

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 25** HLS 201ES 34

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: June 9, 2020 6:38 AM	Author: WRIGHT
Dept./Agy.: Revenue	Analyst: Greg Albrecht
Subject: Net Operating Loss Deduction	

TAX/CORP INCOME OR DECREASE GF RV See Note Page 1 of 1
 Authorizes carry-back provisions for the net operating loss deduction for purposes of calculating corporate income tax (Item #20)

Current law allows a net operating loss 20-year carryforward of 72% of the deduction limited to 72% of net income. Carrybacks are not allowed.

Proposed law allows carryback to tax years 2017 - 2021 of 100% of losses earned in tax years 2017 - 2021, as well as carryforward at 100% or use in tax years 2017 - 2021. Taxpayers can request a tentative refund from a carryback of 2019 -2021 tax year losses even though they would not know what, if any, NOL they might have to utilize. Interest is payable on refunds, tentative or otherwise, after 90-day periods. The Dept can recover inappropriate tentative refund amounts through current law collection remedies within two years of the year paid in. Three year periods are provided for claiming refunds.

Effective July 1, 2020.

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	\$243,000	\$143,000	\$146,000	\$149,000	\$152,000	\$833,000
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$243,000	\$143,000	\$146,000	\$149,000	\$152,000	\$833,000

REVENUES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total						

EXPENDITURE EXPLANATION

The Dept of Revenue identified approximately 8,500 taxpayers who could amend their 2017 tax returns to request refunds, 8,500 who could amend their 2018 returns, and 4,700 that could carryback 2018 losses to 2017 to request refunds. To timely process amended returns and carryback claims, and to minimize interest costs required in the bill, the Dept anticipates two additional tax specialist positions (\$140,000 salary & benefits and 2% annual cost growth) plus one-time system modification costs of \$103,000.

REVENUE EXPLANATION

Decreases in state revenue are likely to result from the bill, although the amounts and fiscal year timing of losses is indeterminable. Net operating losses for the 2019 -2021 tax years are unknown even to taxpayers at this point, and claims based on losses attributable to the 2017 and 2018 tax years depend on taxpayer assessments of their circumstances.

To get a sense of the possible revenue loss exposure, the Dept recalculated 2017 and 2018 returns with NOL carryforwards without the current law 72% limitation. This generated additional state revenue losses of \$73.5 million for the 2017 tax year and \$61.9 million for the 2018 tax year. In addition, losses incurred in 2018 that could be carried back to 2017 net income generated another \$16.4 million in refunds. Combined revenue loss exposure that could be realized against FY21 revenue is \$151.8 million. This revenue loss could also be spread out across the next few fiscal years, along with the revenue losses attributable to NOL yet to be determined associated with 2019 - 2021 tax year (not limited to 72% and allowed to be carried back for refunds).

In addition, the availability of NOL for the 28% limitation amounts replaces nonrefundable credits worth \$16.2 million that would be freed up for use within their carryforward periods.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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