

# House Bill 3102

Sponsored by Representative CLEM

## 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 employers that pay minimum wage to employees who are under 21 years of age and who perform agricultural labor.

Applies to tax years beginning on or after January 1, 2020, and before January 1, 2026.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to a tax credit for employers who pay the minimum wage rate to employees under 21 years  
3 of age who perform agricultural labor; creating new provisions; amending ORS 314.752 and  
4 318.031; and prescribing an effective date.

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

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

7 **SECTION 2. (1)(a) A credit against taxes that are otherwise due under ORS chapter 316**  
8 **or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer**  
9 **that employs and pays employees who are under 21 years of age and who perform agricul-**  
10 **tural labor at wage rates that are equal to the minimum wage rate established pursuant to**  
11 **ORS 653.025.**

12 **(b) Paragraph (a) of this subsection applies to employees who are under 21 years of age**  
13 **on January 1 of the tax year in which the wages are paid and who are not:**

14 **(A) Excluded from the provisions of ORS 653.010 to 653.261 under ORS 653.020; or**

15 **(B) Paid wages pursuant to ORS 653.027.**

16 **(2) The credit allowed under this section shall be equal to 15 percent of the total wages**  
17 **paid by the taxpayer to all of the taxpayer's employees described in subsection (1) of this**  
18 **section during the tax year.**

19 **(3) A taxpayer may not claim the credit allowed under subsection (2) of this section if the**  
20 **taxpayer has laid off, terminated or otherwise reduced the number of current employees who**  
21 **perform agricultural labor and to whom the taxpayer pays wages in an amount greater than**  
22 **the minimum wage rate, to fill a vacancy created by the taxpayer's lay off, termination or**  
23 **reduction in workforce, at a rate that is equal to the minimum wage rate.**

24 **(4) Prior to claiming the credit allowed under this section, a taxpayer is required to re-**  
25 **ceive written certification of eligibility from the Department of Revenue.**

26 **(5) If the amount allowable as a credit under this section, when added to the sum of the**  
27 **amounts allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (esti-**  
28 **imated tax), other tax prepayment amounts and other refundable credit amounts, exceeds the**  
29 **taxes imposed by ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable**  
30 **credits allowable for purposes of ORS chapter 316 for the tax year), the amount of the excess**

**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 shall be refunded to the taxpayer as provided in ORS 316.502.

2 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer  
3 in a particular tax year may be carried forward and offset against the taxpayer's tax liability  
4 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax  
5 year may be carried forward and used in the second succeeding tax year, and likewise any  
6 credit not used in that second succeeding tax year may be carried forward and used in the  
7 third succeeding tax year, but may not be carried forward for any tax year thereafter.

8 (7) A nonresident taxpayer shall be allowed the credit under this section. The credit shall  
9 be computed in the same manner and be subject to the same limitations as the credit  
10 granted to a resident taxpayer. However, the credit shall be prorated using the proportion  
11 provided in ORS 316.117.

12 (8) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,  
13 or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit  
14 allowed by this section shall be prorated or computed in a manner consistent with ORS  
15 314.085.

16 (9) If a change in the status of a taxpayer from resident to nonresident or from nonres-  
17 ident to resident occurs, the credit allowed by this section shall be determined in a manner  
18 consistent with ORS 316.117.

19 (10) The department shall adopt rules for the purposes of this section, including policies  
20 and procedures for certifying taxpayer eligibility under subsection (4) of this section.

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

23 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a  
24 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The  
25 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
26 allowable to the shareholders of the S corporation.

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

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

36 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax  
37 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
38 316.117, then that provision shall apply to the nonresident shareholder.

39 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104  
40 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141  
41 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture  
42 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS  
43 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee  
44 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution  
45 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy

1 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-  
 2 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-  
 3 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),  
 4 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS  
 5 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS  
 6 315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Ac-  
 7 count contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise  
 8 zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-  
 9 search expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter  
 10 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and section 2, chapter 108, Oregon  
 11 Laws 2018 (Opportunity Grant Fund contributions), **and section 2 of this 2019 Act (agricultural**  
 12 **employee wages paid at minimum wage).**

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

15 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter  
 16 317 shall be administered as uniformly as possible (allowance being made for the difference in im-  
 17 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-  
 18 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,  
 19 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523 and 315.533 and section  
 20 2, chapter 108, Oregon Laws 2018, **and section 2 of this 2019 Act** (all only to the extent applicable  
 21 to a corporation) and ORS chapter 317.

22 **SECTION 5.** **Section 2 of this 2019 Act applies to tax years beginning on or after January**  
 23 **1, 2020, and before January 1, 2026.**

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

26