

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0745.02 Ed DeCecco

HOUSE BILL 10-1199

HOUSE SPONSORSHIP

Ferrandino,

SENATE SPONSORSHIP

Heath,

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING A TEMPORARY LIMIT ON THE STATE INCOME TAX**
102 **DEDUCTION FOR A NET OPERATING LOSS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, a corporation may reduce its Colorado taxable income by carrying forward a net operating loss (NOL). There is no annual limit on the amount of NOL that may be carried forward.

For each of the next 3 income tax years, the bill limits the amount of NOL that may be carried forward to \$250,000. A NOL may be carried

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
February 1, 2010

HOUSE
Amended 2nd Reading
January 29, 2010

forward one additional year for each year that a corporation is prohibited from carrying forward a portion of its NOL because of this limit.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 21 of title 39, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **39-21-122. Revenue impact of 2010 tax legislation - tracking**
5 **by department.** THE DEPARTMENT OF REVENUE SHALL ACCOUNT FOR ALL
6 REVENUE ATTRIBUTABLE TO THE ENACTMENT OF HOUSE BILL 10-1199,
7 ENACTED IN 2010, AND SHALL, TO THE EXTENT SUCH INFORMATION IS
8 AVAILABLE, MAKE QUARTERLY REPORTS TO THE GENERAL ASSEMBLY
9 REGARDING THE QUARTERLY AND CUMULATIVE NET REVENUE GAIN TO THE
10 STATE RESULTING FROM THE ENACTMENT OF SAID BILL.

11 **SECTION 2.** 39-22-504, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **39-22-504. Net operating losses.** (6) (a) NOTWITHSTANDING
14 ANY OTHER PROVISION OF THIS SECTION, THE MAXIMUM AMOUNT OF NET
15 OPERATING LOSS THAT A CORPORATION MAY SUBTRACT FROM FEDERAL
16 TAXABLE INCOME PURSUANT TO SECTION 39-22-304 (3) (g) FOR A TAX
17 YEAR COMMENCING ON OR AFTER JANUARY 1, 2011, BUT PRIOR TO
18 JANUARY 1, 2014, IS TWO HUNDRED FIFTY THOUSAND DOLLARS.

19 (b) ALL NET OPERATING LOSSES MAY BE CARRIED FORWARD ONE
20 ADDITIONAL YEAR FOR EACH TAX YEAR THAT A CORPORATION IS
21 PROHIBITED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) FROM
22 SUBTRACTING A PORTION OF SUCH NET OPERATING LOSSES FROM THE
23 CORPORATION'S FEDERAL TAXABLE INCOME.

24 (c) (I) AN AMOUNT EQUAL TO THE AMOUNT OF ALL NET OPERATING
25 LOSSES THAT A CORPORATION IS PROHIBITED PURSUANT TO PARAGRAPH (a)

1 OF THIS SUBSECTION (6) FROM SUBTRACTING FROM FEDERAL TAXABLE
2 INCOME MULTIPLIED BY THE RATE OF INTEREST SET FORTH IN
3 SUBPARAGRAPH (II) OF THIS PARAGRAPH (c) FOR THE PERIOD DURING
4 WHICH SUCH NET OPERATING LOSSES ARE PROHIBITED SHALL BE ADDED TO
5 THE ALLOWABLE NET OPERATING LOSS THAT IS CARRIED FORWARD BY THE
6 CORPORATION, AND, FOR THE PURPOSE OF SECTION 39-22-304 (3) (g),
7 SHALL BE CONSIDERED NET OPERATING LOSS.

8 (II) (A) THE RATE OF INTEREST TO BE APPLIED PURSUANT TO
9 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL BE THE PRIME RATE, AS
10 REPORTED BY THE "WALL STREET JOURNAL", PLUS ONE POINT, ROUNDED
11 TO THE NEAREST FULL PERCENT. IN THE EVENT THAT MORE THAN ONE
12 RATE IS SO REPORTED, THE HIGHEST RATE SHALL BE UTILIZED.

13 (B) THE COMMISSIONER OF BANKING SHALL ESTABLISH AN
14 ADJUSTED ANNUAL RATE OF INTEREST BASED UPON THE COMPUTATION
15 SPECIFIED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) AND
16 ROUNDED TO THE NEAREST FULL PERCENT. THE ADJUSTED ANNUAL RATE
17 OF INTEREST SHALL BE SO ESTABLISHED BY THE COMMISSIONER OF
18 BANKING AS OF JULY 1, 2011, TO BECOME EFFECTIVE JANUARY 1, 2012.
19 THEREAFTER, ON JULY 1, OR THE NEXT SUCCEEDING BUSINESS DAY, OF
20 THE NEXT TWO YEARS, THE ADJUSTED ANNUAL RATE OF INTEREST SHALL
21 BE ESTABLISHED IN THE SAME MANNER, TO BECOME EFFECTIVE ON
22 JANUARY 1 OF THE NEXT SUCCEEDING YEAR.

23 SECTION 3. Safety clause. The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.