

## SENATE BILL NO. 544

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INDIVIDUAL INCOME TAX LAWS TO PROVIDE FOR A TRANSITION ADJUSTMENT FOR CERTAIN LOSSES; ALLOWING A TAXPAYER ELECTION TO CLAIM LOSSES THAT WERE NOT PROVIDED FOR IN 2021 INCOME TAX SIMPLIFICATION LEGISLATION; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Transition -- net operating loss and net operating loss carryover --**

**Senate Bill No. 399 (2021) adjustments -- rulemaking.** (1) Subject to the provisions of this section, a taxpayer may elect to make a transition adjustment for a Montana net operating loss carryover under section 172(a) of the Internal Revenue Code. The adjustment is the sum of all positive and negative adjustments to a taxpayer's Montana taxable income resulting from a difference in federal and Montana income tax from before January 1, 2024.

(2) If the federal carryover was not the same as the Montana carryover on December 31, 2023:

(a) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover was smaller than the federal carryover; and

(b) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana carryover was larger than the federal carryover.

(3) Notwithstanding section 67(3)(d), Chapter 503, Laws of 2021, the election provided for in this section must be made on a tax year 2024 income tax return that is filed on or before October 15, 2025, and must include a completed carryforward adjustment form that the department of revenue publishes. A taxpayer may file an amended 2024 income tax return to make this election as long as that amended return and the accompanying carryforward adjustment form are filed on or before October 15, 2025. A taxpayer that makes the election must apply the entire carryforward or carryback toward tax year 2024 as a carryforward adjustment

1 until Montana taxable income is \$0, and then toward each subsequent year until Montana taxable income is \$0  
2 for each subsequent year, not to exceed 7 years. The election does not impact the calculation of a new net  
3 operating loss carryover or carryback for tax years after December 31, 2023. The carryforward adjustment for  
4 the net operating loss carryforward must be used after any net operating losses that accrue after December 31,  
5 2023.

6 (4) If a taxpayer does not make the election provided for in this section on or before October 15,  
7 2025, then the taxpayer may not make the carryforward adjustment election, and section 67(3)(d), Chapter 503,  
8 Laws of 2021, applies. The department is not permitted to grant extensions to the October 15, 2025, deadline.

9 (5) The department may prescribe forms requiring information it believes is necessary to  
10 administer the adjustment and may adopt rules to implement the transition adjustment provided by this section.

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12 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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14 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the  
15 meaning of 1-2-109, to income tax years beginning after December 31, 2023.

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