

HOUSE BILL 476

Introduced by Cohen

1/30	Introduced
1/30	Referred to Natural Resources
1/31	First Reading
1/31	Fiscal Note Requested
2/04	Fiscal Note Received
3/06	Hearing
3/20	Tabled in Committee
3/25	Revised Fiscal Note Requested
4/01	Revised Fiscal Note Received

1 House BILL NO. 476
2 INTRODUCED BY _____
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A
5 SEVERANCE TAX ON TIMBER CUT IN MONTANA; ESTABLISHING A
6 FORESTRY EXTENSION SERVICE SPECIAL REVENUE ACCOUNT FOR THE
7 MONTANA UNIVERSITY SYSTEM; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE AND AN APPLICABILITY DATE."
9

10 STATEMENT OF INTENT

11 It is the intent of the legislature that the department
12 of revenue adopt rules necessary, under its authority in
13 15-1-201, to achieve the fair and efficient collection of
14 the timber severance tax provided for in [sections 1 through
15 9]. To the extent practicable, the rules must provide for
16 this collection in a manner compatible with the collection
17 of funds related to the fire hazard reduction agreements and
18 bonds provided for in Title 76, chapter 13, part 4.
19

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

21 NEW SECTION. Section 1. Definitions. As used in
22 [sections 1 through 9], the following definitions apply:

23 (1) "Department" means the department of revenue
24 provided for in 2-15-1301.

25 (2) "Initial purchaser" means the first person to

1 purchase timber that has been cut or is about to be cut from
2 any lands within the state, regardless of where the purchase
3 is made or the location of the purchaser's place of
4 business.

5 (3) "Seller" means the person owning timber that has
6 been cut or is about to be cut and that is offered for sale
7 to an initial purchaser, including but not limited to the
8 holder of a timber sale contract or, as applicable, the
9 owner of the lands where timber has been cut or is about to
10 be cut.

11 (4) "Tax" means the timber severance tax provided for
12 in [section 2].

13 (5) "Timber volume" means the amount of timber cut in
14 units of 1,000 board feet (log scale) or, if timber in a
15 form other than logs is cut, the equivalent of that amount.

16 NEW SECTION. Section 2. Timber severance tax. (1)
17 There is a timber severance tax on all timber cut within the
18 state, including timber from state lands, privately owned
19 lands, and lands managed by the federal government. The tax
20 attaches at the time of purchase by the initial purchaser.
21 The tax must be collected by the initial purchaser from the
22 seller of the timber and must be paid to the department by
23 the initial purchaser as provided in [section 3].

24 (2) The rate of the tax is 20 cents per 1,000 board
25 feet (log scale) or, if timber in a form other than logs is



1 cut, the equivalent of that amount.

2 NEW SECTION. Section 3. Quarterly payment of tax. The
3 initial purchaser of timber shall pay the tax in quarterly
4 installments for the periods ending March 31, June 30,
5 September 30, and December 31 of each year. The tax for each
6 quarterly period must be paid to the department within 60
7 days after the end of the period.

8 NEW SECTION. Section 4. Tax return and payment --
9 records. (1) Each initial purchaser of timber shall, within
10 60 days after the end of each quarter, prepare and submit on
11 forms prescribed by the department a return showing the
12 timber volume purchased during each month of the quarter and
13 during the whole quarter, together with the total amount of
14 tax due the state for the quarter. The return must be signed
15 by the individual or the president, vice president,
16 treasurer, or managing agent of the business, partnership,
17 corporation, or other entity covered by the return. A person
18 engaged in purchasing timber at more than one location
19 within or outside of the state may include all purchases in
20 one return.

21 (2) The department shall examine each return and
22 compute the amount of the tax assessed against and payable
23 by the person filing the return. If the tax due is greater
24 than the amount paid, the taxpayer shall pay the excess to
25 the department within 10 days after a written notice of the

1 deficiency is mailed by the department to the taxpayer. If
2 the tax imposed is less than the amount paid, the difference
3 must be applied as a credit against tax liability for
4 subsequent quarters or refunded if there is no subsequent
5 tax liability.

6 (3) Each initial purchaser of timber shall keep
7 receipts, invoices, and other pertinent records that the
8 department may require, shall produce them for inspection by
9 the department at any time during normal business hours, and
10 shall keep them for at least 3 years from the due date of
11 the return.

12 NEW SECTION. Section 5. Department determination of
13 tax in absence of return -- penalty and interest -- warrant
14 for distraint. (1) If a person fails, neglects, or refuses
15 to file a return as required and within the time limits
16 established by [section 4], the department shall,
17 immediately after the time has expired, proceed to determine
18 the timber volume purchased by the person in this state
19 during the quarter and the tax due the state from the person
20 for the quarter.

21 (2) The department shall add to the amount of the tax a
22 10% penalty plus interest at the rate of 1% a month or
23 fraction of a month computed on the tax and penalty.
24 Interest must be computed from the date the tax was due to
25 the date of payment.

1 (3) The department shall mail to the person responsible
2 for the tax payment a letter setting forth the amount of
3 tax, penalty, and interest due and informing him that a
4 warrant for distraint may be filed if payment is not made.

5 (4) If all or part of the tax imposed by this part is
6 not paid when due, the department may issue a warrant for
7 distraint as provided in Title 15, chapter 1, part 7.

