

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/13

SPONSOR Dodge LAST UPDATED \_\_\_\_\_ HB 293

SHORT TITLE Tax Net Operating Loss Carryover SB \_\_\_\_\_

ANALYST Smith

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
\$0.0	(\$5,000.0)	(\$5,000.0)	(\$5,000.0)	(\$5,000.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

No Response From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 293 amends Section 7the Corporate Income and Franchise Tax Act (Section 7-2-18.2, NMSA 1978) to allow 14 year carry forwards of Net Operating Losses (NOL's), or 15 years in total. The bill excludes carry forwards incurred prior to July 1, 2014; "old NOL's would still be subject to the current five year limitation.

### FISCAL IMPLICATIONS

Impacts were estimated from LFC files that are admittedly dated. A better estimate would require TRD to sort publicly unavailable data. However, there is no doubt that a tripling of the total NOL claim period from five to 15 years will result in a significant loss of general fund revenues.

### SIGNIFICANT ISSUES

New Mexico recognizes a net operating loss (NOL) for New Mexico corporate income tax only when the federal corporate tax return shows the NOL or when federal taxable income minus

interest on U.S. obligations yields a negative number. A net operating loss deduction (NOLD) is the amount of excess loss from the NOL year that is deductible from a corporation's federal taxable income in a carry-over year.

For NOLs generated in tax years prior to January 1, 1991, the carry-back and carry-over periods was the same for New Mexico as for federal purposes: usually three years back and 15 years forward.

For NOLs generated in tax years beginning on or after January 1, 1991, the loss is eligible for carry forward only up to five years.

### **PERFORMANCE IMPLICATIONS**

The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

### **TECHNICAL ISSUES**

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

Does the bill meet the Legislative Finance Committee tax policy principles?

- 1. Adequacy:** Revenue should be adequate to fund needed government services.
- 2. Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- 3. Equity:** Different taxpayers should be treated fairly.
- 4. Simplicity:** Collection should be simple and easily understood.
- 5. Accountability:** Preferences should be easy to monitor and evaluate