

## SENATE BILL No. 543

By Committee on Ways and Means

2-23

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9 AN ACT concerning income taxation; relating to Kansas net operating  
10 losses; refunds; amending K.S.A. 2003 Supp. 79-32,143 and repealing  
11 the existing section.

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

14 Section 1. K.S.A. 2003 Supp. 79-32,143 is hereby amended to read  
15 as follows: 79-32,143. (a) For net operating losses incurred in taxable years  
16 beginning after December 31, 1987, a net operating loss deduction shall  
17 be allowed in the same manner that it is allowed under the federal internal  
18 revenue code, except that such net operating loss may only be carried  
19 forward to each of the 10 taxable years following the taxable year of the  
20 net operating loss. For net operating farm losses, as defined by subsection  
21 (i) of section 172 of the federal internal revenue code, incurred in taxable  
22 years beginning after December 31, 1999, a net operating loss deduction  
23 shall be allowed in the same manner that it is allowed under the federal  
24 internal revenue code, except that such net operating loss may be carried  
25 forward to each of the 10 taxable years following the taxable year of the  
26 net operating loss. The amount of the net operating loss that may be  
27 carried back or forward for Kansas income tax purposes shall be that  
28 portion of the federal net operating loss allocated to Kansas under this  
29 act in the taxable year that the net operating loss is sustained.

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

38 (c) If a net operating loss was incurred in a taxable year beginning  
39 prior to January 1, 1988, the amount of the net operating loss that may  
40 be carried back and carried forward and the period for which it may be  
41 carried back and carried forward shall be determined under the provisions  
42 of the Kansas income tax laws which were in effect during the year that  
43 such net operating loss was incurred.

1 (d) If any portion of a net operating loss described in subsections (a)  
2 and (b) is not utilized prior to the final year of the carry forward period  
3 provided in subsection (a), a refund shall be allowable in such final year  
4 in an amount equal to the refund which would have been allowable in  
5 the taxable year the loss was incurred by utilizing the three year carryback  
6 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,  
7 multiplied by a fraction, the numerator of which is the unused portion of  
8 such net operating loss in the final year, and the denominator of which  
9 is the amount of such net operating loss which could have been carried  
10 back to the three years immediately preceding the year in which the loss  
11 was incurred. In no event may such fraction exceed 1.

12 (e) Notwithstanding any other provisions of the Kansas income tax  
13 act, the net operating loss as computed under subsections (a), (b) and (c)  
14 of this section shall be allowed in full in determining Kansas taxable in-  
15 come or at the option of the taxpayer allowed in full in determining Kansas  
16 adjusted gross income.

17 (f) No refund of income tax which results from a net operating loss  
18 carry back shall be allowed in an amount exceeding ~~\$1,500~~ \$5,000 in any  
19 year. Any excess amount may be carried back or forward to any other  
20 year or years as provided by this section.

21 Sec. 2. K.S.A. 2003 Supp. 79-32,143 is hereby repealed.

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