

SENATE BILL NO. 363
INTRODUCED BY MAZUREK

IN THE SENATE

February 5, 1983	Introduced and referred to Committee on Taxation.
February 7, 1983	Fiscal Note requested.
February 11, 1983	Fiscal Note returned.
February 22, 1983	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
February 28, 1983	Second reading, do pass as amended.
March 1, 1983	Correctly engrossed.
March 2, 1983	Third reading, passed. Ayes, 47; Noes, 2. Transmitted to House.

IN THE HOUSE

March 3, 1983	Introduced and referred to Committee on Taxation.
March 22, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1983	Second reading, concurred in.
March 25, 1983	Third reading, concurred in.

IN THE SENATE

March 26, 1983

Returned to Senate with
amendments.

March 31, 1983

Second reading, amendments
concurred in.

April 1, 1983

Third reading, amendments
concurred in. Ayes, 45; Noes,
1.

Sent to enrolling.

Reported correctly enrolled.

1 *State* BILL NO. 363
2 INTRODUCED BY *Thompson*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A TAX
5 DEDUCTION FOR CORPORATIONS AND SHAREHOLDERS OF ELECTING
6 SMALL BUSINESS CORPORATIONS MAKING A DONATION OF A COMPUTER
7 OR SIMILAR EQUIPMENT TO AN ELEMENTARY OR SECONDARY SCHOOL;
8 AMENDING SECTION 15-31-114, MCA; AND PROVIDING AN IMMEDIATE
9 EFFECTIVE DATE AND AN APPLICABILITY DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Section 15-31-114, MCA, is amended to read:
13 "15-31-114. Deductions allowed in computing income. In
14 computing the net income, the following deductions shall be
15 allowed from the gross income received by such corporation
16 within the year from all sources:
17 (1) All the ordinary and necessary expenses paid or
18 incurred during the taxable year in the maintenance and
19 operation of its business and properties, including
20 reasonable allowance for salaries for personal services
21 actually rendered, subject to the limitation hereinafter
22 contained, rentals or other payments required to be made as
23 a condition to the continued use or possession of property
24 to which the corporation has not taken or is not taking
25 title or in which it has no equity. No deduction shall be

1 allowed for salaries paid upon which the recipient thereof
2 has not paid Montana state income tax; provided, however,
3 that where domestic corporations are taxed on income derived
4 from without the state, salaries of officers paid in
5 connection with securing such income shall be deductible.

6 (2) (a) All losses actually sustained and charged off
7 within the year and not compensated by insurance or
8 otherwise, including a reasonable allowance for the wear and
9 tear and obsolescence of property used in the trade or
10 business, such allowance to be determined according to the
11 provisions of section 167 of the Internal Revenue Code in
12 effect with respect to the taxable year. All elections for
13 depreciation shall be the same as the elections made for
14 federal income tax purposes. No deduction shall be allowed
15 for any amount paid out for any buildings, permanent
16 improvements, or betterments made to increase the value of
17 any property or estate, and no deduction shall be made for
18 any amount of expense of restoring property or making good
19 the exhaustion thereof for which an allowance is or has been
20 made.

21 (b) (i) There shall be allowed as a deduction for the
22 taxable period a net operating loss deduction determined
23 according to the provisions of this subsection. The net
24 operating loss deduction is the aggregate of net operating
25 loss carryovers to such taxable period plus the net

1 operating loss carrybacks to such taxable period. The term
 2 "net operating loss" means the excess of the deductions
 3 allowed by this section, 15-31-114, over the gross income,
 4 with the modifications specified in (ii) of this subsection.
 5 If for any taxable period beginning after December 31, 1970,
 6 a net operating loss is sustained, such loss shall be a net
 7 operating loss carryback to each of the three taxable
 8 periods preceding the taxable period of such loss and shall
 9 be a net operating loss carryover to each of the five
 10 taxable periods following the taxable period of such loss. A
 11 net operating loss for any taxable period ending after
 12 December 31, 1975, in addition to being a net operating loss
 13 carryback to each of the three preceding taxable periods,
 14 shall be a net operating loss carryover to each of the seven
 15 taxable periods following the taxable period of such loss.
 16 The portion of such loss which shall be carried to each of
 17 the other taxable years shall be the excess, if any, of the
 18 amount of such loss over the sum of the net income for each
 19 of the prior taxable periods to which such loss was carried.
 20 For purposes of the preceding sentence, the net income for
 21 such prior taxable period shall be computed with the
 22 modifications specified in (ii)(B) of this subsection and by
 23 determining the amount of the net operating loss deduction
 24 without regard to the net operating loss for the loss period
 25 or any taxable period thereafter, and the net income so

