

As Amended by Senate Committee

Session of 2006

SENATE BILL No. 444

By Committee on Assessment and Taxation

1-25

10 AN ACT concerning income taxation; relating to net operating loss;
11 amending K.S.A. 2005 Supp. 79-32,143 and repealing the existing
12 section.
13

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

15 Section 1. K.S.A. 2005 Supp. 79-32,143 is hereby amended to read
16 as follows: 79-32,143. (a) For net operating losses incurred in taxable years
17 beginning after December 31, 1987, a net operating loss deduction shall
18 be allowed in the same manner that it is allowed under the federal internal
19 revenue code except that such net operating loss may only be carried
20 forward to each of the 10 taxable years following the taxable year of the
21 net operating loss. For net operating farm losses, as defined by subsection
22 (i) of section 172 of the federal internal revenue code, incurred in taxable
23 years beginning after December 31, 1999, a net operating loss deduction
24 shall be allowed in the same manner that it is allowed under the federal
25 internal revenue code except that such net operating loss may be carried
26 forward to each of the 10 taxable years following the taxable year of the
27 net operating loss. The amount of the net operating loss that may be
28 carried back or forward for Kansas income tax purposes shall be that
29 portion of the federal net operating loss allocated to Kansas under this
30 act in the taxable year that the 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)
34 after 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 in-
37 come for such corporations, nonresident individuals, estates and trusts is
38 required to be apportioned.

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

1 such net operating loss was incurred.

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

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

18 (f) No refund of income tax which results from a net operating **farm**
19 loss carry back shall be allowed in an amount exceeding \$1,500 in any
20 year. ~~Any excess amount may be carried back or forward to any other~~
21 ~~year or years as provided by this section~~ *Any overpayment in excess of*
22 *\$1,500 may be carried forward to any year or years after the year of the*
23 *loss and may be claimed as a credit against the tax. The refundable portion*
24 *of such credit shall not exceed \$1,500 in any year.*

25 Sec. 2. K.S.A. 2005 Supp. 79-32,143 is hereby repealed.

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