

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 263** HLS 19RS 753
 Bill Text Version: **ENROLLED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: June 5, 2019 11:48 AM	Author: STOKES
Dept./Agy.: Revenue	Analyst: Greg Albrecht
Subject: Net Operating Loss Deductions (NOL)	

TAX/CORP INCOME EN DECREASE GF RV See Note Page 1 of 1
 Provides relative to loss years for purposes of the net operating loss deduction for corporate income tax

Present law requires the losses from the most recent taxable year be used first to reduce net income in the current tax filing claiming an NOL deduction (NOL deductions can be carried forward for 20 years). Current law was enacted by Act 24 (HB 116) of 2016 ES1, and reversed the order of NOL claim from the earliest year of NOL available to the most recent year available.

Proposed law changes the order of NOL use back to the earliest taxable year of availability (as it was prior to the 2016 law change).

Effective upon governor's signature, and applicable to all tax years beginning on and after January 1, 2020.

EXPENDITURES	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>	<u>5 -YEAR TOTAL</u>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2023-24</u>	<u>5 -YEAR TOTAL</u>
State Gen. Fd.	\$0	DECREASE	DECREASE	DECREASE	DECREASE	\$0
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0					\$0

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure.

REVENUE EXPLANATION

Current law allows net operating losses from as far back as twenty years ago to be deducted from net income on a current tax return. This reduces current taxable income, tax liabilities, and tax receipts. Current law also requires that the newest losses be deducted from current net income first. This works to reduce the utilization of the entire stock of available losses over time as some of the oldest losses are likely to expire without being utilized.

This bill will require that the oldest losses be utilized first, and works to maximize utilization of the total stock of available losses over time, as the newest losses have longer to expire before having to be utilized. The bill can only work to increase NOL deduction use resulting in lower state tax revenues, although specific estimates of additional revenue loss in specific years is not possible to determine. The first possible effect is tax year 2020 returns, with filing typically beginning in FY21.

The Dept. of Revenue indicates that it does not have data indicating what prior years outstanding NOLs are attributable to, and only has data indicating that returns received during FY2017-2018 (typically for three prior tax years 2015, 2016, and 2017 in this case), reported a stock of NOL deduction available for use of \$80.914 billion, although returns with positive net income reported \$23.135 billion of available NOL and actually claimed \$1.875 billion of NOL deduction.

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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Legislative Fiscal Officer