1 computed shall not be considered to be less than zero.
 2 (ii) The modifications referred to in (i) of this
 3 subsection shall be as follows:
 4 (A) No net operating loss deduction shall be allowed.
 5 (B) The deduction for depletion shall not exceed the
 6 amount which would be allowable if computed under the cost
 7 method.
 8 (C) Any net operating loss carried over to any taxable
 9 years beginning after December 31, 1978, must be calculated
 10 under the provisions of this section effective for the
 11 taxable year for which the return claiming the net operating
 12 loss carryover is filed.
 13 (iii) A net operating loss deduction shall be allowed
 14 only with regard to losses attributable to the business
 15 carried on within the state of Montana.
 16 (iv) In the case of a merger of corporations, the
 17 surviving corporation shall not be allowed a net operating
 18 loss deduction for net operating losses sustained by the
 19 merged corporations prior to the date of merger. In the case
 20 of a consolidation of corporations, the new corporate entity
 21 shall not be allowed a deduction for net operating losses
 22 sustained by the consolidated corporations prior to the date
 23 of consolidation.
 24 (v) Notwithstanding the provisions of 15-31-531,
 25 interest shall not be paid with respect to a refund of tax

1 resulting from a net operating loss carryback or carryover.

2 (vi) The net operating loss deduction shall not be
3 allowed with respect to taxable periods which ended on or
4 before December 31, 1970, but shall be allowed only with
5 respect to taxable periods beginning on or after January 1,
6 1971.

7 (3) In the case of mines, other natural deposits, oil
8 and gas wells, and timber, a reasonable allowance for
9 depletion and for depreciation of improvements; such
10 reasonable allowance to be determined according to the
11 provisions of the Internal Revenue Code in effect for the
12 taxable year. All elections made under the Internal Revenue
13 Code with respect to capitalizing or expensing exploration
14 and development costs and intangible drilling expenses for
15 corporation license tax purposes shall be the same as the
16 elections made for federal income tax purposes.

17 (4) The amount of interest paid within the year on its
18 indebtedness incurred in the operation of the business from
19 which its income is derived; but no interest shall be
20 allowed as a deduction if paid on an indebtedness created
21 for the purchase, maintenance, or improvement of property or
22 for the conduct of business unless the income from such
23 property or business would be taxable under this part.

24 (5) (a) Taxes paid within the year except the
25 following:

1 (i) Taxes imposed by this part.

2 (ii) Taxes assessed against local benefits of a kind
3 tending to increase the value of the property assessed.

4 (iii) Taxes on or according to or measured by net
5 income or profits imposed by authority of the government of
6 the United States.

7 (iv) Taxes imposed by any other state or country upon
8 or measured by net income or profits.

9 (b) Taxes deductible under this part shall be
10 construed to include taxes imposed by any county, school
11 district, or municipality of this state.

12 (5) Light vehicle license fees, as provided by
13 61-3-532, paid within the year.

14 (7) That portion of an energy-related investment
15 allowed as a deduction under 15-32-103.

16 (3) (a) Except as provided in subsection (b),
17 charitable contributions and gifts that qualify for
18 deduction under section 170 of the Internal Revenue Code, as
19 amended.

20 (b) The public service commission shall not allow in
21 the rate base of a regulated corporation the inclusion of
22 contributions made under this subsection.

23 ~~(2) The value, not to exceed 30% of the taxpayer's net~~
24 ~~income, of a computer or other sophisticated technological~~
25 ~~equipment or apparatus donated to an elementary or secondary~~

1 school located in Montana if:

2 (a) the contribution is made no later than 2 years
3 after the manufacture of the donated property is
4 substantially completed;

5 (b) the original use of the donated property is in the
6 donee;

7 (c) the property is not transferred by the donee in
8 exchange for money, other property, or services; and

9 (d) the taxpayer receives from the donee a written
10 statement representing that the use and disposition of the
11 property will be in accordance with the provisions of (b)
12 and (c) of this subsection (91)."

