

2019 DRAFTING REQUEST

Bill

For: **Administration-Budget** Drafter: **elunder**
 By: **Quinn** Secondary Drafters:
 Date: **2/6/2019** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email:
 Carbon copy (CC) to: **doasbostatlanguage@wisconsin.gov**
erika.lunder@legis.wisconsin.gov
joseph.kreye@legis.wisconsin.gov
marc.shovers@legis.wisconsin.gov

Pre Topic:

DOA:.....Quinn, BB0293 -

Topic:

Net operating loss carry-back repeal

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	elunder 2/6/2019	aernsttr 2/8/2019			
/P1	elunder 2/22/2019	kfollett 2/22/2019	dwalker 2/8/2019		State Tax Exempt
/P2			lparisi 2/22/2019		State Tax Exempt

FE Sent For: **<END>**

Lunder, Erika

From: Hanaman, Cathlene
Sent: Wednesday, February 6, 2019 8:58 AM
To: Lunder, Erika; Kreye, Joseph; Shovers, Marc
Subject: FW: Statutory Language Drafting Request - 2019-21
Attachments: NOL Carryback repeal.docx

From: Quinn, Brian D - DOA <Brian.Quinn@wisconsin.gov>
Sent: Tuesday, February 05, 2019 4:59 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: Ziegler, Paul - DOA <Paul2.Ziegler@wisconsin.gov>; Quinn, Brian D - DOA <Brian.Quinn@wisconsin.gov>
Subject: Statutory Language Drafting Request - 2019-21

Biennial Budget: 2019-21

Topic: Net Operating Loss Carrybacks Repeal

Tracking Code: BB0293

SBO Team: TLGED

SBO Analyst: Quinn, Brian D - DOA
Phone: (608) 266-1923
E-mail: brian.quinn@wisconsin.gov

Agency Acronym: 566

Agency Number: 566

Priority: Medium

Intent:

See attached instructions.

Attachments: True

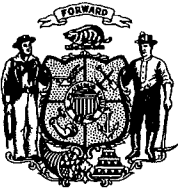
Please send completed drafts to SBOStatlanguage@spsmail.enterprise.wisstate.us

Repeal secs. 71.05(8)(b)2. and (c) and 71.80(25)(b).

Amend sec. 71.05(8)(a) and (b) to read:

71.05 (8) LOSSES. (a) ~~The carry back of losses to reduce income of prior years may be permitted for 2 taxable years.~~ There shall be added any amount deducted as a federal net operating loss ~~carry-back or~~ carry-over and there shall be subtracted for the first taxable year for which the subtraction may be made any Wisconsin net operating loss ~~carry-back or~~ carry-forward allowable under par. (b) in an amount not in excess of the Wisconsin taxable income computed before the deduction of the Wisconsin net operating loss ~~carry-back or~~ carry-forward.

(b) 1. Except as provided in s. 71.80 (25), a Wisconsin net operating loss may be carried ~~back against Wisconsin taxable income of the previous 2 years and then carried forward~~ against Wisconsin taxable incomes of the next 20 taxable years, if the taxpayer was subject to taxation under this chapter in the taxable year in which the loss was incurred, to the extent not offset against other income of the year of loss and to the extent not offset against Wisconsin modified taxable income of ~~the 2 years preceding the loss and of any year between the loss year and the taxable year for which the loss carry-forward is claimed.~~ In this paragraph, "Wisconsin modified taxable income" means Wisconsin taxable income with the following exceptions: a net operating loss deduction or offset for the loss year or any taxable year ~~before or thereafter~~ is not allowed, the deduction for long-term capital gains under subs. (6) (b) 9. and 9m. and (25) is not allowed, the amount deductible for losses from sales or exchanges of capital assets may not exceed the amount includable in income for gains from sales or exchanges of capital assets and "Wisconsin modified taxable income" may not be less than zero.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1821

EKL

PI
ane

DOA:.....Quinn, BB0293 - Net operating loss carryback repeal

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

IN: 2/6
DVE: 2/8

sa ✓

no gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

This bill repeals the provision under which an individual may carry back a net operating loss to the two prior taxable years in order to reduce the amount of income subject to tax in those years.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 71.05 (8) (a) of the statutes is amended to read:

3 71.05 (8) (a) The carry back of losses to reduce income of prior years may be
4 permitted for 2 taxable years. There shall be added any amount deducted as a federal

1 net operating loss ~~carry-back or carry-over~~ and there shall be subtracted for the first
 2 taxable year for which the subtraction may be made any Wisconsin net operating loss
 3 ~~carry-back or carry-forward~~ allowable under par. (b) in an amount not in excess of
 4 the Wisconsin taxable income computed before the deduction of the Wisconsin net
 5 operating loss ~~carry-back or carry-forward~~.

