

## A-Engrossed House Bill 2752

Ordered by the House June 8  
Including House Amendments dated June 8

Sponsored by Representatives CLEM, HOLVEY; Representatives BARKER, BUCKLEY, C EDWARDS, GALIZIO, KOTEK, KRUMMEL, SHIELDS, WITT

### 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.

*[Modifies working family child care income tax credit to allow credit to be claimed for child care costs of taxpayers with disabilities that prevent their providing child care, being employed or attending school.]*

**Provides that taxpayer is not disqualified from claiming working family child care income tax credit solely because taxpayer's spouse has disability, if disability is such that it prevents taxpayer's spouse from providing child care, being gainfully employed, seeking employment and attending school.**

Applies to tax years beginning on or after January 1, 2007.

**Sunsets working family child care income tax credit on January 2, 2014.**

Takes effect on 91st day following adjournment sine die.

### A BILL FOR AN ACT

Relating to the working family child care tax credit; creating new provisions; amending ORS 315.262 and 316.502; repealing ORS 315.262; and prescribing an effective date.

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

**SECTION 1.** ORS 315.262 is amended to read:

315.262. (1) As used in this section:

(a) "Child care" means care provided to a qualifying child of the taxpayer for the purpose of allowing the taxpayer to be gainfully employed, to seek employment or to attend school on a full-time or part-time basis, except that the term does not include care provided by:

(A) The child's parent or guardian, unless the care is provided in a certified or registered child care facility; or

(B) A person who has a relationship to the taxpayer that is described in section 152(a) of the Internal Revenue Code who has not yet attained 19 years of age at the close of the tax year.

(b) "Child care expenses" means the costs associated with providing child care to a qualifying child of a qualified taxpayer.

**(c) "Disability" means a physical or cognitive condition that results in a person requiring assistance with activities of daily living.**

[(c)] **(d) "Earned income"** has the meaning given that term in section 32 of the Internal Revenue Code.

[(d)] **(e) "Qualified taxpayer"** means a taxpayer:

(A) Who is an Oregon resident with at least \$6,000 of earned income for the tax year or who is a nonresident of Oregon with at least \$6,000 of earned income from Oregon sources for the tax year;

(B) With federal adjusted gross income for the tax year that does not exceed 250 percent of the

**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 federal poverty level;

2 (C) With Oregon adjusted gross income for the tax year that does not exceed 250 percent of the  
3 federal poverty level; and

4 (D) Who does not have more than the maximum amount of disqualified income under section  
5 32(i) of the Internal Revenue Code that is allowed to a taxpayer entitled to the earned income tax  
6 credit for federal tax purposes.

7 [(e)] (f) “Qualifying child” has the meaning given that term in section 152 of the Internal Re-  
8 venue Code except that it is limited to an individual who is under 13 years of age, or who is a dis-  
9 abled child, as that term is defined in ORS 316.099.

10 **(2) A taxpayer is not disqualified from claiming the credit under this section solely be-**  
11 **cause the taxpayer’s spouse has a disability, if the disability is such that it prevents the**  
12 **taxpayer’s spouse from providing child care, being gainfully employed, seeking employment**  
13 **and attending school. The Department of Revenue may require that a physician verify the**  
14 **existence of the disability and its severity.**

15 [(2)] (3) A qualified taxpayer shall be allowed a credit against the taxes otherwise due under  
16 ORS chapter 316 equal to the applicable percentage of the qualified taxpayer’s child care expenses  
17 (rounded to the nearest \$50).

18 [(3)] (4) The applicable percentage to be used in calculating the amount of the credit provided  
19 in this section shall be determined in accordance with the following table:

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22	Applicable	Greater of Oregon
23	Percentage	Adjusted Gross Income or
24		Federal Adjusted
25		Gross Income, as Percent
26		of Federal Poverty Level
27		
28	40	200 or less
29	36	Greater than 200 and less than
30		or equal to 210
31	32	Greater than 210 and less than
32		or equal to 220
33	24	Greater than 220 and less than
34		or equal to 230
35	16	Greater than 230 and less than
36		or equal to 240
37	8	Greater than 240 and less than
38		or equal to 250
39	0	Greater than 250 percent
40		of federal poverty level

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43 [(4)] (5) The department [of Revenue] may prescribe the form used to claim a credit and the in-  
44 formation required on the form. **The form may provide for verification of an individual’s disa-**  
45 **bility by a physician, if applicable, as described in subsection (2) of this section.**

1        [(5)] (6) In the case of a credit allowed under this section:

2        (a) A nonresident shall be allowed the credit under this section in the proportion provided in  
3        ORS 316.117.

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

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

10       (d) In the case of a qualified taxpayer who is married, a credit shall be allowed under this sec-  
11       tion only if:

12       (A) The taxpayer files a joint return;

13       (B) The taxpayer files a separate return and is legally separated or subject to a separate main-  
14       tenance agreement; or

15       (C) The taxpayer files a separate return and the taxpayer and the taxpayer's spouse reside in  
16       separate households on the last day of the tax year with the intent of remaining in separate  
17       households in the future.

18       [(6)] (7) If the amount allowable as a credit under this section, when added to the sum of the  
19       amounts allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax),  
20       other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by  
21       ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for  
22       purposes of ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the  
23       taxpayer as provided in ORS 316.502.

24       [(7)(a)] (8)(a) The minimum amount of earned income a taxpayer must earn in order to be a  
25       qualified taxpayer shall be adjusted for tax years beginning in each calendar year by multiplying  
26       \$6,000 by the ratio of the monthly averaged U.S. City Average Consumer Price Index for the 12  
27       consecutive months ending August 31 of the prior calendar year over the monthly averaged index  
28       for the second quarter of the calendar year 1998.

29       (b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City  
30       Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of  
31       Labor Statistics of the United States Department of Labor.

32       (c) If any adjustment determined under paragraph (a) of this subsection is not a multiple of \$50,  
33       the adjustment shall be rounded to the nearest multiple of \$50.

34       (d) Notwithstanding paragraphs (a) to (c) of this subsection, the adjusted minimum amount of  
35       earned income a taxpayer must earn may not exceed the amount an individual would earn if the  
36       individual worked 1,040 hours at the minimum wage established under ORS 653.025 and in effect on  
37       January 1 of the calendar year in which begins the tax year of the taxpayer, rounded to the next  
38       lower multiple of \$50.

39       **SECTION 2. The amendments to ORS 315.262 by section 1 of this 2007 Act apply to tax**  
40       **years beginning on or after January 1, 2007.**

41       **SECTION 3. ORS 315.262 is repealed on January 2, 2014.**

42       **SECTION 4.** ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, and sec-  
43       tion 60, chapter 832, Oregon Laws 2005, is amended to read:

44       316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall  
45       be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts avail-

1 able generally to meet any expense or obligation of the State of Oregon lawfully incurred.

2 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-  
3 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year  
4 exceed the sum of \$1 million.

5 (3) Moneys are continuously appropriated to the Department of Revenue to make[:]

6 [(a)] the refunds authorized under subsection (2) of this section.[: and]

7 [(b) *The refund payments in excess of tax liability authorized under ORS 315.262.*]

8 **SECTION 5. The amendments to ORS 316.502 by section 4 of this 2007 Act apply to tax**  
9 **years beginning on or after January 1, 2014.**

10 **SECTION 6. This 2007 Act takes effect on the 91st day after the date on which the reg-**  
11 **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**