13 NEW SECTION. Section 2. Small business corporation
14 -- deduction for donation of computer equipment to schools.
15 A small business corporation electing to be taxed under the
16 provisions of 15-31-202 is allowed a deduction equal to the
17 value, not to exceed 30% of the small business corporation's
18 net income, of a computer or other sophisticated
19 technological equipment or apparatus donated to an
20 elementary or secondary school located in Montana if:

21 (1) the contribution is made no later than 2 years
22 after the manufacture of the donated property is
23 substantially completed;

24 (2) the original use of the donated property is in the
25 donee;

1 (3) the property is not transferred by the donee in
2 exchange for money, other property, or services; and

3 (4) the electing small business corporation receives
4 from the donee a written statement representing that the use
5 and disposition of the property will be in accordance with
6 the provisions of subsections (2) and (3).

7 NEW SECTION. Section 3. Codification instruction.
8 Section 2 is intended to be codified as an integral part of
9 Title 15, chapter 30, and the provisions of Title 15,
10 chapter 30, apply to section 2.

11 NEW SECTION. Section 4. Effective date --
12 applicability. This act is effective on passage and approval
13 and applies to taxable years beginning after December 31,
14 1982.

-End-

STATE OF MONTANA

REQUEST NO. 339-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 363 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

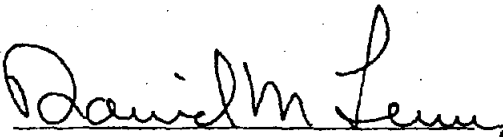
DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 363, creates a tax deduction for corporations and shareholders of electing small business corporations making a donation of a computer or similar equipment to an elementary or secondary school; and provides an immediate effective date and an applicability date.

FISCAL IMPACT:

The fiscal impact of cannot be estimated because there is no way of determining how many corporations would donate computer equipment.

FISCAL NOTE 12:P/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-11-83

Approved by committee
on Taxation

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actually rendered, subject to the limitation hereinafter
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a condition to the continued use or possession of property
to which the corporation has not taken or is not taking
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allowed for salaries paid upon which the recipient thereof
has not paid Montana state income tax; provided, however,
that where domestic corporations are taxed on income derived
from without the state, salaries of officers paid in
connection with securing such income shall be deductible.

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within the year and not compensated by insurance or
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 17 the other taxable years shall be the excess, if any, of the
 18 amount of such loss over the sum of the net income for each
 19 of the prior taxable periods to which such loss was carried.
 20 For purposes of the preceding sentence, the net income for
 21 such prior taxable period shall be computed with the
 22 modifications specified in (ii)(8) of this subsection and by
 23 determining the amount of the net operating loss deduction
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5 income or profits imposed by authority of the government of
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7 (iv) Taxes imposed by any other state or country upon
8 or measured by net income or profits.

9 (b) Taxes deductible under this part shall be
10 construed to include taxes imposed by any county, school
11 district, or municipality of this state.

12 (6) Light vehicle license fees, as provided by
13 61-3-532, paid within the year.

14 (7) That portion of an energy-related investment
15 allowed as a deduction under 15-32-103.

16 (8) (a) Except as provided in subsection (b),
17 charitable contributions and gifts that qualify for
18 deduction under section 170 of the Internal Revenue Code, as
19 amended.

20 (b) The public service commission shall not allow in
21 the rate base of a regulated corporation the inclusion of
22 contributions made under this subsection.

23 ~~(2) The IN LIEU OF THE DEDUCTION ALLOWED UNDER~~
24 ~~SUBSECTION (8), THE TAXPAYER MAY DEDUCT THE FAIR MARKET~~
25 ~~VALUE, NOT TO EXCEED 30% OF THE TAXPAYER'S NET INCOME, OF A~~

1 computer or other sophisticated technological equipment or
2 apparatus INTENDED FOR USE WITH THE COMPUTER donated to an A
3 PUBLIC elementary or secondary OR ACCREDITED
4 POST-SECONDARY school located in Montana if:

5 (a) the contribution is made no later than 2 1/2 years
6 after the manufacture of the donated property is
7 substantially completed;

