

SB 212 A -A3 STAFF MEASURE SUMMARY

House Committee On Revenue

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Meeting Dates: 5/13, 6/18

WHAT THE MEASURE DOES:

Specifies deduction for losses from wagering transactions, as described in section 165(d) of the Internal Revenue Code, is not allowed for Oregon personal income or corporate excise tax purposes. Requires addition to federal taxable income in instances where wagering losses are deducted on taxpayer's federal return. Applies to tax years beginning on or after January 1, 2019.

Allows subtraction from federal taxable income, an amount equal to the deduction as computed in tax year 2017 under section 222 of the Internal Revenue Code for qualified tuition and related expenses, multiplied by 0.23. Requires subtraction to be reduced by any amount deducted by taxpayer for same expense for the tax year. Applies to expenses paid in tax years beginning on or after January 1, 2019 and before January 1, 2025.

ISSUES DISCUSSED:

- Background on measure and policy rationale
- Measure directs tax benefits to taxpayers with higher education tuition and fees
- Potential impact of deduction elimination on tribal gaming casinos
- Roughly 80% of revenue for Spirit Mountain Casino originates from about 20% of customers
- No public testimony submitted by tribal governments during hearings in Senate Finance and Revenue
- Historic existence of deduction for gambling losses.

EFFECT OF AMENDMENT:

-A3 Replaces content of measure.

Specifies that if corporate activity tax imposed on commercial activity enacted by section 63, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427) does not become law by March 1, 2020, specified sections of Enrolled House bill 3427 do not take effect.

BACKGROUND:

Losses sustained during the taxable year on wagering transactions are allowed as an income tax deduction only to the extent of the gains during the taxable year from such wagering transactions. Colloquially this deduction is known as the deduction for gambling losses. Gambling losses can only be deducted to the extent the losses offset gambling winnings. For non-professional gamblers, gambling losses can only be deducted by taxpayers itemizing their deductions. To deduct losses, statute requires the taxpayer to keep an accurate diary or similar record of gambling winnings and losses. Professional gamblers may deduct gambling losses, up to gambling winnings, without itemizing by deducting losses through their gambling trade or business.

The gambling loss deduction is a federal deduction that Oregon is connected to through Oregon's connection to federal taxable income. For this reason, to disconnect from the federal deduction, an addition to Oregon taxable income is required.

A federal deduction to income is allowed for qualified higher education expenses paid by the taxpayer (commonly referred to as the tuition and fees deduction). Qualified expenses include tuition and fees paid as a condition of enrollment or attendance at a post secondary education institution. The federal adjustment is applicable to Oregon through Oregon's connection to federal taxable income. The federal deduction was last available in tax

year 2017. Historically, this federal deduction has been extended annually, in some cases following close of the tax year. If the federal tuition and fees deduction is extended federally, the deduction will be available for Oregon taxpayers and the Oregon specific subtraction being created by this measure is required to be reduced reflective to the benefit of the deduction.

The Oregon tuition and fees subtraction created by measure is determined following identical parameters to how the federal deduction was determined for tax year 2017. The potential maximum subtraction is \$4,000 for a taxpayer with income not more than \$65,000 (\$130,000 on a joint return) or \$2,000 if the taxpayer's income was above \$65,000 (\$130,000 on a joint return) but not more than \$80,000 (\$160,000 joint). If adjusted gross income exceeds the limits, then no subtraction is allowed. Following determination of tuition and fees amount in-line with the federal parameters that were in effect for tax year 2017, Oregon subtraction is determined by multiplying computed amount by 0.23.