

HOUSE AMENDMENTS TO HOUSE BILL 4028

By COMMITTEE ON REVENUE

February 26

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and line 3 and insert
2 “315.176, 315.184, 315.264, 315.516 and 317.097; and prescribing an effective date.”.

3 Delete lines 5 through 27 and delete pages 2 through 9 and insert:

4 “**SECTION 1.** ORS 315.176 is amended to read:

5 “315.176. (1) As used in this section:

6 “(a) ‘Biofuel’ means liquid, gaseous or solid fuels, derived from biomass, that have been con-
7 verted into a processed fuel ready for use as energy by a biofuel producer’s customers or for direct
8 biomass energy use at the biofuel producer’s site.

9 “(b) ‘Biofuel producer’ means a person that, through activities in Oregon:

10 “(A) Alters the physical makeup of biomass to convert it into biofuel;

11 “(B) Changes one biofuel into another type of biofuel; or

12 “(C) Uses biomass in Oregon to produce energy.

13 “(c) ‘Bovine manure’ means, subject to subsection (2) of this section, [*cow*] **cattle** manure that
14 is produced [*by cows*] on Oregon farms.

15 “(d) ‘Bovine manure producer or collector’ means a person that produces or collects bovine
16 manure in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

17 “(e) ‘**Cattle**’ means **cows, heifers, bulls, steers or calves.**

18 “(2) The Director of Agriculture may adopt rules to define criteria, only as the criteria apply
19 to bovine manure, to determine additional characteristics of bovine manure for purposes of this
20 section.

21 “(3)(a) A bovine manure producer or collector shall be allowed a credit against the taxes that
22 would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS
23 chapter 317 or 318 for the collection of bovine manure in Oregon that is used, in Oregon, as biofuel
24 or to produce biofuel.

25 “(b) A credit under this section may be claimed in the tax year in which the credit is certified
26 under this section.

27 “(c) A credit under this section may be claimed only once for each wet ton of bovine manure.

28 “(4) The amount of the credit shall be calculated at a rate of \$3.50 per wet ton, as certified
29 under this section.

30 “(5)(a) The State Department of Agriculture may establish by rule procedures and criteria for
31 determining the amount of the tax credit to be certified under this section. The department shall
32 provide written certification to taxpayers that are eligible to claim the credit under this section.

33 “(b) The State Department of Agriculture may charge and collect a fee from taxpayers for cer-
34 tification of credits under this section. The fee may not exceed the cost to the department of issuing
35 certifications.

1 “(6) All fees collected under this section shall be deposited in the State Treasury to the credit
2 of the Department of Agriculture Service Fund. Moneys deposited under this section are contin-
3 uously appropriated to the department for the purpose of administering and enforcing the provisions
4 of this section.

5 “(7)(a) The Department of Revenue may *[by rule]* require that the State Department of Agricul-
6 ture provide information about the certification issued under this section, including the name and
7 taxpayer identification number of the taxpayer or other person receiving certification, the date the
8 certification was issued in its final form, the approved amount of credit and the first tax year for
9 which the credit may be claimed.

10 “(b) A taxpayer that is a pass-through entity that has received certification under this section
11 shall provide *[the information described in paragraph (a) of this subsection]* to the Department of
12 Revenue within two months after the close of the tax year in which the certification was issued **the**
13 **name, taxpayer identification number and any other information required by the department**
14 **of each owner receiving a distributive share of the credit, in a manner prescribed by the**
15 **department.**

16 “[*(c) The Department of Revenue shall prescribe by rule the manner and the timing of submission*
17 *of the information to the department.*]

18 “(8) The amount of the credit claimed under this section for any tax year may not exceed the
19 tax liability of the taxpayer.

20 “(9) Each bovine manure producer or collector shall maintain a record of the written certifica-
21 tion of the amount of the tax credit under this section for a period of at least five years after the
22 tax year in which the credit is claimed and provide the written certification to the Department of
23 Revenue upon request.

24 “(10) The credit shall be claimed on a form prescribed by the Department of Revenue that con-
25 tains the information required by the department.

26 “(11) Any tax credit otherwise allowable under this section that is not used by the taxpayer in
27 a particular tax year may be carried forward and offset against the taxpayer’s tax liability for the
28 next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be
29 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
30 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
31 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
32 succeeding tax year, but may not be carried forward for any tax year thereafter.

33 “(12) In the case of a credit allowed under this section:

34 “(a) A nonresident shall be allowed the credit under this section in the proportion provided in
35 ORS 316.117.

