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.

Limits expenses for which dependent care income tax credit may be claimed to lesser of each spouse's income on joint return and to earned income taxable by Oregon.

Modifies annual limitation on total amount of tax credits for production or collection of bovine manure allowed for all taxpayers by tying limitation to calendar year instead of tax year. Modifies terms.

Removes restrictions on types of sponsoring entities of manufactured dwelling parks for which lending institution may be allowed tax credit for qualified loan.

Applies to tax years beginning on or after January 1, 2019.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to tax expenditures; creating new provisions; amending ORS 314.752, 315.176, 315.184, 315.264 and 317.097; and prescribing an effective date.

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

SECTION 1. ORS 315.264 is amended to read:

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

(b) The credit allowed under this section may be claimed for expenses for care of a qualifying individual that allow a nonmarried taxpayer to seek employment or to attend school on a full-time or part-time basis.

(c) The employment-related expenses for which a credit is claimed under this section may not exceed the lesser of:

(A) Earned income [earned in] taxable by Oregon and reported on the taxpayer's return; [or]

(B) The lesser amount of earned income taxable by Oregon earned by each spouse, if reported on a joint return; or

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

(d) The limitations in paragraph [(c) (e)](c)(C) of this subsection shall be reduced by the aggregate amount excludable under section 129 of the Internal Revenue Code for the tax year.

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

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<th>Greater of Federal</th>
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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.

LC 223
or Oregon Adjusted Gross Income, as applicable percentage based on age of youngest qualifying individual on January 1 of tax year

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<tr>
<th>Percentage of Federal Poverty Level</th>
<th>At least 6 years</th>
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(3) The applicable percentage for a household in excess of eight members shall be calculated as if for a household size of eight members.

(4) The credit under this section is not allowed:

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

(b) To any taxpayer who does not report earned income that is taxable by Oregon on the
taxpayer's return.

(5) In order to ensure compliance with the eligibility requirements of the credit allowed under this section, the Department of Revenue shall be afforded access to utilization data maintained by the Department of Human Services in its administration of the Employment Related Day Care program.

(6) The Department of Revenue may assess a penalty in an amount not to exceed 25 percent of the amount of credit claimed by the taxpayer against any taxpayer who knowingly claims or attempts to claim any amount of credit under this section for which the taxpayer is ineligible, or against any individual who knowingly assists another individual in claiming any amount of credit for which the individual is ineligible.

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

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

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

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

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

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

SECTION 2. ORS 315.176 is amended to read:

315.176. (1) As used in this section:

(a) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been converted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct biomass energy use at the biofuel producer's site.

(b) "Biofuel producer" means a person that, through activities in Oregon:

(1) Alters the physical makeup of biomass to convert it into biofuel;

(2) Changes one biofuel into another type of biofuel; or

(3) Uses biomass in Oregon to produce energy.

(c) "[Bovine] Cow manure" means, subject to subsection (2) of this section, [cow] manure that is produced by cows on Oregon farms.

(d) "[Bovine] Cow manure producer or collector" means a person that produces or collects [bovine] cow manure in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(2) The Director of Agriculture may adopt rules to define criteria, only as the criteria apply to [bovine] cow manure, to determine additional characteristics of [bovine] cow manure for purposes of this section.
(3)(a) A [bovine] cow manure producer or collector shall be allowed a credit against the taxes that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for the collection of [bovine] cow manure in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

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

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

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

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

(b) The State Department of Agriculture may charge and collect a fee from taxpayers for certification of credits under this section. The fee may not exceed the cost to the department of issuing certifications.

(6) All fees collected under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund. Moneys deposited under this section are continuously appropriated to the department for the purpose of administering and enforcing the provisions of this section.

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

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

(c) The Department of Revenue shall prescribe by rule the manner and the timing of submission of the information to the department.

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

(9) Each [bovine] cow manure producer or collector shall maintain a record of the written certification of the amount of the tax credit under this section for a period of at least five years after the tax year in which the credit is claimed and provide the written certification to the Department of Revenue upon request.

(10) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

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

(12) In the case of a credit allowed under this section:
(a) A nonresident shall be allowed the credit under this section in the proportion provided in
ORS 316.117.
(b) If a change in the status of the taxpayer from resident to nonresident or from nonresident
to resident occurs, the credit allowed by this section shall be determined in a manner consistent
with ORS 316.117.
(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the
department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this
section shall be prorated or computed in a manner consistent with ORS 314.085.

