



**Testimony of Patrick Fucik on behalf T-Mobile
On Kansas HB 2239 – Net Operation Loss Carryforward
Kansas Senate Assessment and Taxation Committee
March 22, 2021**

Good morning Chairwoman Tyson and members of the committee. My name is Patrick Fucik, Director of State Government Relations for T-Mobile. T-Mobile is a telecommunications company which is currently making significant investments in deploying 5G technology across the United States.

Thank you for the opportunity to provide testimony in support of HB 2239. This bill proposes an increase in the number of years a business may carryover and utilize a net operating loss, or NOL, from the current period of 10 years to indefinite.

Kansas law generally follows the Federal rules for NOL utilization, with the exception of the life of the NOL. Currently, Kansas law provides for a 10-year NOL carryforward period, which is relatively short when compared to Federal law and other state laws. As part of Federal Tax Reform legislation in 2017, Federal NOL carryforward periods were increased from 20 years to indefinite (i.e., NOL's never expire). At the state level, of the 45 states (and the District of Columbia) which impose an income tax, 38 have an NOL carryforward period of greater than 10 years. Sixteen states have a 20-year NOL carryforward period, and an additional sixteen states have an indefinite NOL carryforward period. Focusing on neighboring states, Colorado, Missouri and Nebraska have each adopted a 20-year carryforward period, while Oklahoma has adopted an indefinite NOL carryforward period.

The relatively short 10-year NOL carryforward period in Kansas makes the state less attractive from a business environment perspective when compared to other states. For example, it's not uncommon for start-up businesses and businesses in capital-intensive industries to experience periods of sustained losses (while investments are being made) followed by periods of profitability. A shorter NOL carryforward period creates uncertainty regarding whether taxpayers will ultimately realize the tax benefits associated with their investments. Furthermore, during periods of economic uncertainty, such as those experienced recently, a shorter NOL carryforward period means taxpayers are at a greater risk of permanently lost tax deductions.

HB 2239 simply changes the Kansas NOL carryforward period from the existing 10 years to indefinite, and puts Kansas on par with other states. The passage of HB 2239 would help mitigate the potential for expiring tax deductions in 10 years.

Last year, the House Committee on Taxation passed similar language in HB 2490, which also passed the full House by a vote of 118 -2. Unfortunately, the session was interrupted by the pandemic and the bill was not considered by the Senate.

On behalf of T-Mobile, I respectfully ask for favorable passage of HB 2239 and thank you for your consideration of my testimony. I would be happy to answer any questions at the appropriate time.



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Senate Assessment and Taxation
Date: _____

Attachment # _____