limited partner of the partnership or S corporation; and

18 (c) At least 1,200 aggregate hours of work in Oregon are performed, by the close of the tax year
 19 for which the reduced rate is allowed, by employees who meet the requirements of paragraph (b) of
 20 this subsection and who are employed by the partnership or S corporation. In determining whether
 21 this requirement is met, only hours worked in a week in which a worker works at least 30 hours
 22 may be considered.

23 [(7)(a)] (8)(a) A nonresident may apply the reduced rates allowed under subsection (2) of this
 24 section only to income earned in Oregon.

25 (b) A part-year resident shall calculate the tax due using the reduced rates allowed under sub-
 26 section (2) of this section by first applying those rates to the taxpayer's nonpassive income that
 27 meets the requirements of subsection [(6)] (7) of this section, and then multiplying that amount by
 28 the ratio of the taxpayer's nonpassive income in Oregon divided by nonpassive income from all
 29 sources.

30 **SECTION 10. Section 11 of this 2014 Act is added to and made a part of ORS chapter 315.**

31 **SECTION 11. (1) As used in this section, "qualifying organization" means an organization**
 32 **that is recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code and**
 33 **that is organized for the purpose of funding the construction of a World War II memorial**
 34 **at the direction of the World War II Memorial Task Force created in ORS 406.500.**

35 **(2) A credit shall be allowed against the taxes that are otherwise due under ORS chapter**
 36 **316 for amounts contributed during the tax year to a qualifying organization.**

37 **(3) The credit allowed by subsection (2) of this section shall be the lesser of:**

38 **(a) The total contribution, not to exceed \$100 on a joint return or \$50 on any other type**
 39 **of return; or**

40 **(b) The tax liability of the taxpayer.**

41 **(4) The claim for tax credit shall be substantiated by submission, with the tax return,**
 42 **of official receipts of the qualifying organization.**

43 **(5) The credit allowed under this section is in addition to any charitable contribution**
 44 **deduction allowable to the taxpayer.**

45 **(6)(a) A nonresident shall be allowed the credit under this section in the proportion pro-**

1 vided in ORS 316.117.

2 (b) If a change in the status of a taxpayer from resident to nonresident or from nonres-
3 ident to resident occurs, the credit allowed under this section shall be determined in a
4 manner consistent with ORS 316.117.

5 (c) A husband and wife who file separate returns for a taxable year may each claim a
6 share of the tax credit that would have been allowed on a joint return in proportion to the
7 contribution of each.

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

12 **SECTION 12.** Section 13 of this 2014 Act is added to and made a part of ORS chapter 314.

13 **SECTION 13.** (1) For tax years beginning in each calendar year, the Department of Re-
14 venue shall adjust each dollar amount or income threshold in the tax laws of this state ac-
15 cording to the cost-of-living adjustment for the calendar year. The department shall make
16 this adjustment by multiplying the dollar amount or income threshold by the percentage (if
17 any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12
18 consecutive months ending August 31 of the prior calendar year exceeds the monthly aver-
19 aged U.S. City Average Consumer Price Index for the second quarter of the calendar year
20 2015 or, if later, the calendar year immediately following the year of the enactment of the
21 dollar amount or income threshold.

22 (2) As used in this section, "U.S. City Average Consumer Price Index" means the U.S.
23 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the
24 Bureau of Labor Statistics of the United States Department of Labor.

25 (3) If any cost-of-living adjustment determined under subsection (1) of this section is not
26 a multiple of \$50, the adjustment shall be rounded to the next lower multiple of \$50.

27 **SECTION 14.** (1) The amendments to ORS 315.050, 315.266, 316.078, 316.085, 316.693 and
28 317.061 by sections 1 and 4 to 8 of this 2014 Act apply to tax years beginning on or after
29 January 1, 2015.

30 (2) Notwithstanding ORS 315.050, section 3 of this 2014 Act applies to all tax years be-
31 ginning on or after January 1, 2015.

32 (3) The amendments to ORS 316.043 by section 9 of this 2014 Act apply to tax years be-
33 ginning on or after January 1, 2016.

34 (4) Section 11 of this 2014 Act applies to tax years beginning on or after January 1, 2015,
35 and before January 1, 2021.

36 (5) Section 13 of this 2014 Act applies to tax years beginning on or after January 1, 2015.

37 **SECTION 15.** This 2014 Act takes effect on the 91st day after the date on which the 2014
38 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

39