8 ~~(b) the original use of the donated property is in the~~
9 ~~donee~~

10 ~~(c) (1) the property is not transferred by the donee in~~
11 ~~exchange for money, other property, or services; and~~

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13 ~~statement FROM THE DONEE IN WHICH THE DONEE AGREES TO ACCEPT~~
14 ~~THE PROPERTY AND representing that the use and disposition~~
15 ~~of the property will be in accordance with the provisions of~~
16 ~~(b) and (c) of this subsection (9).~~

17 **NEW SECTION.** Section 2. Small business corporation
18 -- deduction for donation of computer equipment to schools.
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20 provisions of 15-31-202 is allowed a deduction equal to the
21 FAIR MARKET value, not to exceed 30% of the small business
22 corporation's net income, of a computer or other
23 sophisticated technological equipment or apparatus INTENDED
24 FOR USE WITH THE COMPUTER donated to an A PUBLIC elementary
25 or secondary OR ACCREDITED POST-SECONDARY school located in

1 Montana if:

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11 ~~IN WHICH THE DONEE AGREES TO ACCEPT THE PROPERTY AND~~
12 ~~representing that the use and disposition of the property~~
13 ~~will be in accordance with the provisions of subsections (2)~~
14 ~~and (3). SUBSECTION (2) AND~~

15 ~~(4) THE DEDUCTION ALLOWED IN THIS SECTION IS IN LIEU~~
16 ~~OF THE DEDUCTION ALLOWED UNDER 15-30-121 FOR CHARITABLE~~
17 ~~CONTRIBUTIONS.~~

18 **NEW SECTION.** Section 3. Codification instruction.
19 Section 2 is intended to be codified as an integral part of
20 Title 15, chapter 30, and the provisions of Title 15,
21 chapter 30, apply to section 2.

22 **NEW SECTION.** Section 4. Effective date --
23 applicability. This act is effective on passage and approval
24 and applies to taxable years beginning after December 31,
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11 ~~(c) the property is not transferred by the donee in~~
12 ~~exchange for money, other property, or services; and~~

13 ~~(d) the taxpayer receives from the donee a written~~
14 ~~statement FROM THE DONEE IN WHICH THE DONEE AGREES TO ACCEPT~~
15 ~~THE PROPERTY AND representing that the use and disposition~~
16 ~~of the property will be in accordance with the provisions of~~

17 ~~(b) and (c) of this subsection (9)."~~

18 **NEW SECTION.** Section 2. Small business corporation
19 -- deduction for donation of computer equipment to schools.
20 A small business corporation electing to be taxed under the
21 provisions of 15-31-202 is allowed a deduction equal to the
22 **FAIR MARKET** value, not to exceed 30% of the small business
23 corporation's net income, of a computer or other
24 sophisticated technological equipment or apparatus **INTENDED**
25 **FOR USE WITH THE COMPUTER** donated to an **A PUBLIC** elementary

1 or secondary, **OR ACCREDITED POST-SECONDARY** school located in
2 Montana if:

3 (1) the contribution is made no later than 2 1/2 years
4 after the manufacture of the donated property is
5 substantially completed;

6 ~~(2) the original use of the donated property is in the~~
7 ~~donee~~

8 ~~(3) (2) the property is not transferred by the donee in~~
9 ~~exchange for money, other property, or services; and~~

10 ~~(4) (3) the electing small business corporation~~
11 ~~receives from the donee a written statement FROM THE DONEE~~
12 ~~IN WHICH THE DONEE AGREES TO ACCEPT THE PROPERTY AND~~
13 ~~representing that the use and disposition of the property~~
14 ~~will be in accordance with the provisions of subsections (2)~~
15 ~~and (3). SUBSECTION (2); AND~~

16 ~~(5) THE DEDUCTION ALLOWED IN THIS SECTION IS IN LIEU~~
17 ~~OF THE DEDUCTION ALLOWED UNDER 15-30-121 FOR CHARITABLE~~
18 ~~CONTRIBUTIONS.~~

19 **NEW SECTION.** Section 3. Codification Instruction.
20 Section 2 is intended to be codified as an integral part of
21 Title 15, chapter 30, and the provisions of Title 15,
22 chapter 30, apply to section 2.

