

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5536-01
Bill No.: HB 1966
Subject: Corporations; Revenue Department; Taxation and Revenue
Type: Original
Date: April 4, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund*	(Unknown)	(Unknown)	(Unknown)

* Could exceed \$100,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Budget and Planning (BAP)** state the proposal makes changes to the calculation of net operating losses. BAP states they do not have the requisite data to calculate the potential impact of this legislation. However, BAP notes the proposal retains the provisions of current law which allows federal taxable income to be either positive or negative. The proposal has an unknown, potentially negative, impact on general and total state revenues.

Officials from the **University of Missouri - Economic & Policy Analysis Research Center (EPARC)** state the amount of net operating loss deducted from the Missouri corporate income tax is limited. The corporate income tax file that EPARC receives from the Department of Revenue does not contain the data needed to compute the fiscal note. More specifically, EPARC does not possess information on the federal net operating loss that is necessary to compute the net subtraction modification required to assess the bill.

Officials from the **Department of Revenue (DOR)** state this would require a large system, since DOR currently does not include the federal information in the data systems. DOR's Taxation estimates these modifications will require a MINITS programming costs of \$46,170 (1,384 hours). COINS will also need to be modified for a programming cost of \$23,085 (692 hours).

ASSUMPTION (continued)

DOR proposes to cover these costs with current IT staff. Effective July 1, 2006, DOR's IT staff will be moved to the Office of Administration pursuant to consolidation, but DOR has no reason to believe this transfer will limit the ability to absorb these costs. In the event multiple new credits/deductions are passed, this cost could exceed current appropriation levels and result in additional funds being requested.

No other administrative impact is expected at this time.

DOR also states section 143.431.4 appears to create a new "Missouri Net Operating Loss Deduction". This MO NOL deduction would be different from the federal. The statute takes the Federal NOL deduction and increases it by any NOL modifications and any MO depreciation subtraction modifications, if the taxpayer did not get a benefit from the MO depreciation subtraction modification.

This provision would allow a corporation to get a double benefit of part of their federal NOL benefit once in the year of the loss to offset any MO net addition modifications, and a second benefit when they can increase their Federal NOL by any MO NOL modification in the carry back/forward years.

The statute also appears to allow the corporation to use part of the Fed NOL to offset additional modifications in a carry back/forward year if line 1 is zero.

If a corporation is not able to get the benefit of a MO depreciation subtraction modification because there is no income to offset, the taxpayer will be allowed to add the MO depreciation subtraction to this new MO NOL.

DOR states the legislation would allow the corporation in effect to create a new MO NOL, carry it forward 20 years to offset MO taxable income, and thus pay less MO tax. General Revenue will be reduced.

Oversight has no empirical basis to estimate the impact to tax revenue collections from this proposal. Therefore, based upon the responses from Budget and Planning and the Department of Revenue, Oversight will assume an unknown reduction in General Revenue Collections for all fiscal years in the fiscal note, possibly exceeding \$100,000.

This proposal could reduce Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE			
<u>Loss - Department of Revenue</u>			
Net Operating Loss calculation changes	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND*	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>

* Could exceed \$100,000.

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses could be fiscally impacted by the changes to the calculation of net operating losses as a result of this proposal.

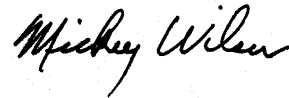
DESCRIPTION

This proposal changes the way corporate net operating losses are calculated and removes the restriction for specific depreciation deductions. Net operating losses can be used to offset amounts due for withholding taxes. The bill also removes the requirement that 50% or more of an affiliated group of corporations' income be derived from sources within this state to file a consolidated Missouri income tax return.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Office of Administration
 Budget and Planning
University of Missouri
 Economic & Policy Analysis Research Center

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large, stylized 'M' and 'W'.

Mickey Wilson, CPA
Director
April 4, 2006