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

39 “(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if
40 the department terminates the taxpayer’s taxable year under ORS 314.440, the credit allowed under
41 this section shall be prorated or computed in a manner consistent with ORS 314.085.

42 “**SECTION 2.** ORS 315.184 is amended to read:

43 “315.184. The total amount *[claimed]* **certified by the State Department of Agriculture** for tax
44 credits for the production or collection of bovine manure under ORS 315.176 may not exceed \$5
45 million for all taxpayers for any *[tax]* **calendar** year. If the *[State]* department *[of Agriculture]* re-

1 ceives applications for the credit sufficient to exceed this amount, the department shall by rule
2 proportionately reduce the amount of certified credits among all taxpayers applying for the credit.

3 **“SECTION 3.** ORS 317.097 is amended to read:

4 **“317.097.** (1) As used in this section:

5 **“(a)** ‘Annual rate’ means the yearly interest rate specified on the note, and not the annual per-
6 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

7 **“(b)** ‘Finance charge’ means the total of all interest, loan fees, interest on any loan fees financed
8 by the lending institution, and other charges related to the cost of obtaining credit.

9 **“(c)** ‘Lending institution’ means any insured institution, as that term is defined in ORS 706.008,
10 any mortgage banking company that maintains an office in this state or any community development
11 corporation that is organized under the Oregon Nonprofit Corporation Law.

12 **“(d)** ‘Manufactured dwelling park’ has the meaning given that term in ORS 446.003.

13 **“(e)** ‘Nonprofit corporation’ means a corporation that is exempt from income taxes under section
14 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2016.

15 **“(f)** ‘Preservation project’ means housing that was previously developed as affordable housing
16 with a contract for rent assistance from the United States Department of Housing and Urban De-
17 velopment or the United States Department of Agriculture and that is being acquired by a spon-
18 soring entity.

19 **“(g)** ‘Qualified assignee’ means any investor participating in the secondary market for real estate
20 loans.

21 **“(h)** ‘Qualified borrower’ means any borrower that is a sponsoring entity that has a controlling
22 interest in the real property that is financed by a qualified loan. A controlling interest includes[,
23 *but is not limited to,*] a controlling interest in the general partner of a limited partnership that owns
24 the real property.

25 **“(i)** ‘Qualified loan’ means:

26 **“(A)** A loan that meets the criteria stated in subsection (5) of this section or that is made to
27 refinance a loan that meets the criteria described in subsection (5) of this section; or

28 **“(B)** The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf
29 of the Housing and Community Services Department, the proceeds of which are used to finance or
30 refinance a loan that meets the criteria described in subsection (5) of this section.

31 **“(j)** ‘Sponsoring entity’ means a nonprofit corporation, nonprofit cooperative, state governmental
32 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,
33 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,
34 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

35 **“(2)** The Department of Revenue shall allow a credit against taxes otherwise due under this
36 chapter for the taxable year to a lending institution that makes a qualified loan certified by the
37 Housing and Community Services Department as provided in subsection (7) of this section. The
38 amount of the credit is equal to the difference between:

39 **“(a)** The amount of finance charge charged by the lending institution during the taxable year
40 at an annual rate less than the market rate for a qualified loan that is made before January 1, 2026,
41 that complies with the requirements of this section; and

42 **“(b)** The amount of finance charge that would have been charged during the taxable year by the
43 lending institution for the qualified loan for housing construction, development, acquisition or re-
44 habilitation measured at the annual rate charged by the lending institution for nonsubsidized loans
45 made under like terms and conditions at the time the qualified loan for housing construction, de-

1 velopment, acquisition or rehabilitation is made.

2 “(3) The maximum amount of credit for the difference between the amounts described in sub-
3 section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of
4 the qualified loan during the tax year for which the credit is claimed.

5 “(4) Any tax credit allowed under this section that is not used by the taxpayer in a particular
6 year may be carried forward and offset against the taxpayer’s tax liability for the next succeeding
7 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and
8 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding
9 tax year may be carried forward and used in the third succeeding tax year, and any credit not used
10 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,
11 and any credit not used in that fourth succeeding tax year may be carried forward and used in the
12 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

13 “(5) To be eligible for the tax credit allowable under this section, a lending institution must
14 make a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of
15 the Housing and Community Services Department, the proceeds of which are used to finance or re-
16 finance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

17 “(a) An individual or individuals who own a dwelling, participate in an owner-occupied commu-
18 nity rehabilitation program and are certified by the local government or its designated agent as
19 having an income level when the loan is made of less than 80 percent of the area median income;