23 **NEW SECTION.** Section 4. Effective date --
24 applicability. This act is effective on passage and approval
25 and applies to taxable years beginning after December 31,

SB 0363/03

1 1982.

-End-

HOUSE TAXATION COMMITTEE
AMENDMENTS TO SB 363, THIRD READING COPY, BLUE
MARCH 22, 1983

1. Page 7, lines 3 and 4.
Following: "an" on line 3
Strike: line 3 through "PUBLIC" on line 4
Insert: "an"

2. Page 7, line 25.
Following: "an"
Strike: "A PUBLIC"
Insert: "an"

AND AS AMENDED
BE CONCURRED IN

SENATE BILL NO. 363

INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A TAX DEDUCTION FOR CORPORATIONS AND SHAREHOLDERS OF ELECTING SMALL BUSINESS CORPORATIONS MAKING A DONATION OF A COMPUTER OR SIMILAR EQUIPMENT TO AN ELEMENTARY, OR SECONDARY, OR ACCREDITED POSTSECONDARY SCHOOL; AMENDING SECTION 15-31-114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-31-114, MCA, is amended to read:

"15-31-114. Deductions allowed in computing income. In computing the net income, the following deductions shall be allowed from the gross income received by such corporation within the year from all sources:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking

title or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(b) (i) There shall be allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of this subsection. The net operating loss deduction is the aggregate of net operating

1 loss carryovers to such taxable period plus the net
 2 operating loss carrybacks to such taxable period. The term
 3 "net operating loss" means the excess of the deductions
 4 allowed by this section, 15-31-114, over the gross income,
 5 with the modifications specified in (ii) of this subsection.
 6 If for any taxable period beginning after December 31, 1970,
 7 a net operating loss is sustained, such loss shall be a net
 8 operating loss carryback to each of the three taxable
 9 periods preceding the taxable period of such loss and shall
 10 be a net operating loss carryover to each of the five
 11 taxable periods following the taxable period of such loss. A
 12 net operating loss for any taxable period ending after
 13 December 31, 1975, in addition to being a net operating loss
 14 carryback to each of the three preceding taxable periods,
 15 shall be a net operating loss carryover to each of the seven
 16 taxable periods following the taxable period of such loss.
 17 The portion of such loss which shall be carried to each of
 18 the other taxable years shall be the excess, if any, of the
 19 amount of such loss over the sum of the net income for each
 20 of the prior taxable periods to which such loss was carried.
 21 For purposes of the preceding sentence, the net income for
 22 such prior taxable period shall be computed with the
 23 modifications specified in (ii)(B) of this subsection and by
 24 determining the amount of the net operating loss deduction
 25 without regard to the net operating loss for the loss period

1 or any taxable period thereafter, and the net income so
 2 computed shall not be considered to be less than zero.
 3 (ii) The modifications referred to in (i) of this
 4 subsection shall be as follows:
 5 (A) No net operating loss deduction shall be allowed.
 6 (B) The deduction for depletion shall not exceed the
 7 amount which would be allowable if computed under the cost
 8 method.
 9 (C) Any net operating loss carried over to any taxable
 10 years beginning after December 31, 1978, must be calculated
 11 under the provisions of this section effective for the
 12 taxable year for which the return claiming the net operating
 13 loss carryover is filed.
 14 (iii) A net operating loss deduction shall be allowed
 15 only with regard to losses attributable to the business
 16 carried on within the state of Montana.
 17 (iv) In the case of a merger of corporations, the
 18 surviving corporation shall not be allowed a net operating
 19 loss deduction for net operating losses sustained by the
 20 merged corporations prior to the date of merger. In the case
 21 of a consolidation of corporations, the new corporate entity
 22 shall not be allowed a deduction for net operating losses
 23 sustained by the consolidated corporations prior to the date
 24 of consolidation.
 25 (v) Notwithstanding the provisions of 15-31-531,

1 Interest shall not be paid with respect to a refund of tax
2 resulting from a net operating loss carryback or carryover.

3 (vi) The net operating loss deduction shall not be
4 allowed with respect to taxable periods which ended on or
5 before December 31, 1970, but shall be allowed only with
6 respect to taxable periods beginning on or after January 1,
7 1971.

