

Requested by HOUSE COMMITTEE ON REVENUE

**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 insert “ORS 315.264; and prescribing an effective date.”.

3 Delete line 3.

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

5 **“SECTION 1.** ORS 315.264 is amended to read:

6 “315.264. (1)(a) A credit against the tax otherwise due under ORS chapter  
7 316 shall be allowed a taxpayer in an amount equal to a percentage of  
8 employment-related expenses of a type allowable as a credit pursuant to  
9 section 21 of the Internal Revenue Code, notwithstanding the limitation im-  
10 posed by section 21(c) of the Internal Revenue Code, and limited as provided  
11 in paragraph (c) of this subsection.

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

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

18 “(A) **The combination of earned** income [*earned in*] **subject to taxation**  
19 **by Oregon and [*reported*] reportable** on the taxpayer’s return **and imputed**  
20 **income; [*or*]**

21 **“(B) The lesser amount attributable to either spouse of the combi-**

1 **nation of the spouse’s imputed income and the spouse’s earned income**  
 2 **subject to taxation by Oregon, if reportable on a joint return; or**

3 “[B)] (C) \$12,000 for a taxpayer for which there is one qualifying indi-  
 4 vidual, or \$24,000 for a taxpayer for which there are two or more qualifying  
 5 individuals.

6 “(d) The limitations in paragraph [(c)] (c)(C) of this subsection shall be  
 7 reduced by the aggregate amount excludable under section 129 of the Inter-  
 8 nal Revenue Code for the tax year.

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

11 “ \_\_\_\_\_

12 Greater of Federal						
13 or Oregon Adjusted						
14 Gross Income, as		14 Applicable percentage based on age of youngest				
15 Percentage of Federal		15 qualifying individual on January 1 of tax year				
16 Poverty Level						
17 “ _____						
		18 At least 6 years				
		19 but less than				
		20 At least		20 13, or at least		
		21 3 years		21 13 but less		21 18 years or
22 Greater	22 Less than	22 Under 3	22 but less	22 than 18 if	22 older if	
23 than	23 or equal to	23 years	23 than 6	23 disabled	23 disabled	
24 0%	24 10%	24 10%	24 8%	24 5%	24 5%	
25 10%	25 20%	25 20%	25 18%	25 15%	25 5%	
26 20%	26 30%	26 30%	26 28%	26 25%	26 10%	
27 30%	27 40%	27 40%	27 38%	27 35%	27 20%	
28 40%	28 50%	28 50%	28 48%	28 45%	28 30%	
29 50%	29 60%	29 55%	29 53%	29 50%	29 35%	
30 60%	30 70%	30 60%	30 58%	30 55%	30 40%	

1	70%	80%	65%	63%	60%	45%
2	80%	90%	70%	68%	65%	50%
3	90%	110%	75%	73%	70%	55%
4	110%	120%	71%	69%	66%	50%
5	120%	130%	66%	64%	61%	45%
6	130%	140%	61%	59%	56%	39%
7	140%	150%	55%	53%	50%	33%
8	150%	160%	50%	48%	45%	28%
9	160%	200%	47%	45%	42%	25%
10	200%	210%	45%	43%	40%	22%
11	210%	220%	40%	38%	35%	20%
12	220%	230%	35%	33%	30%	15%
13	230%	240%	30%	28%	25%	10%
14	240%	250%	20%	18%	15%	5%
15	250%	260%	10%	8%	5%	5%
16	260%	280%	6%	6%	4%	4%
17	280%	300%	4%	4%	4%	4%
18	300%	-	0%	0%	0%	0%

19 “ \_\_\_\_\_

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

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

23 “[*(a) To a taxpayer with federal adjusted gross income or Oregon adjusted  
24 gross income, whichever is greater, in excess of 300 percent of the federal pov-  
25 erty level; or]*

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

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

30 “(a) **Imputed income shall equal \$1,000 per qualified month per**

1 student for a student for whom there is one qualifying individual, or  
2 \$2,000 per qualified month per student for a student for which there  
3 are two or more qualifying individuals.