SECTION 3. ORS 315.184 is amended to read:
ORS 315.184. The total amount [claimed] certified by the State Department of Agriculture for tax
credits for the production or collection of [bovine] cow manure under ORS 315.176 may not exceed
$5 million for all taxpayers for any [tax] calendar year. If the [State] department [of Agriculture]
receives applications for the credit sufficient to exceed this amount, the department shall by rule
proportionately reduce the amount of certified credits among all taxpayers applying for the credit.

SECTION 4. ORS 317.097 is amended to read:
ORS 317.097. (1) As used in this section:
(a) “Annual rate” means the yearly interest rate specified on the note, and not the annual per-
centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.
(b) “Finance charge” means the total of all interest, loan fees, interest on any loan fees financed
by the lending institution, and other charges related to the cost of obtaining credit.
(c) “Lending institution” means any insured institution, as that term is defined in ORS 706.008,
any mortgage banking company that maintains an office in this state or any community development
corporation that is organized under the Oregon Nonprofit Corporation Law.
(d) “Manufactured dwelling park” has the meaning given that term in ORS 446.003.
(e) “Nonprofit corporation” means a corporation that is exempt from income taxes under section
501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2016.
(f) “Preservation project” means housing that was previously developed as affordable housing
with a contract for rent assistance from the United States Department of Housing and Urban De-
velopment or the United States Department of Agriculture and that is being acquired by a spon-
soring entity.
(g) “Qualified assignee” means any investor participating in the secondary market for real estate
loans.
(h) “Qualified borrower” means any borrower that is a sponsoring entity that has a controlling
interest in the real property that is financed by a qualified loan. A controlling interest includes, but
is not limited to, a controlling interest in the general partner of a limited partnership that owns the
real property.
(i) “Qualified loan” means:
(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to re-
finance a loan that meets the criteria described in subsection (5) of this section; or
(B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf
of the Housing and Community Services Department, the proceeds of which are used to finance or
refinance a loan that meets the criteria described in subsection (5) of this section.

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

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

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

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

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

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

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

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

(b) A qualified borrower who:

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

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

(i) Housing created by the loan is or will be occupied by households earning less than 80 percent
of the area median income; and

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

(c) [(Subject to subsection (14) of this section,)] A qualified borrower who:
(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing consisting of a manufactured dwelling park; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed; or

d) A qualified borrower who:

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

(B) Provides a written certification executed by the Housing and Community Services Department that the housing preserved by the loan:

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

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

(6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this section must be treated the same as a loan that meets the criteria stated in subsection (5) of this section.

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

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

(b) States that the qualified loan is within the limitation imposed by subsection (8) of this section.

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

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

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

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

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

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

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

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

((14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park under subsection (5)(c) of this section must be a nonprofit corporation, manufactured dwelling park nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706 or housing authority.)

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

SECTION 5. The amendments to ORS 315.176, 315.184, 315.264 and 317.097 by sections 1 to 4 of this 2018 Act apply to tax years beginning on or after January 1, 2019.

SECTION 6. ORS 314.752 is amended to read:

314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are allowable to the shareholders of the S corporation.

(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on income of the shareholder of an S corporation, there shall be taken into account the shareholder's pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), recapture or recovery shall be passed through to shareholders in pro rata shares as determined in the manner prescribed under section 1377(a) of the Internal Revenue Code.

(3) The character of any item included in a shareholder's pro rata share under subsection (2) of this section shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

(4) If the shareholder is a nonresident and there is a requirement applicable for the business tax credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS 316.117, then that provision shall apply to the nonresident shareholder.

(5) As used in this section, “business tax credit” means the following credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.176 ([bovine] cow manure), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation
facilities), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership
zones), ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions),
ORS 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS
315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Ac-
count contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise
zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-
search expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter
774, Oregon Laws 2013 (alternative fuel vehicle contributions).

SECTION 7. This 2018 Act takes effect on the 91st day after the date on which the 2018
regular session of the Seventy-ninth Legislative Assembly adjourns sine die.