SB 158 -3 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

Prepared By:	Kyle Easton, Economist
Sub-Referral To:	Joint Committee On Tax Expenditures
Meeting Dates:	3/7, 4/3

WHAT THE MEASURE DOES:

Extends applicability of pass-through business alternative income tax and related personal income tax credit from tax years beginning on or before January 1, 2024 to tax years beginning on or before January 1, 2026. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Oregon revenue neutrality of tax and credit
- Federal tax benefits available to owners of pass-through entities
- Number of entities benefitting
- Types of trusts that would be included by the -1 amendment
- Tracing the benefit of trusts
- Identifying grantor trusts, and identifying trust members more generally
- Potential carryover of excess tax paid
- Potential fiscal impact.

EFFECT OF AMENDMENT:

-3 Replaces content of measure.

Extends applicability of pass-through business alternative income tax and related personal income tax credit by two years. Allows Trusts to be members of a pass-through entity electing to be liable for Oregon's pass-through business alternative income tax. Requires a pass-through entity to add back any amount of Oregon tax deducted by the pass-through entity at the entity level for purposes of determining liability for Oregon's pass-through business alternative income tax. Allows overpayment of pass-through business alternative income tax to be applied against an installment of taxpayer's subsequent tax year estimated tax. Applies to tax years beginning on or after January 1, 2023, and before January 1, 2026. Takes effect on 91st day following adjournment sine die.

BACKGROUND:

Prior to tax year 2018, individuals who itemized their deductions on their federal personal income tax returns were allowed to deduct (with some phase-out limitations) their state and local taxes (SALT) - primarily property taxes and either income or sales taxes. In 2017, Congress enacted the Tax Cut and Jobs Act and limited this deduction to $10,000 for tax years 2018 through 2025. Following the federal SALT limitation, a majority of states enacted legislation intending to workaround the federal limitation by imposing a tax on a pass-through entity (where the tax is deductible from federal tax) and providing a related personal income tax credit for the owners of the pass through entity. These state SALT workarounds provide a means to reduce a taxpayer's federal income tax liability while making no change in net state revenue.

Oregon enacted its own SALT workaround in 2021 with the passage of SB 727 which established Oregon's pass-through entity elective tax (PTE-E) and related personal income tax credit. Under current law, Oregon's PTE-E tax is applicable to tax years 2022 and 2023 and provides a mechanism in which to reduce federal income tax liability for taxpayers while resulting in no net change in Oregon revenue.