20 “(b) A qualified borrower who:

21 “(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
22 of housing; and

23 “(B) Provides a written certification executed by the Housing and Community Services Depart-
24 ment that the:

25 “(i) Housing created by the loan is or will be occupied by households earning less than 80 per-
26 cent of the area median income; and

27 “(ii) Full amount of savings from the reduced interest rate provided by the lending institution
28 is or will be passed on to the tenants in the form of reduced housing payments;

29 “(c) Subject to subsection (14) of this section, a qualified borrower who:

30 “(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
31 of housing consisting of a manufactured dwelling park; and

32 “(B) Provides a written certification executed by the Housing and Community Services Depart-
33 ment that the housing will continue to be operated as a manufactured dwelling park during the pe-
34 riod for which the tax credit is allowed; or

35 “(d) A qualified borrower who:

36 “(A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a
37 preservation project; and

38 “(B) Provides a written certification executed by the Housing and Community Services Depart-
39 ment that the housing preserved by the loan:

40 “(i) Is or will be occupied by households earning less than 80 percent of the area median income;
41 and

42 “(ii) Is the subject of a rent assistance contract with the United States Department of Housing
43 and Urban Development or the United States Department of Agriculture that will be maintained by
44 the qualified borrower.

45 “(6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this

1 section must be treated the same as a loan that meets the criteria stated in subsection (5) of this
2 section.

3 “(7) For a qualified loan to be eligible for the tax credit allowable under this section, the
4 Housing and Community Services Department must execute a written certification for the qualified
5 loan that:

6 “(a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community
7 Services Department, during which the tax credit is allowed for the qualified loan; and

8 “(b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-
9 tion.

10 “(8) The Housing and Community Services Department may certify qualified loans that are eli-
11 gible under subsection (5) of this section if the total credits attributable to all qualified loans eligible
12 for credits under this section and then outstanding do not exceed \$25 million for any fiscal year. In
13 making loan certifications under subsection (7) of this section, the Housing and Community Services
14 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax
15 credits in those areas of the state that are determined by the Oregon Housing Stability Council to
16 have the greatest need for affordable housing.

17 “(9) The tax credit provided for in this section may be taken whether or not:

18 “(a) The financial institution is eligible to take a federal income tax credit under section 42 of
19 the Internal Revenue Code with respect to the project financed by the qualified loan; or

20 “(b) The project receives financing from bonds, the interest on which is exempt from federal
21 taxation under section 103 of the Internal Revenue Code.

22 “(10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the
23 purchase of bonds, the interest of which is exempt from federal taxation under section 103 of the
24 Internal Revenue Code, the amount of finance charge that would have been charged under sub-
25 section (2)(b) of this section is determined by reference to the finance charge that would have been
26 charged if the federally tax exempt bonds had been issued and the tax credit under this section did
27 not apply.

28 “(11) A lending institution may sell a qualified loan for which a certification has been executed
29 to a qualified assignee whether or not the lending institution retains servicing of the qualified loan
30 so long as a designated lending institution maintains records, annually verified by a loan servicer,
31 that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

32 “(12) Notwithstanding any other provision of law, a lending institution that is a community de-
33 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer all or
34 part of a tax credit allowed under this section to one or more other lending institutions that are
35 stockholders or members of the community development corporation or that otherwise participate
36 through the community development corporation in the making of one or more qualified loans for
37 which the tax credit under this section is allowed.

38 “(13) The lending institution shall file an annual statement with the Housing and Community
39 Services Department, specifying that it has conformed with all requirements imposed by law to
40 qualify for a tax credit under this section.

41 “(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to
42 finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park
43 under subsection (5)(c) of this section must be:

44 “(a) A nonprofit corporation, manufactured dwelling park nonprofit cooperative, state govern-
45 mental entity, local unit of government as defined in ORS 466.706 or housing authority; **or**

1 **“(b) A nonprofit corporation or housing authority that has a controlling interest in the**
2 **real property that is financed by a qualified loan. A controlling interest includes a controlling**
3 **interest in the general partner of a limited partnership that owns the real property.**

4 “(15) The Housing and Community Services Department and the Department of Revenue may
5 adopt rules to carry out the provisions of this section.

