

SB 459 -4 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

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Meeting Dates: 1/31, 2/26

WHAT THE MEASURE DOES:

Decreases reserve bid amount in auctions for income tax credits from at least 95% of the total amount of the credit to 90%. Affected credits are for certified Opportunity Grant contributions and certified film production development contributions. Applies to tax years beginning on or after January 1, 2020 and before January 1, 2024.

ISSUES DISCUSSED:

- Changes made to federal tax policy regarding state tax credits and deductibility of charitable contributions
- Potential to use direct spending program instead of credit approach
- Who receives the benefit of the spread between the credit face value and the auction bid price for the credit
- Benefit to Film and Video Office regarding consistency in funding through the credit approach, especially for multi-year film and video projects.

EFFECT OF AMENDMENT:

-4 Modifies applicability date of measure to tax years beginning on or after January 1, 2019. Requires tax credit auctions conducted by Department of Revenue in cooperation with the Oregon Film and Video Office or with the Higher Education Coordinating Commission, to be conducted no later than April 15 following December 31 of any tax year for which the credit is allowed.

BACKGROUND:

Income tax credits are available to individuals or corporations that purchase tax credits at an auction conducted by the Department of Revenue (DOR). DOR administers the auctions in cooperation with the Oregon Film and Video Office and the Higher Education Coordinating Commission. At least one tax credit auction is held individually for each credit. Proceeds of the respective tax credit auctions go to either the Oregon Production Investment Fund or the Opportunity Grant Fund. The maximum annual amount of credits that may be auctioned is \$14 million for both the Oregon Film and Video credit and the Opportunity Grant Fund credit (\$28 million total for the two credits). Credit certificates are distributed in order of highest bid received as a percentage of credit value. A reserve bid price is announced prior to the auction and is required by statute to be at least 95% of the total amount of the tax credit. Measure decreases reserve minimum amount to 90%.

On August 23rd, 2018, the Internal Revenue Service (IRS) released proposed regulations on charitable contributions and state and local tax credits. Under the proposed regulations, a taxpayer who makes payments or transfers property to an entity eligible to receive tax deductible contributions must reduce their charitable deduction by the amount of any state or local tax credit the taxpayer receives or expects to receive.

On September 5th, 2018, the IRS released a clarification for business taxpayers regarding payments under state or local tax credit programs. Business taxpayers who make business-related payments to charities or government entities for which the taxpayers receive state or local tax credits can generally deduct the payments as business expenses. The business expense deduction is available to any business taxpayer, regardless of whether it is doing business as a sole proprietor, partnership or corporation, as long as the payment qualifies as an ordinary and necessary business expense. Therefore, businesses generally can still deduct business-related payments in full as a business expense on their federal income tax return.

PRELIMINARY