

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## SENATE, No. 4068

with committee amendments

# STATE OF NEW JERSEY

DATED: JANUARY 6, 2022

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 4068 (1R).

This bill revises the elective pass-through entity business alternative income tax, which was enacted in January 2020. The optional tax allows pass-through entities to pay an entity-level tax while the entities' owners obtain an offsetting credit against other taxes. The optional tax effectively allows entity owners to reduce the amount of the tax that counts towards the cap on the federal income tax deduction for state and local taxes (SALT).

The bill makes changes to the elective pass-through entity business alternative income tax by modifying: (1) how the optional tax is calculated so that more income is subject to the tax, thereby allowing a larger credit to be obtained for paying the optional tax; (2) the offsetting tax credit structure and permitted uses of the credits so that the credits are more generous; (3) the tax brackets for the optional tax to better align with the most recent changes to the State's gross income tax brackets; and (4) the treatment of overpayments of tax and excessive credits so that they may be applied to tax liability in the successive year, or refunded in the case of corporation business taxpayers.

The bill also provides that entities will not be required to make a payment on the share of the income of each nonresident entity-owner if the entity-owner expects to get the money back in the form of a tax credit as a result of the entity paying the optional entity-level tax.

### COMMITTEE AMENDMENTS:

The committee amendments revise the provisions of law concerning the calculation and allocation of income and among members of a pass-through entity to adjust the counting of income of individuals who are residents and non-residents of New Jersey. The amendments also more clearly articulate the manner in which tax credits may be allowed for different types of legal entities.

In addition, the amendments revise the tax brackets for the optional tax to better align with the most recent changes to the State's gross

income tax brackets, and allow overpayments of tax and excessive credits to be applied to tax liability in the successive year.

The amendments also change the effective date to January 1, 2022.

**FISCAL IMPACT:**

This bill is not certified as requiring a fiscal note.