HB 3039 STAFF MEASURE SUMMARY

House Committee On Revenue

Action Date:	05/16/23
Action:	Without recommendation as to passage and be referred to Tax Expenditures.
Vote:	4-2-1-0
Yeas:	4 - Marsh, Nathanson, Nguyen D, Walters
Nays:	2 - Levy B, Reschke
Exc:	1 - Smith G
Fiscal:	Has minimal fiscal impact
Revenue:	Revenue impact issued
Prepared By:	Kyle Easton, Economist
Meeting Dates:	3/21, 5/16

WHAT THE MEASURE DOES:

Requires Oregon personal and corporate addition to taxable income for any gain that is excluded from federal taxable income resulting from a qualified federal Opportunity Zone investment. Requires Oregon determination of taxable income to disregard any adjustment in basis resulting from a qualified federal Opportunity Zone investment. Allows subtraction from Oregon taxable income, amounts previously required to be added to Oregon taxable income, if such amounts are included in federal taxable income. Applies to tax years beginning on or after January 1, 2023. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Background on existing Opportunity Zone investment tax incentives
- Opportunity zones inside and outside Oregon, potential to invest in zones inside Oregon and/or throughout the U.S.
- Federal tax benefit of tax incentive, and state income tax benefit in Oregon and other states (where applicable)
- Characteristics of taxpayers using Opportunity Zone tax incentive
- Potential impact on Oregon resident taxpayers
- Federal tax benefit remains regardless of Oregon state income tax benefit
- Potential Commerce Clause implications of selective disconnect
- Opportunity fund investment contrasted with 1031 like-kind exchange
- Potential impact on individual Opportunity Zones in Oregon (Confederated Tribes of the Umatilla Indian Reservation)
- Tax treatment of Opportunity Zone tax incentive in other states.

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Enacted in 2017 as part of the federal Tax Cuts and Jobs Act (TCJA), the federal government designated low-income communities eligible to receive investments through the Opportunity Zone program. A low-income community is generally defined as a census tract with a poverty rate of at least 20% or a median family income to state median family income ratio of 80% or less. Census tracts could also qualify based on low population or being a rural area with high migration. Oregon has 86 Opportunity Zones. A qualified opportunity fund (QOF) is an investment vehicle organized as a corporation or a partnership for the purpose of investing capital gains income of investors into Opportunity Zones in the form or stock, partnership interest, or business property.

Three tax incentives are associated with qualified Opportunity Zones. First, upon investing capital gains income into a QOF, the investor defers the amount of the capital gains investment in the QOF from their federal taxable income in the year of the investment. Second, if the investment in the QOF is held for at least five years or at least seven years, the basis on the original gain is increased by 10 percent or 15 percent respectively. Third, QOF investments held for at least ten years and until at least 12/31/2026, are eligible for permanent exclusion of capital gains tax on any gains from the qualified portion of their investment earned within the Opportunity Zone when the QOF investment is sold or disposed.