

Thursday, March 19, 2015

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber appreciates the opportunity to testify as neutral to House Bill 2389.

Our reason for testifying has nothing to do with the original intent of the bill to allow one historic hotel the ability to allow net operating loss to be carried back for three years if a loss was incurred from the sale of a historic hotel.

What we are here asking for today is conformity with the federal law on Net Operating Loss carryforwards. Federal law allows for 20 years of NOL carryforwards, while Kansas is one of four states to allow for 10. Eight states offer 15 years, and Illinois offers 12. All of our surrounding states (see the attached map) allow for 20 years of NOL carryforward credits.

The Tax Foundation ranks Kansas as the 38th best state in the nation for our corporate income tax structure. When we discussed this with the Department of Revenue in December, we were told there would be no fiscal impact until the year 2026 and would start at \$1.74 million and would top out at \$22.36 million in 2036. Because of the small business tax cuts of 2012, this tax change would only need to apply to C-Corps as small businesses have no tax liability today.

While our corporate income tax rate is one factor in the national ranking by the Tax Foundation, our lack of conformity on NOL carryforwards is one of the reasons the Tax Foundation cited for our lower rating. Some other areas where Kansas lags behind nationally in our corporate income tax structure are:

- our state does not index brackets for inflation
- does not allow for NOL carrybacks (which this bill is asking for in one instance, and which the federal government allows a 2-year window)
- does not allow for a deduction for foreign taxes paid.

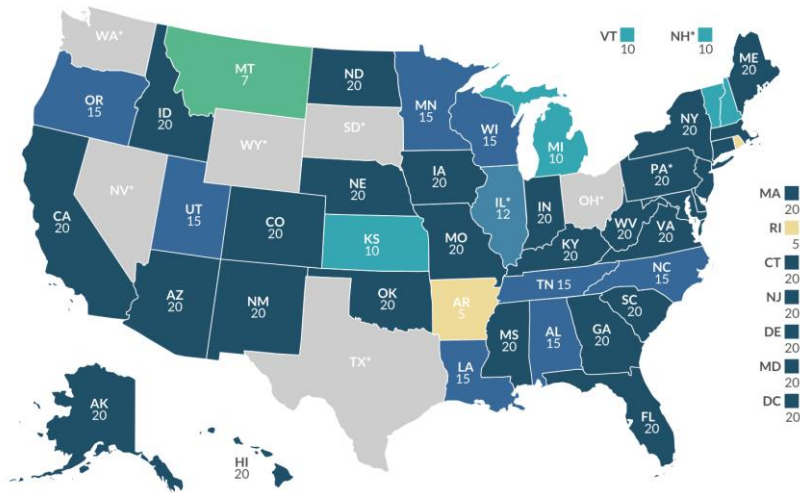
In closing, we would ask that this committee consider a change in corporate tax law to allow for 20 years of NOL carryforwards instead of the 10 currently allowed by Kansas law. Thank you for allowing us to speak today on HB 2389.



The Kansas Chamber, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to do business. The Chamber represents small, medium and large employers all across Kansas.

Corporate Net Operating Loss Carryforwards

Number of Years Allowed by State as of July 1, 2014



Notes: IL, NH, and PA have caps on the amount of carryforwards allowed. NV, OH, SD, TX, WA, and WY do not have a corporate income tax. However, OH, TX, and WA do levy gross receipts taxes. Published November 6, 2014.

Sources: 2015 State Business Tax Climate Index

Number of Years Each State Allows
NOLs to be Carried Forward

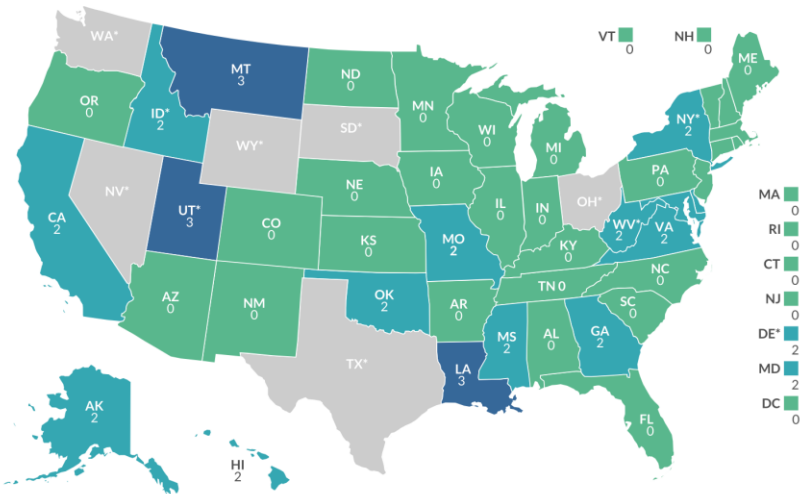


taxfoundation.org/maps

@TaxFoundation

Corporate Net Operating Loss Carrybacks

Number of Years Allowed by State as of July 1, 2014



Notes: DE, ID, NY, UT, and WV have caps on the amount of carrybacks allowed. NV, OH, SD, TX, WA, and WY do not have a corporate income tax. However, OH, TX, and WA do levy gross receipts taxes. Published November 6, 2014.

Sources: 2015 State Business Tax Climate Index

Number of Years Each State Allows
NOLs to be Carried Back



taxfoundation.org/maps

@TaxFoundation