8 (3) In the case of mines, other natural deposits, oil
9 and gas wells, and timber, a reasonable allowance for
10 depletion and for depreciation of improvements; such
11 reasonable allowance to be determined according to the
12 provisions of the Internal Revenue Code in effect for the
13 taxable year. All elections made under the Internal Revenue
14 Code with respect to capitalizing or expensing exploration
15 and development costs and intangible drilling expenses for
16 corporation license tax purposes shall be the same as the
17 elections made for federal income tax purposes.

18 (4) The amount of interest paid within the year on its
19 indebtedness incurred in the operation of the business from
20 which its income is derived; but no interest shall be
21 allowed as a deduction if paid on an indebtedness created
22 for the purchase, maintenance, or improvement of property or
23 for the conduct of business unless the income from such
24 property or business would be taxable under this part.

25 (5) (a) Taxes paid within the year except the

1 following:

2 (i) Taxes imposed by this part.

3 (ii) Taxes assessed against local benefits of a kind
4 tending to increase the value of the property assessed.

5 (iii) Taxes on or according to or measured by net
6 income or profits imposed by authority of the government of
7 the United States.

8 (iv) Taxes imposed by any other state or country upon
9 or measured by net income or profits.

10 (b) Taxes deductible under this part shall be
11 construed to include taxes imposed by any county, school
12 district, or municipality of this state.

13 (6) Light vehicle license fees, as provided by
14 61-3-532, paid within the year.

15 (7) That portion of an energy-related investment
16 allowed as a deduction under 15-32-103.

17 (8) (a) Except as provided in subsection (b),
18 charitable contributions and gifts that qualify for
19 deduction under section 170 of the Internal Revenue Code, as
20 amended.

21 (b) The public service commission shall not allow in
22 the rate base of a regulated corporation the inclusion of
23 contributions made under this subsection.

24 ~~(9) The IN LIEU OF THE DEDUCTION ALLOWED UNDER~~
25 ~~SUBSECTION (8), THE TAXPAYER MAY DEDUCT THE FAIR MARKET~~

value: not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological equipment or apparatus INTENDED FOR USE WITH THE COMPUTER donated to an ~~AN~~ PUBLIC AN elementary or secondary, OR ACCREDITED POSTSECONDARY school located in Montana if:

(a) the contribution is made no later than 2 5 years after the manufacture of the donated property is substantially completed;

~~(b) the original use of the donated property is in the donee;~~

~~(c) the property is not transferred by the donee in exchange for money, other property, or services; and~~

~~(d) the taxpayer receives from the donee a written statement FROM THE DONEE IN WHICH THE DONEE AGREES TO ACCEPT THE PROPERTY AND representing that the use and disposition of the property will be in accordance with the provisions of (b) and (c) of this subsection (9)."~~

NEW SECTION. Section 2. Small business corporation -- deduction for donation of computer equipment to schools. A small business corporation electing to be taxed under the provisions of 15-31-202 is allowed a deduction equal to the FAIR MARKET value, not to exceed 30% of the small business corporation's net income, of a computer or other sophisticated technological equipment or apparatus INTENDED FOR USE WITH THE COMPUTER donated to an ~~AN~~ PUBLIC AN

elementary, or secondary, OR ACCREDITED POSTSECONDARY school located in Montana if:

(1) the contribution is made no later than 2 5 years after the manufacture of the donated property is substantially completed;

~~(2) the original use of the donated property is in the donee;~~

~~(3) the property is not transferred by the donee in exchange for money, other property, or services; and~~

~~(4) the electing small business corporation receives from the donee a written statement FROM THE DONEE IN WHICH THE DONEE AGREES TO ACCEPT THE PROPERTY AND representing that the use and disposition of the property will be in accordance with the provisions of subsections (2) and (3); SUBSECTION (2); AND~~

~~(4) THE DEDUCTION ALLOWED IN THIS SECTION IS IN LIEU OF THE DEDUCTION ALLOWED UNDER 15-30-121 FOR CHARITABLE CONTRIBUTIONS.~~

NEW SECTION. Section 3. Codification instruction. Section 2 is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to section 2.

NEW SECTION. Section 4. Effective date -- applicability. This act is effective on passage and approval and applies to taxable years beginning after December 31,

SB 0363/04

1 1982.

-End-