

Requested by Representative MARSH

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4028**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of  
2 the line and line 3 and insert “ORS 314.752 and 318.031; and prescribing an  
3 effective date.”.

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

5 **“SECTION 1. Sections 2 and 3 of this 2018 Act are added to and  
6 made a part of ORS chapter 315.**

7 **“SECTION 2. (1) A credit against the taxes that are otherwise due  
8 under ORS chapter 316 or, if the taxpayer is a corporation, under ORS  
9 chapter 317 or 318, is allowed to a taxpayer for certified weatherization  
10 and retrofit affordability contributions made by the taxpayer during  
11 the tax year to the Weatherization and Retrofit Affordability Fund  
12 established under section 4 of this 2018 Act.**

13 **“(2)(a) The Department of Revenue shall, in cooperation with the  
14 Housing and Community Services Department, conduct an auction of  
15 tax credits under this section. The Department of Revenue may con-  
16 duct the auction in the manner that it determines is best suited to  
17 maximize the return to the state on the sale of tax credit certifications  
18 and shall announce a reserve bid prior to conducting the auction. The  
19 reserve amount shall be at least 95 percent of the total amount of the  
20 tax credit. The Department of Revenue shall deposit net receipts from  
21 the auction required under this section in the Weatherization and**

1 **Retrofit Affordability Fund.**

2 **“(b) The Housing and Community Services Department may adopt**  
3 **rules necessary for the administration of the auction.**

4 **“(c)(A) Moneys necessary to reimburse the Department of Revenue**  
5 **for the actual costs incurred by the department in administering an**  
6 **auction, not to exceed 0.25 percent of auction proceeds, are contin-**  
7 **uously appropriated to the Department of Revenue.**

8 **“(B) Moneys necessary to reimburse the Housing and Community**  
9 **Services Department for the actual costs incurred by the department**  
10 **in administering the credit, not to exceed 0.25 percent of auction pro-**  
11 **ceeds, are continuously appropriated to the Housing and Community**  
12 **Services Department.**

13 **“(3) Contributions made under this section shall be deposited in the**  
14 **Weatherization and Retrofit Affordability Fund.**

15 **“(4)(a) Upon receipt of a contribution, the Housing and Community**  
16 **Services Department shall, except as provided in section 3 of this 2018**  
17 **Act, issue to the taxpayer written certification of the amount certified**  
18 **for tax credit under this section to the extent the amount certified for**  
19 **tax credit, when added to all amounts previously certified for tax**  
20 **credit under this section, does not exceed \$9 million for the fiscal year**  
21 **in which certification is made.**

22 **“(b) The Housing and Community Services Department and the**  
23 **Department of Revenue are not liable, and a refund of a contributed**  
24 **amount need not be made, if a taxpayer that has received tax credit**  
25 **certification is unable to use all or a portion of the tax credit to offset**  
26 **the tax liability of the taxpayer.**

27 **“(5) To the extent the Housing and Community Services Depart-**  
28 **ment does not certify contributed amounts as eligible for a tax credit**  
29 **under this section, the taxpayer may request a refund of the amount**  
30 **the taxpayer contributed, and the Housing and Community Services**

1 Department shall refund that amount.

2 “(6)(a) Except as provided in paragraph (b) of this subsection, a tax  
3 credit claimed under this section may not exceed the tax liability of  
4 the taxpayer and may not be carried over to another tax year.

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

13 “(c) A taxpayer is not eligible for a tax credit under this section if  
14 the first tax year for which the credit would otherwise be allowed be-  
15 gins on or after January 1, 2024.

16 “(7) If a tax credit is claimed under this section by a nonresident  
17 or part-year resident taxpayer, the amount shall be allowed without  
18 proration under ORS 316.117.

19 “(8) If the amount of contribution for which a tax credit certifica-  
20 tion is made is allowed as a deduction for federal tax purposes, the  
21 amount of the contribution shall be added to federal taxable income  
22 for Oregon tax purposes.

23 **“SECTION 3. (1) In lieu of the issuance of certifications for tax**  
24 **credit under section 2 of this 2018 Act by the Housing and Community**  
25 **Services Department, the Legislative Assembly may, no later than 30**  
26 **days prior to the end of each fiscal year, appropriate to the Housing**  
27 **and Community Services Department for deposit into the**  
28 **Weatherization and Retrofit Affordability Fund established under sec-**  
29 **tion 4 of this 2018 Act an amount equal to the total amount that would**  
30 **otherwise be certified for tax credits during the upcoming fiscal year,**

1 based on the amount of contributions and accompanying applications  
2 for credit received by the Housing and Community Services Depart-  
3 ment during the fiscal year.

4 “(2) If the Legislative Assembly makes the election allowed in sub-  
5 section (1) of this section:

6 “(a) Any contributions to the Weatherization and Retrofit  
7 Affordability Fund made for the upcoming fiscal year and for which  
8 an application for a credit under section 2 of this 2018 Act is pending  
9 shall, at the request of the taxpayer, be refunded by the Housing and  
10 Community Services Department; and

11 “(b) A credit under section 2 of this 2018 Act may not be claimed  
12 for any contribution made during the current fiscal year.

13 **“SECTION 4. (1) The Weatherization and Retrofit Affordability**  
14 **Fund is established in the State Treasury, separate and distinct from**  
15 **the General Fund. Interest earned by the Weatherization and Retrofit**  
16 **Affordability Fund shall be credited to the fund.**

17 “(2) Moneys in the Weatherization and Retrofit Affordability Fund  
18 shall consist of:

19 “(a) Amounts donated to the fund;

20 “(b) Amounts appropriated or otherwise transferred to the fund by  
21 the Legislative Assembly;

22 “(c) Other amounts deposited in the fund from any source; and

23 “(d) Interest earned by the fund.