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 205, 265, 269, 276, 295, 332, 344; 2011 a. 3, 5, 10, 32, 212, 232, 237; 2011 a. 260 ss. 80, 81; 2013 a. 19, 20, 128, 145; 2013 a. 166 s. 76; 2013 a. 173, 227; 2015 a. 55, 60, 84, 195; 2015 a. 197 s. 51; 2015 a. 216, 312; 2017 a. 17, 58, 59, 197, 231, 368.

*Change
 to
 RN
 &
 AMEND*

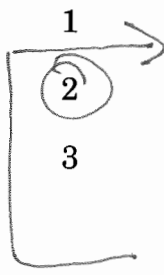
6 **SECTION 2.** 71.05 (8) (b) 1. of the statutes is amended to read:

7 71.05 (8) (b) ¹. Except as provided in s. 71.80 (25), a Wisconsin net operating
 8 loss may be carried back against Wisconsin taxable income of the previous 2 years
 9 and then carried forward against Wisconsin taxable incomes of the next 20 taxable
 10 years, if the taxpayer was subject to taxation under this chapter in the taxable year
 11 in which the loss was incurred, to the extent not offset against other income of the
 12 year of loss and to the extent not offset against Wisconsin modified taxable income
 13 of the 2 years preceding the loss and of any year between the loss year and the taxable
 14 year for which the loss carry-forward is claimed. In this paragraph, "Wisconsin
 15 modified taxable income" means Wisconsin taxable income with the following
 16 exceptions: a net operating loss deduction or offset for the loss year or any taxable
 17 year before or thereafter is not allowed, the deduction for long-term capital gains
 18 under subs. (6) (b) 9. and 9m. and (25) is not allowed, the amount deductible for losses
 19 from sales or exchanges of capital assets may not exceed the amount includable in
 20 income for gains from sales or exchanges of capital assets and "Wisconsin modified
 21 taxable income" may not be less than zero.

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 205, 265, 269, 276, 295, 332, 344; 2011 a. 3, 5, 10, 32, 212, 232, 237; 2011 a. 260 ss. 80, 81; 2013 a. 19, 20, 128, 145; 2013 a. 166 s. 76; 2013 a. 173, 227; 2015 a. 55, 60, 84, 195; 2015 a. 197 s. 51; 2015 a. 216, 312; 2017 a. 17, 58, 59, 197, 231, 368.

22 **SECTION 3.** 71.05 (8) (b) 2. of the statutes is repealed.

71.05 (8) (b) 1. RN 71.05 (8) (b)



SECTION 4. 71.05 (8) (c) of the statutes is repealed.

SECTION 5. 71.80 (25) (b) of the statutes is repealed.

(END)

71.80(25)

71.80(25) (a) RN 71.80(25), and 71.80(25) (title), as remembered, is amended

71.80(25) (title) ^(CS) Net operating and business loss carry-forward ~~and carry-back.~~



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1821/P1
EKL:ahe

DOA:.....Quinn, BB0293 - Net operating loss carry-back repeal

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

IN 2/22

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

This bill repeals the provision under which an individual may carry back a net operating loss to the two prior taxable years in order to reduce the amount of income subject to tax in those years.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 71.05 (8) (a) of the statutes is amended to read:

3 71.05 (8) (a) ~~The carry back of losses to reduce income of prior years may be~~
4 permitted for 2 taxable years. There shall be added any amount deducted as a federal

1 net operating loss ~~carry-back or carry-over~~ and there shall be subtracted for the first
2 taxable year for which the subtraction may be made any Wisconsin net operating loss
3 ~~carry-back or carry-forward~~ allowable under par. (b) in an amount not in excess of
4 the Wisconsin taxable income computed before the deduction of the Wisconsin net
5 operating loss ~~carry-back or carry-forward~~.

