## SB 1520 A -A5 STAFF MEASURE SUMMARY

### House Committee On Revenue

**Prepared By:** Kyle Easton, Senior Economist
**Meeting Dates:** 3/4

**WHAT THE MEASURE DOES:**
Creates Oregon personal income tax subtraction for any amount received in judgment or settlement of a civil action arising from wildfire. Requires wildfire to be subject of a state of emergency declared by the Governor, occur in an area subject to executive order of the Governor invoking the Emergency Conflagration Act, or be a federally declared disaster located within Oregon or elsewhere. Disallows subtraction if amount is otherwise deducted on taxpayer's federal income tax return or amount is compensated by insurance or otherwise. Provides additional year to amend tax return for purposes of claiming subtraction for tax year 2020. Applies to amounts received on or after January 1, 2020, from wildfires that occurred in years 2020 through 2025. Takes effect on 91st day following adjournment sine die.

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**
-A5 Structured as a full replacement of measure for drafting simplicity.

Creates Oregon personal income tax subtraction specific to legal fees incurred by a plaintiff seeking compensation for losses, expenses, or damages found to be caused by qualified wildfire-related litigation. Defines 'wildfire-related litigation'. Allows subtraction of legal fees for losses incurred and legal fees paid in tax years 2018 and later if applicable to fire declarations issued in 2018 through 2025. Clarifies that judgment/settlement subtraction does not apply if any amount is taken into account in any tax year as a deduction or credit on the taxpayer's federal income tax return. Allows subtraction for losses incurred and amounts received in tax years 2018 and 2019. Allows amended tax returns to be filed before May 15, 2025, for purpose of claiming either subtraction in tax years 2018 through 2020.

**BACKGROUND:**
The general rule regarding taxability of amounts received from settlement of lawsuits and other legal remedies is Internal Revenue Code (IRC) Section 61. IRC 61 states all income is taxable from whatever source derived, unless exempted by another section of the code. IRC 139 excludes from income tax, qualified disaster relief payments. IRC 104 generally excludes compensatory damages received in a lawsuit or settlement if such damages are for personal physical injuries or physical sickness. Property settlements for loss in value of property that are less than the adjusted basis of the property are not taxable and are generally not required to be reported on a taxpayer's tax return. However, taxpayers must reduce their basis in the property by the amount of the settlement. If the property settlement exceeds a taxpayer's adjusted basis in the property, the excess is generally income though exceptions exist for involuntary conversions when property is subsequently replaced. Federal legislation in 2017 temporarily eliminated the miscellaneous itemized deduction (tax years 2018 through 2025) thereby limiting the potential tax deductibility of legal fees.