24 “(3) Moneys in the fund are continuously appropriated to the  
25 Housing and Community Services Department. After the payment of  
26 refunds to taxpayers as described in sections 2 and 3 of this 2018 Act  
27 and payments to a tax credit marketer for marketing services provided  
28 by the marketer as described in section 5 of this 2018 Act, the balance  
29 remaining in the fund shall be used for:

30 “(a) Providing incentive payments to construction contractors

1 **undertaking energy improvement projects;**

2 **“(b) Providing funding for:**

3 **“(A) Developing improved methods for evaluating health hazards in**  
4 **affordable housing;**

5 **“(B) Developing improved methods for preventing or reducing**  
6 **health hazards in affordable housing;**

7 **“(C) Supporting the development of objective standards for identi-**  
8 **fying healthy affordable housing environments;**

9 **“(D) Evaluating the long-term cost effectiveness of activities de-**  
10 **scribed in subparagraphs (A) to (C) of this paragraph; and**

11 **“(E) Promoting the incorporation of methods and standards for the**  
12 **development of healthy affordable housing environments into ongoing**  
13 **practices and systems, including, but not limited to, practices and**  
14 **systems regarding fitness for habitation, construction, rehabilitation**  
15 **and maintenance of affordable housing; and**

16 **“(c) Providing grants for energy improvement projects intended to**  
17 **replace, or extend the economic lives of, manufactured dwellings**  
18 **owned and occupied by persons of low income or very low income or**  
19 **to improve water or sewer systems serving manufactured dwellings**  
20 **owned and occupied by persons of low income or very low income.**

21 **“(4) Expenditures from the fund are not subject to ORS 291.232 to**  
22 **291.260.**

23 **“SECTION 5. The Housing and Community Services Department**  
24 **may hire or contract with a marketer to market the tax credits de-**  
25 **scribed in section 2 of this 2018 Act to taxpayers.**

26 **“SECTION 6. Sections 2, 3 and 5 of this 2018 Act apply to tax years**  
27 **beginning on or after January 1, 2018, and before January 1, 2024.**

28 **“SECTION 7. ORS 314.752 is amended to read:**

29 **“314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits al-**  
30 **lowed or allowable to a C corporation for purposes of ORS chapter 317 or**

1 318 shall not be allowed to an S corporation. The business tax credits al-  
2 lowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
3 allowable to the shareholders of the S corporation.

4 “(2) In determining the tax imposed under ORS chapter 316, as provided  
5 under ORS 314.734, on income of the shareholder of an S corporation, there  
6 shall be taken into account the shareholder’s pro rata share of business tax  
7 credit (or item thereof) that would be allowed to the corporation (but for  
8 subsection (1) of this section) or recapture or recovery thereof. The credit (or  
9 item thereof), recapture or recovery shall be passed through to shareholders  
10 in pro rata shares as determined in the manner prescribed under section  
11 1377(a) of the Internal Revenue Code.

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

16 “(4) If the shareholder is a nonresident and there is a requirement appli-  
17 cable for the business tax credit that in the case of a nonresident the credit  
18 be allowed in the proportion provided in ORS 316.117, then that provision  
19 shall apply to the nonresident shareholder.

20 “(5) As used in this section, ‘business tax credit’ means the following  
21 credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish  
22 screening, by-pass devices, fishways), ORS 315.141 (biomass production for  
23 biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture  
24 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent  
25 care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-  
26 tributions for child care), ORS 315.237 (employee and dependent scholar-  
27 ships), ORS 315.271 (individual development accounts), ORS 315.304  
28 (pollution control facility), ORS 315.326 (renewable energy development con-  
29 tributions), ORS 315.331 (energy conservation projects), ORS 315.336 (trans-  
30 portation projects), ORS 315.341 (renewable energy resource equipment

1 manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation fa-  
2 cilities), ORS 315.506 (tribal taxes on reservation enterprise zones and res-  
3 ervation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514  
4 (film production development contributions), ORS 315.521 (university venture  
5 development funds), ORS 315.523 (employee training programs), ORS 315.533  
6 (low income community jobs initiative), ORS 315.675 (Trust for Cultural De-  
7 velopment Account contributions), ORS 317.097 (loans for affordable hous-  
8 ing), ORS 317.124 (long term enterprise zone facilities), ORS 317.147 (loans  
9 for agriculture workforce housing), ORS 317.152 (qualified research expenses)  
10 and ORS 317.154 (alternative qualified research expenses) and section 9,  
11 chapter 774, Oregon Laws 2013 (alternative fuel vehicle contributions) **and**  
12 **section 2 of this 2018 Act (Weatherization and Retrofit Affordability**  
13 **Fund contributions).**

14 **“SECTION 8.** ORS 318.031 is amended to read:

15 “318.031. It being the intention of the Legislative Assembly that this  
16 chapter and ORS chapter 317 shall be administered as uniformly as possible  
17 (allowance being made for the difference in imposition of the taxes), ORS  
18 305.140 and 305.150, ORS chapter 314 and the following sections are incor-  
19 porated into and made a part of this chapter: ORS 315.104, 315.141, 315.156,  
20 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506,  
21 315.507, 315.523 and 315.533 **and section 2 of this 2018 Act** (all only to the  
22 extent applicable to a corporation) and ORS chapter 317.

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

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