6 **“SECTION 4. The amendments to ORS 315.176, 315.184 and 317.097 by sections 1 to 3 of**
7 **this 2018 Act apply to tax years beginning on or after January 1, 2018.**

8 **“SECTION 5.** ORS 315.516 is amended to read:

9 “315.516. (1) In lieu of the issuance of certifications for tax credit under ORS 315.514 by the
10 Oregon Film and Video Office, the Legislative Assembly may, no later than 30 days prior to the end
11 of each fiscal year, appropriate to the Oregon Business Development Department for deposit into the
12 Oregon Production Investment Fund an amount equal to the total amount that would otherwise be
13 certified for tax credits during the **current or** upcoming fiscal year, based on the amount of con-
14 tributions and accompanying applications for credit received by the office during the fiscal year **and**
15 **reduced by the amount, if any, previously certified for the credit for the corresponding fiscal**
16 **year.**

17 “(2) If the Legislative Assembly makes the election allowed in subsection (1) of this section:

18 **“(a) No additional amount of credits may be certified for the corresponding fiscal year;**
19 **and**

20 “[(a)] **(b)** Any contributions to the Oregon Production Investment Fund made for the upcoming
21 fiscal year and for which an application for a credit under ORS 315.514 is [pending] **denied** shall,
22 at the request of the taxpayer, be refunded by the Oregon Film and Video Office[; and].

23 “[(b) A credit under ORS 315.514 may not be claimed for any contribution made during the current
24 fiscal year.]

25 **“SECTION 6. The amendments to ORS 315.516 by section 5 of this 2018 Act apply to fiscal**
26 **years beginning on or after July 1, 2017.**

27 **“SECTION 7.** ORS 315.264 is amended to read:

28 “315.264. (1)(a) A credit against the tax otherwise due under ORS chapter 316 shall be allowed
29 a taxpayer in an amount equal to a percentage of employment-related expenses of a type allowable
30 as a credit pursuant to section 21 of the Internal Revenue Code, notwithstanding the limitation im-
31 posed by section 21(c) of the Internal Revenue Code, and limited as provided in paragraph (c) of this
32 subsection.

33 “(b) The credit allowed under this section may be claimed for expenses for care of a qualifying
34 individual that allow a [nonmarried] taxpayer to seek employment or to attend school **as a**
35 **degree-seeking student enrolled** on a full-time or part-time basis.

36 “(c) The employment-related expenses for which a credit is claimed under this section may not
37 exceed the [lesser] **least** of:

38 “(A) **The combination of earned** income [earned in] **subject to taxation by Oregon** and [re-
39 ported] **reportable** on the taxpayer’s return **and imputed income**; [or]

40 **“(B) The lesser amount attributable to either spouse of the combination of the spouse’s**
41 **imputed income and the spouse’s earned income subject to taxation by Oregon, if reportable**
42 **on a joint return; or**

43 “[(B)] (C) \$12,000 for a taxpayer for which there is one qualifying individual, or \$24,000 for a
44 taxpayer for which there are two or more qualifying individuals.

45 “(d) The limitations in paragraph [(c)] (c)(C) of this subsection shall be reduced by the aggregate

1 amount excludable under section 129 of the Internal Revenue Code for the tax year.

2 “(2) The applicable percentage described in subsection (1) of this section shall be determined in
3 accordance with the following table:

4 “

5
6 Greater of Federal
7 or Oregon Adjusted

8 Gross Income, as Applicable percentage based on age of youngest
9 Percentage of Federal qualifying individual on January 1 of tax year
10 Poverty Level

11 “

				At least 3 years but less than 6	At least 6 years but less than 13, or at least 13 but less than 18 if disabled	18 years or older if disabled
12						
13						
14						
15						
16						
17	Greater	Less than	Under 3			
18	than	or equal to	years			
19	0%	10%	10%	8%	5%	5%
20	10%	20%	20%	18%	15%	5%
21	20%	30%	30%	28%	25%	10%
22	30%	40%	40%	38%	35%	20%
23	40%	50%	50%	48%	45%	30%
24	50%	60%	55%	53%	50%	35%
25	60%	70%	60%	58%	55%	40%
26	70%	80%	65%	63%	60%	45%
27	80%	90%	70%	68%	65%	50%
28	90%	110%	75%	73%	70%	55%
29	110%	120%	71%	69%	66%	50%
30	120%	130%	66%	64%	61%	45%
31	130%	140%	61%	59%	56%	39%
32	140%	150%	55%	53%	50%	33%
33	150%	160%	50%	48%	45%	28%
34	160%	200%	47%	45%	42%	25%
35	200%	210%	45%	43%	40%	22%
36	210%	220%	40%	38%	35%	20%
37	220%	230%	35%	33%	30%	15%
38	230%	240%	30%	28%	25%	10%
39	240%	250%	20%	18%	15%	5%
40	250%	260%	10%	8%	5%	5%
41	260%	280%	6%	6%	4%	4%
42	280%	300%	4%	4%	4%	4%
43	300%	-	0%	0%	0%	0%

44 “

45

1 “(3) The applicable percentage for a household in excess of eight members shall be calculated
2 as if for a household size of eight members.

