

Senate Bill 261

Sponsored by Senator THATCHER (at the request of Representative Kevin Mannix) (Pre-session 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**.

Creates tax credit for contributions to scholarship granting organization.
Applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax credits for contributions to scholarship granting organizations; creating new pro-
3 visions; amending ORS 314.772 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 2023 Act is added to and made a part of ORS chapter 315.**

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

7 (a) "Educational expenses" means expenses for:

8 (A) Tuition and fees for educational services, including tutoring, whether delivered in
9 person or by electronic means.

10 (B) Home instruction.

11 (C) Transportation related to educational activities.

12 (D) Educational association memberships.

13 (E) Testing fees.

14 (F) Educational materials, including books, school supplies, academic lessons, instruc-
15 tional software and academic curricula.

16 (G) Fees or expenses for athletic activities.

17 (b) "Educational scholarship" means a grant from a scholarship granting organization to
18 an eligible student to cover part or all of the educational expenses of the student.

19 (c) "Eligible student" means a student who:

20 (A) Is a resident of this state;

21 (B) Is five years of age or older but not more than 21 years of age; and

22 (C) Is enrolled in elementary school or secondary school, is receiving home instruction
23 or is enrolled for the student's first or second full academic year in a community college
24 operated under ORS chapter 341.

25 (d) "Scholarship granting organization" means an organization that:

26 (A) Receives donations from taxpayers;

27 (B) Gives educational scholarships to eligible students;

28 (C) Spends at least 90 percent of its donations on educational scholarships;

29 (D) Spends all interest and proceeds from investments on educational scholarships; and

30 (E) Is recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code.

31 (2) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer

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 is a corporation, under ORS chapter 317 or 318) shall be allowed for contributions to a
2 scholarship granting organization made during the tax year. The credit allowed under this
3 subsection shall equal the lesser of:

4 (a) The total contributions made by the taxpayer to scholarship granting organizations;
5 or

6 (b) 15 percent of the income tax or corporate excise tax that would otherwise be properly
7 reported on the taxpayer's Oregon return, absent the credit allowed under this section.

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

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

16 (5) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
17 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,
18 the credit allowed under this section shall be prorated or computed in a manner consistent
19 with ORS 314.085.

20 **SECTION 3.** ORS 314.772, as amended by section 11, chapter 34, Oregon Laws 2022, and section
21 15, chapter 115, Oregon Laws 2022, is amended to read:

22 314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to a
23 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
24 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
25 allowable to the shareholders of the S corporation.

26 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on
27 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
28 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
29 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
30 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
31 manner prescribed under section 1377(a) of the Internal Revenue Code.

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

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

38 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104
39 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
40 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture
41 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS
42 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee
43 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution
44 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy
45 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-

1 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
2 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),
3 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS
4 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS
5 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643
6 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account
7 contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone
8 facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research
9 expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774,
10 Oregon Laws 2013 (alternative fuel vehicle contributions), section 2, chapter 34, Oregon Laws 2022
11 (small forest option), and section 8, chapter 115, Oregon Laws 2022 (agricultural overtime pay), **and**
12 **section 2 of this 2023 Act (contributions for scholarships).**

13 **SECTION 4.** ORS 318.031, as amended by section 12, chapter 34, Oregon Laws 2022, and section
14 16, chapter 115, Oregon Laws 2022, is amended 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, 315.533, 315.593 and
20 315.643 and section 2, chapter 34, Oregon Laws 2022, and section 8, chapter 115, Oregon Laws 2022,
21 **and section 2 of this 2023 Act** (all only to the extent applicable to a corporation) and ORS chapter
22 317.

23 **SECTION 5.** **Section 2 of this 2023 Act applies to tax years beginning on or after January**
24 **1, 2024, and before January 1, 2030.**

25 **SECTION 6.** **This 2023 Act takes effect on the 91st day after the date on which the 2023**
26 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

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