

**HOUSE BILL No. 2490**

By Committee on Taxation

1-23

1 AN ACT concerning income taxation; relating to corporations; providing  
2 for an extension of the net operating loss carryforward period;  
3 amending K.S.A. 79-32,143 and repealing the existing section.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 79-32,143 is hereby amended to read as follows:  
7 79-32,143. (a) For net operating losses incurred in taxable years beginning  
8 after December 31, 1987, *and prior to January 1, 2018*, a net operating  
9 loss deduction shall be allowed in the same manner that it is allowed under  
10 the federal internal revenue code, except that such net operating loss may  
11 only be carried forward to each of the 10 taxable years following the  
12 taxable year of the net operating loss. *For net operating losses incurred in*  
13 *taxable years beginning after December 31, 2017, a net operating loss*  
14 *deduction shall be allowed in the same manner that it is allowed under the*  
15 *federal internal revenue code, except that such net operating loss*  
16 *deduction: (1) May only be carried forward to each of the 20 taxable*  
17 *years following the taxable year of the net operating loss; and (2) shall be*  
18 *the lesser of: (A) The aggregate Kansas net operating loss carryover to*  
19 *such year; or (B) 80% of Kansas taxable income computed without regard*  
20 *to the Kansas net operating loss deduction allowable under this section.*  
21 For net operating farm losses, as defined by ~~subsection (i)~~ of section 172  
22 of the federal internal revenue code, incurred in taxable years beginning  
23 after December 31, 1999, a net operating loss deduction shall be allowed  
24 in the same manner that it is allowed under the federal internal revenue  
25 code except that such net operating loss may be carried forward to each of  
26 the 10 taxable years following the taxable year of the net operating loss.  
27 The amount of the net operating loss that may be carried back or forward  
28 for Kansas income tax purposes shall be that portion of the federal net  
29 operating loss allocated to Kansas under this act in the taxable year that the  
30 net operating loss is sustained.

31 (b) The amount of the loss to be carried back or forward will be the  
32 federal net operating loss after: (1) All modifications required under this  
33 act applicable to the net loss in the year the loss was incurred; and (2) after  
34 apportionment as to source in the case of corporations, nonresident  
35 individuals for losses incurred in taxable years beginning prior to January  
36 1, 1978, and nonresident estates and trusts in the same manner that income

1 for such corporations, nonresident individuals, estates and trusts is  
2 required to be apportioned.

3 (c) If a net operating loss was incurred in a taxable year beginning  
4 prior to January 1, 1988, the amount of the net operating loss that may be  
5 carried back and carried forward and the period for which it may be  
6 carried back and carried forward shall be determined under the provisions  
7 of the Kansas income tax laws ~~which~~ *that* were in effect during the year  
8 that such net operating loss was incurred.

9 (d) If any portion of a net operating loss described in subsections (a)  
10 and (b) is not utilized prior to the final year of the carryforward period  
11 provided in subsection (a), a refund shall be allowable in such final year in  
12 an amount equal to the refund which would have been allowable in the  
13 taxable year the loss was incurred by utilizing the three year carryback  
14 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,  
15 multiplied by a fraction, the numerator of which is the unused portion of  
16 such net operating loss in the final year, and the denominator of which is  
17 the amount of such net operating loss ~~which~~ *that* could have been carried  
18 back to the three years immediately preceding the year in which the loss  
19 was incurred. In no event may such fraction exceed ~~+~~ *one*.

20 (e) Notwithstanding any other provisions of the Kansas income tax  
21 act, the net operating loss as computed under subsections (a), (b) and (c) ~~of~~  
22 ~~this section~~ shall be allowed in full in determining Kansas taxable income  
23 or at the option of the taxpayer allowed in full in determining Kansas  
24 adjusted gross income.

25 (f) No refund of income tax ~~which~~ *that* results from a net operating  
26 farm loss carry back shall be allowed in an amount exceeding \$1,500 in  
27 any year. Any overpayment in excess of \$1,500 may be carried forward to  
28 any year or years after the year of the loss and may be claimed as a credit  
29 against the tax. The refundable portion of such credit shall not exceed  
30 \$1,500 in any year.

31 (g) For tax year 2013, and all tax years thereafter, a net operating loss  
32 allowed by this section shall only be available to taxpayers subject to the  
33 income tax on corporations imposed pursuant to ~~subsection (e) of~~ K.S.A.  
34 79-32,110(c), and amendments thereto, and used only to determine such  
35 taxpayer's corporate income tax liability.

36 Sec. 2. K.S.A. 79-32,143 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its  
38 publication in the statute book.