

House Bill 2823

Sponsored by Representative EVANS

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**.

Creates income tax credit for unreimbursed expenses of certain public school teachers and adjunct instructors.

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

1
2 Relating to a tax credit for educator classroom expenses; creating new provisions; amending ORS
3 314.752 and 318.031; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Eligible educator" means an elementary or secondary school teacher at a public**
8 **school or an adjunct instructor who teaches at least six credit hours in the tax year at an**
9 **eligible institution.**

10 (b) **"Eligible expenses" means unreimbursed expenses of the types described in section**
11 **62(a)(2)(D) of the Internal Revenue Code that are incurred by an eligible educator.**

12 (c) **"Eligible institution" means a public university listed in ORS 352.002, the Oregon**
13 **Health and Science University, a community college operated under ORS chapter 341 or any**
14 **other public educational institution in this state that is authorized by law to provide a pro-**
15 **gram of education for kindergarten through grade 12.**

16 (2) **A credit against the taxes otherwise due under ORS chapter 316 shall be allowed for**
17 **eligible expenses incurred during the tax year. The amount of credit shall equal the lesser**
18 **of:**

19 (a) **The amount of eligible expenses; or**

20 (b) **\$250.**

21 (3) **The credit allowed under this section in one tax year may not exceed the tax liability**
22 **of the taxpayer.**

23 (4) **If a credit allowed under this section is claimed, the amount upon which the credit**
24 **is based that is allowed or allowable as a deduction from federal taxable income under section**
25 **62 of the Internal Revenue Code shall be added to federal taxable income in determining**
26 **Oregon taxable income.**

27 (5)(a) **A nonresident shall be allowed the credit under this section in the proportion pro-**
28 **vided in ORS 316.117.**

29 (b) **If a change in the status of a taxpayer from resident to nonresident or from nonres-**
30 **ident to resident occurs, the credit allowed under this section shall be determined in a**

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 **manner consistent with ORS 316.117.**

2 (c) **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**
4 **credit allowed under this section shall be prorated or computed in a manner consistent with**
5 **ORS 314.085.**

6 (6) **The Department of Education shall adopt rules that establish policies and procedures**
7 **for certifying taxpayers as eligible educators for purposes of the tax credit allowed under this**
8 **section.**

9 **SECTION 3.** ORS 314.752, as amended by section 7, chapter 108, Oregon Laws 2018, is amended
10 to read:

11 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
12 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
13 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
14 allowable to the shareholders of the S corporation.

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

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

24 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
25 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
26 316.117, then that provision shall apply to the nonresident shareholder.

27 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104
28 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
29 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
30 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS
31 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee
32 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution
33 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy
34 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-
35 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
36 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),
37 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS
38 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS
39 315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Ac-
40 count contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise
41 zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-
42 search expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter
43 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and section 2, chapter 108, Oregon
44 Laws 2018 (Opportunity Grant Fund contributions), **and section 2 of this 2019 Act (instruction**
45 **expenses).**

1 **SECTION 4.** ORS 318.031, as amended by section 8, chapter 108, Oregon Laws 2018, is amended
2 to read:

3 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
4 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
5 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
6 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,
7 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523 and 315.533 and section
8 2, chapter 108, Oregon Laws 2018, **and section 2 of this 2019 Act** (all only to the extent applicable
9 to a corporation) and ORS chapter 317.

10 **SECTION 5.** **Section 2 of this 2019 Act applies to tax years beginning on or after January**
11 **1, 2019.**

12 **SECTION 6.** **This 2019 Act takes effect on the 91st day after the date on which the 2019**
13 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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