3 “[(4) *The credit under this section is not allowed:*]

4 “[(a) *To a taxpayer with federal adjusted gross income or Oregon adjusted gross income, whichever
5 is greater, in excess of 300 percent of the federal poverty level; or]*

6 “[(b) *To any taxpayer who does not report earned income that is taxable by Oregon on the
7 taxpayer’s return.*]

8 **“(4) For the purposes of calculating the allowed amount of credit applicable to a student:**

9 **“(a) Imputed income shall equal \$1,000 per qualified month per student for a student for
10 whom there is one qualifying individual, or \$2,000 per qualified month per student for a stu-
11 dent for which there are two or more qualifying individuals.**

12 **“(b) A qualified month is any month in which the student is a full-time or part-time
13 student and attending school, or a summer month in a calendar year in which the student
14 was enrolled in a degree-seeking program in both the spring and fall academic terms.**

15 **“(c) The school ratio shall equal 100 percent for a month for which a student is qualified
16 for student financial aid as a full-time student, and 70 percent for a month for which a stu-
17 dent is qualified for student financial aid as a part-time student.**

18 **“(d) If a student is a part-time student for a portion of the year and a full-time student
19 for the balance of the year, the credit shall be prorated. The school ratio applicable to the
20 summer months, if any, shall be the school ratio applicable to the immediately preceding
21 spring month.**

22 **“(5) Notwithstanding subsections (2) and (3) of this section, for a student with adjusted
23 gross income as a percentage of the federal poverty level that is less than or equal to 110
24 percent, the amount of credit shall be the greater of:**

25 **“(a) The credit calculated using subsection (2) of this section; or**

26 **“(b) The product of the applicable percentage, as shown in subsection (2) of this section,
27 corresponding to an adjusted gross income percentage of 110 percent, multiplied by:**

28 **“(A) The lesser of expenses for care of a qualifying individual or imputed income; and**

29 **“(B) The school ratio.**

30 **“(6) The credit under this section is not allowed to a taxpayer with federal adjusted gross
31 income or Oregon adjusted gross income, whichever is greater, in excess of 300 percent of
32 the federal poverty level.**

33 “[(5)] (7) In order to ensure compliance with the eligibility requirements of the credit allowed
34 under this section, the Department of Revenue shall be afforded access to utilization data main-
35 tained by the Department of Human Services in its administration of the Employment Related Day
36 Care program.

37 “[(6)] (8) The Department of Revenue may assess a penalty in an amount not to exceed 25 per-
38 cent of the amount of credit claimed by the taxpayer against any taxpayer who knowingly claims
39 or attempts to claim any amount of credit under this section for which the taxpayer is ineligible,
40 or against any individual who knowingly assists another individual in claiming any amount of credit
41 for which the individual is ineligible.

42 “[(7)] (9) The Department of Revenue may adopt rules for carrying out the provisions of this
43 section and prescribe the form used to claim a credit and the information required on the form.

44 “[(8)] (10) A nonresident individual shall be allowed the credit computed in the same manner
45 and subject to the same limitations as the credit allowed a resident by subsection (1) of this section.

1 However, the credit shall be prorated using the proportion provided in ORS 316.117.

2 “[9] (11) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
3 if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the credit
4 allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

5 “[10] (12) If a change in the status of a taxpayer from resident to nonresident or from non-
6 resident to resident occurs, the credit allowed by this section shall be determined in a manner
7 consistent with ORS 316.117.

8 “[11] (13) If the amount allowable as a credit under this section, when added to the sum of the
9 amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts
10 and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for
11 the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter
12 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS
13 316.502.

14 “[12] (14) Any amount that is refunded to the taxpayer under this section and that is in excess
15 of the tax liability of the taxpayer does not bear interest.

16 “**SECTION 8. The amendments to ORS 315.264 by section 7 of this 2018 Act apply to tax**
17 **years beginning on or after January 1, 2018.**

18 “**SECTION 9. This 2018 Act takes effect on the 91st day after the date on which the 2018**
19 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.”**

20