6 **SECTION 2.** 71.05 (8) (b) 1. of the statutes is renumbered 71.05 (8) (b) and
7 amended to read:

8 71.05 (8) (b) Except as provided in s. 71.80 (25), a Wisconsin net operating loss
9 may be carried back against ~~Wisconsin taxable income of the previous 2 years and~~
10 then carried forward against Wisconsin taxable incomes of the next 20 taxable years,
11 if the taxpayer was subject to taxation under this chapter in the taxable year in which
12 the loss was incurred, to the extent not offset against other income of the year of loss
13 and to the extent not offset against Wisconsin modified taxable income of the 2 years
14 preceding the loss and of any year between the loss year and the taxable year for
15 which the loss carry-forward is claimed. In this paragraph, "Wisconsin modified
16 taxable income" means Wisconsin taxable income with the following exceptions: a
17 net operating loss deduction or offset for the loss year or any taxable year before or
18 thereafter is not allowed, the deduction for long-term capital gains under subs. (6)
19 (b) 9. and 9m. and (25) is not allowed, the amount deductible for losses from sales or
20 exchanges of capital assets may not exceed the amount includable in income for gains
21 from sales or exchanges of capital assets and "Wisconsin modified taxable income"
22 may not be less than zero.

23 **SECTION 3.** 71.05 (8) (b) 2. of the statutes is repealed.

24 **SECTION 4.** 71.05 (8) (c) of the statutes is repealed.

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1821/Plins
EKL:ahe

1 INS 3-6

2 **SECTION 9337. Initial applicability; Revenue.**

3 (1) NET OPERATING LOSSES. The treatment of ss,71.05 (8) (a), (b) 2., and (c) and
4 71.80 (25) (b) and the renumbering and amendment of ss. 71.05 (8) (b) 1. and 71.80
5 (25) (a) first apply to taxable years beginning after December 31, 2018.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1821/P2
EKL:ah&kjf

DOA:.....Quinn, BB0293 - Net operating loss carry-back repeal

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

1. *Repeal of net operating loss carryback*

This bill repeals the provision under which an individual may carry back a net operating loss to the two prior taxable years in order to reduce the amount of income subject to tax in those years.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 71.05 (8) (a) of the statutes is amended to read:

3 71.05 (8) (a) ~~The carry back of losses to reduce income of prior years may be~~
4 ~~permitted for 2 taxable years.~~ There shall be added any amount deducted as a federal

1 net operating loss ~~carry-back or carry-over~~ and there shall be subtracted for the first
2 taxable year for which the subtraction may be made any Wisconsin net operating loss
3 ~~carry-back or carry-forward~~ allowable under par. (b) in an amount not in excess of
4 the Wisconsin taxable income computed before the deduction of the Wisconsin net
5 operating loss ~~carry-back or carry-forward~~.

6 **SECTION 2.** 71.05 (8) (b) 1. of the statutes is renumbered 71.05 (8) (b) and
7 amended to read:

8 71.05 (8) (b) Except as provided in s. 71.80 (25), a Wisconsin net operating loss
9 may be carried ~~back against Wisconsin taxable income of the previous 2 years and~~
10 ~~then~~ carried forward against Wisconsin taxable incomes of the next 20 taxable years,
11 if the taxpayer was subject to taxation under this chapter in the taxable year in which
12 the loss was incurred, to the extent not offset against other income of the year of loss
13 and to the extent not offset against Wisconsin modified taxable income ~~of the 2 years~~
14 ~~preceding the loss and~~ of any year between the loss year and the taxable year for
15 which the loss carry-forward is claimed. In this paragraph, "Wisconsin modified
16 taxable income" means Wisconsin taxable income with the following exceptions: a
17 net operating loss deduction or offset for the loss year or any taxable year ~~before or~~
18 thereafter is not allowed, the deduction for long-term capital gains under subs. (6)
19 (b) 9. and 9m. and (25) is not allowed, the amount deductible for losses from sales or
20 exchanges of capital assets may not exceed the amount includable in income for gains
21 from sales or exchanges of capital assets and "Wisconsin modified taxable income"
22 may not be less than zero.

23 **SECTION 3.** 71.05 (8) (b) 2. of the statutes is repealed.

24 **SECTION 4.** 71.05 (8) (c) of the statutes is repealed.

