SB 111 -2, -6, -7 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

Prepared By: Kyle Easton, Senior Economist
Sub-Referral To: Joint Committee On Tax Expenditures
Meeting Dates: 3/5, 4/28

WHAT THE MEASURE DOES:

Extends applicability of pass-through business alternative income tax and related personal income tax credit by two years, from tax years beginning on or before January 1, 2026 to tax years beginning on or before January 1, 2028. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Limit on itemized deduction for state and local taxes (SALT) enacted as part of Tax Cuts and Jobs Act (2017)
- Overview of Business Alternative Income Tax and related credit (Oregon's SALT workaround)
- Net revenue neutral design for Oregon liability while providing deductibility at federal level
- Potential amendment adding trusts, potential fiscal implications.

EFFECT OF AMENDMENT:

-2 Applicable to tax years 2026 and 2027, allows trusts to be members of a pass-through entity electing to be liable for Oregon's pass-through business alternative income tax (BAIT). Applicable to overpayments made before January 1, 2027, allows a pass-through entity that has made a BAIT overpayment to have such overpayment credited as an estimated BAIT payment for the subsequent tax year.

-6 Applicable to tax years 2025 through 2027, allows trusts to be members of a pass-through entity electing to be liable for Oregon's pass-through business alternative income tax (BAIT). Applicable to overpayments made before January 1, 2027, allows a pass-through entity that has made a BAIT overpayment to have such overpayment credited as an estimated BAIT payment for the subsequent tax year.

-7 Applicable to tax years 2025 through 2027, allows trusts to be members of a pass-through entity electing to be liable for Oregon's pass-through business alternative income tax (BAIT). Applicable to overpayments made before January 1, 2027, allows a pass-through entity that has made a BAIT overpayment to have such overpayment credited as an estimated BAIT payment for the subsequent tax year. Applicable to tax years 2025 and later, allows member(s) of a pass-through entity to opt out of election to participate in BAIT. Requires pass-through entity to notify all members of intent to opt in to BAIT and allows members 60 days to opt out.

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. Future applicability of the federal SALT limitation is under discussion at the federal level. 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 leaving net state revenue unchanged.

Oregon enacted its own SALT workaround in 2021 with the passage of SB 727 which established Oregon's business alternative income tax (BAIT) and related personal income tax credit. Under current law, Oregon's BAIT is applicable to tax years 2022 through 2025 and provides a mechanism in which to reduce federal income tax liability for taxpayers while leaving net Oregon revenue unchanged. Measure as introduced extends the applicability of Oregon's BAIT and related credit to include tax years 2026 and 2027.