

House Bill 2721

Sponsored by Representative ZIKA (Presession filed.)

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**.

Allows dependent care income tax credit to be claimed for expenses to allow taxpayer or spouse to attend school as enrolled degree-seeking student. Limits expenses to combination of earned income taxable by Oregon and imputed income, using lesser amount attributable to either spouse on joint return. Provides for calculation based upon imputed income to allow degree-seeking enrolled student to claim credit.

Applies to tax years beginning on or after January 1, 2020, and before January 1, 2022.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to use by enrolled degree-seeking student of tax credit for dependent care expenses; cre-
3 ating new provisions; amending ORS 315.264; and prescribing an effective date.

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

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 316 shall be allowed
7 a taxpayer in an amount equal to a percentage of employment-related expenses of a type allowable
8 as a credit pursuant to section 21 of the Internal Revenue Code, notwithstanding the limitation im-
9 posed by section 21(c) of the Internal Revenue Code, and limited as provided in paragraph (c) of this
10 subsection.

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

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

16 (A) **The combination of** earned income taxable by Oregon and reportable on the taxpayer's
17 return **and imputed income;**

18 (B) The lesser amount [*of earned income taxable by Oregon earned by either spouse,*] **attributable**
19 **to either spouse of the combination of the spouse's imputed income and the spouse's earned**
20 **income subject to taxation by Oregon,** if reportable on a joint return; or

21 (C) \$12,000 for a taxpayer for which there is one qualifying individual, or \$24,000 for a taxpayer
22 for which there are two or more qualifying individuals.

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

25 (2) The applicable percentage described in subsection (1) of this section shall be determined in
26 accordance with the following table:
27
28

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.

Greater of Federal or Oregon Adjusted Gross Income, as Percentage of Federal Poverty Level		Applicable percentage based on age of youngest qualifying individual on January 1 of tax year				
		At least 6 years but less than 13, or at least 3 years 13 but less 18 years or but less than 18 if older if than 6 disabled disabled				
Greater than	Less than or equal to	Under 3 years	At least 3 years but less than 6	At least 13, or at least 13 but less than 18 if disabled	At least 13, or at least 13 but less than 18 if disabled	18 years or older if disabled
0%	10%	10%	8%	5%	5%	
10%	20%	20%	18%	15%	5%	
20%	30%	30%	28%	25%	10%	
30%	40%	40%	38%	35%	20%	
40%	50%	50%	48%	45%	30%	
50%	60%	55%	53%	50%	35%	
60%	70%	60%	58%	55%	40%	
70%	80%	65%	63%	60%	45%	
80%	90%	70%	68%	65%	50%	
90%	110%	75%	73%	70%	55%	
110%	120%	71%	69%	66%	50%	
120%	130%	66%	64%	61%	45%	
130%	140%	61%	59%	56%	39%	
140%	150%	55%	53%	50%	33%	
150%	160%	50%	48%	45%	28%	
160%	200%	47%	45%	42%	25%	
200%	210%	45%	43%	40%	22%	
210%	220%	40%	38%	35%	20%	
220%	230%	35%	33%	30%	15%	
230%	240%	30%	28%	25%	10%	
240%	250%	20%	18%	15%	5%	
250%	260%	10%	8%	5%	5%	
260%	280%	6%	6%	4%	4%	
280%	300%	4%	4%	4%	4%	
300%	-	0%	0%	0%	0%	

(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 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.

1 (5) For the purposes of calculating the allowed amount of credit applicable to a student:

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

5 (b) A qualified month is any month in which the student is a full-time or part-time stu-
 6 dent and attending school, or a summer month in a calendar year in which the student was
 7 enrolled in a 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 a student is qualified
 9 for student financial aid as a full-time student, and 70 percent for a month for which a stu-
 10 dent is qualified for student financial aid as a part-time student.

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

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

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

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

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

22 (B) The school ratio.

23 [(5)] (7) In order to ensure compliance with the eligibility requirements of the credit allowed
 24 under this section, the Department of Revenue shall be afforded access to utilization data main-
 25 tained by the Department of Human Services in its administration of the Employment Related Day
 26 Care program.

27 [(6)] (8) The Department of Revenue may assess a penalty in an amount not to exceed 25 percent
 28 of the amount of credit claimed by the taxpayer against any taxpayer who knowingly claims or at-
 29 tempts to claim any amount of credit under this section for which the taxpayer is ineligible, or
 30 against any individual who knowingly assists another individual in claiming any amount of credit
 31 for which the individual is ineligible.

32 [(7)] (9) The Department of Revenue may adopt rules for carrying out the provisions of this
 33 section and prescribe the form used to claim a credit and the information required on the form.

34 [(8)] (10) A nonresident individual shall be allowed the credit computed in the same manner and
 35 subject to the same limitations as the credit allowed a resident by subsection (1) of this section.
 36 However, the credit shall be prorated using the proportion provided in ORS 316.117.

37 [(9)] (11) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
 38 if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit
 39 allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

40 [(10)] (12) If a change in the status of a taxpayer from resident to nonresident or from nonresi-
 41 dent to resident occurs, the credit allowed by this section shall be determined in a manner consist-
 42 ent with ORS 316.117.

43 [(11)] (13) If the amount allowable as a credit under this section, when added to the sum of the
 44 amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts
 45 and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for

1 the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter
2 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS
3 316.502.

4 ~~[(12)]~~ (14) Any amount that is refunded to the taxpayer under this section and that is in excess
5 of the tax liability of the taxpayer does not bear interest.

6 **SECTION 2. The amendments to ORS 315.264 by section 1 of this 2021 Act apply to tax**
7 **years beginning on or after January 1, 2020, and before January 1, 2022.**

8 **SECTION 3. This 2021 Act takes effect on the 91st day after the date on which the 2021**
9 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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