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

8 “(c) The school ratio shall equal 100 percent for a month for which  
9 a student is qualified for student financial aid as a full-time student,  
10 and 70 percent for a month for which a student is qualified for student  
11 financial aid as a part-time student.

12 “(d) If a student is a part-time student for a portion of the year and  
13 a full-time student for the balance of the year, the credit shall be  
14 prorated. The school ratio applicable to the summer months, if any,  
15 shall be the school ratio applicable to the immediately preceding  
16 spring month.

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

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

22 “(b) The product of imputed income multiplied by the school ratio  
23 multiplied by the applicable percentage, as shown in subsection (2) of  
24 this section, corresponding to an adjusted gross income percentage of  
25 110 percent.

26 “(6) If the greater of federal or Oregon adjusted gross income as a  
27 percentage of the federal poverty level is less than or equal to 110  
28 percent, the credit determined under subsection (5) of this section  
29 shall be calculated as if the percentage were 110 percent.

30 “(7) The credit under this section is not allowed to a taxpayer with

1 **federal adjusted gross income or Oregon adjusted gross income,**  
2 **whichever is greater, in excess of 300 percent of the federal poverty**  
3 **level.**

4 “[5] (8) In order to ensure compliance with the eligibility requirements  
5 of the credit allowed under this section, the Department of Revenue shall  
6 be afforded access to utilization data maintained by the Department of Hu-  
7 man Services in its administration of the Employment Related Day Care  
8 program.

9 “[6] (9) The Department of Revenue may assess a penalty in an amount  
10 not to exceed 25 percent of the amount of credit claimed by the taxpayer  
11 against any taxpayer who knowingly claims or attempts to claim any amount  
12 of credit under this section for which the taxpayer is ineligible, or against  
13 any individual who knowingly assists another individual in claiming any  
14 amount of credit for which the individual is ineligible.

15 “[7] (10) The Department of Revenue may adopt rules for carrying out  
16 the provisions of this section and prescribe the form used to claim a credit  
17 and the information required on the form.

18 “[8] (11) A nonresident individual shall be allowed the credit computed  
19 in the same manner and subject to the same limitations as the credit allowed  
20 a resident by subsection (1) of this section. However, the credit shall be  
21 prorated using the proportion provided in ORS 316.117.

22 “[9] (12) If a change in the taxable year of a taxpayer occurs as de-  
23 scribed in ORS 314.085, or if the Department of Revenue terminates the  
24 taxpayer’s taxable year under ORS 314.440, the credit allowed by this section  
25 shall be prorated or computed in a manner consistent with ORS 314.085.

26 “[10] (13) If a change in the status of a taxpayer from resident to non-  
27 resident or from nonresident to resident occurs, the credit allowed by this  
28 section shall be determined in a manner consistent with ORS 316.117.

29 “[11] (14) If the amount allowable as a credit under this section, when  
30 added to the sum of the amounts allowable as payment of tax under ORS

1 316.187 or 316.583, other tax prepayment amounts and other refundable credit  
2 amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax  
3 year after application of any nonrefundable credits allowable for purposes  
4 of ORS chapter 316 for the tax year, the amount of the excess shall be re-  
5 funded to the taxpayer as provided in ORS 316.502.

6 “[~~(12)~~] (15) Any amount that is refunded to the taxpayer under this sec-  
7 tion and that is in excess of the tax liability of the taxpayer does not bear  
8 interest.

9 **“SECTION 2. The amendments to ORS 315.264 by section 1 of this**  
10 **2018 Act apply to tax years beginning on or after January 1, 2018.**

11 **“SECTION 3. This 2018 Act takes effect on the 91st day after the**  
12 **date on which the 2018 regular session of the Seventy-ninth Legislative**  
13 **Assembly adjourns sine die.”.**

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