8 NEW SECTION. Section 6. Penalty for violations. A
9 person who fails, neglects, or refuses to file a return in
10 the manner or within the time required, who falsifies a
11 return or other information required under [sections 1
12 through 9], or who violates any other provision of [sections
13 1 through 9] or rules adopted to implement [sections 1
14 through 9] is guilty of a misdemeanor punishable by a fine
15 not exceeding \$1,000, imprisonment not to exceed 6 months,
16 or both.

17 NEW SECTION. Section 7. Deficiency assessment --
18 hearing -- interest. (1) When the department determines that
19 the tax due is greater than the amount disclosed by the
20 return filed pursuant to [section 4], the department shall
21 mail to the taxpayer a notice of the additional tax proposed
22 to be assessed. Within 30 days after the department mails
23 the notice, the taxpayer may file with the department a
24 written protest against the proposed additional tax that
25 sets forth the grounds upon which the protest is based and

1 may request a hearing. If a protest is not filed, the amount
2 of the additional tax proposed to be assessed becomes final
3 upon the expiration of the 30-day period. If a protest is
4 filed, the department shall hold a hearing, if requested by
5 the taxpayer, and may reconsider the proposed assessment.
6 After consideration of the protest and evidence presented,
7 the department shall take final action upon the protest and
8 mail notice of its action to the taxpayer.

9 (2) If a deficiency is sustained by final action of the
10 department, the department shall mail a notice and demand
11 for payment to the taxpayer. The tax is due at the
12 expiration of 10 days from the date of the notice. A
13 deficiency assessment must bear interest at the rate of 1% a
14 month or fraction of a month, computed from the original due
15 date of the return required by [section 4].

16 NEW SECTION. Section 8. Statute of limitations. (1)
17 Except as otherwise provided in this section, a deficiency
18 may not be assessed with respect to the year for which a
19 return is filed unless the notice of additional tax is
20 mailed within 5 years from the date the return was filed.
21 For the purposes of this section, a return filed before the
22 last day prescribed for filing is considered as filed on the
23 last day. If the taxpayer, before the expiration of the
24 period prescribed for assessment of the tax, consents in
25 writing to an assessment after that time, the tax may be

1 assessed at any time prior to the expiration of the period
2 agreed upon.

3 (2) A refund or credit may not be paid or allowed with
4 respect to the year for which a return is filed after 5
5 years from the last day prescribed for filing the return or
6 after 1 year from the date of the overpayment, whichever is
7 later, unless before the expiration of the period the
8 taxpayer files a claim or the department has determined the
9 existence of the overpayment and has approved the refund or
10 credit. If the taxpayer has agreed in writing under the
11 provisions of subsection (1) to extend the time within which
12 the department may propose an additional assessment, the
13 period within which a claim for refund or credit may be
14 filed or allowed is automatically extended.

15 (3) If a return is required to be filed and the
16 taxpayer fails to file the return, the tax may be assessed
17 or an action to collect the tax may be brought at any time.
18 If a return is required to be filed and the taxpayer files a
19 fraudulent return, the 5-year period provided for in
20 subsection (1) does not begin until discovery of the fraud
21 by the department.

22 NEW SECTION. Section 9. Disposition of tax. The tax
23 collected under [sections 1 through 9] must be deposited in
24 the forestry extension service account administered by the
25 Montana university system and provided for in [section 10].

1 NEW SECTION. Section 10. Forestry extension service
2 account -- purpose -- appropriation. (1) There is a forestry
3 extension service account in the state special revenue fund
4 provided for in 17-2-102.

5 (2) There must be deposited in the account:
6 (a) all revenue from the timber severance tax provided
7 for in [section 2]; and
8 (b) money received by the department in the form of
9 legislative appropriations, reimbursements, gifts, federal
10 funds, or appropriations from any source intended to be used
11 for the purposes of this account.

12 (3) Money in the account is available to the Montana
13 university system by appropriation for the uses set forth in
14 subsection (4). Any unencumbered and unexpended balance of
15 this account remaining at the end of a fiscal year does not
16 lapse but must be carried forward for the purposes of this
17 section until expended or appropriated.

18 (4) Money in the account may be used by the university
19 system only to fund forestry services through the Montana
20 cooperative extension service of Montana state university.
21 The forestry services must be conducted at Montana state
22 university, the university of Montana, and Flathead Valley
23 community college.

24 NEW SECTION. Section 11. Codification instruction. (1)
25 [Sections 1 through 9] are intended to be codified as an

LC 0502/01

1 integral part of Title 15 and the provisions of Title 15
2 apply to [sections 1 through 9].

3 (2) [Section 10] is intended to be codified as an
4 integral part of Title 76, chapter 13, part 1, and the
5 provisions of Title 76, chapter 13, part 1, apply to
6 [section 10].

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

9 NEW SECTION. **Section 13.** Applicability. [This act]
10 applies to forest products cut after June 30, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0476, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a severance tax on timber cut in Montana; establishing a forestry extension service special revenue account for the Montana University System; and providing an immediate effective and applicability date.

ASSUMPTIONS:

Department of Revenue:


1. The total volume of timber cut in Montana was 1,278,811 MBF (thousand board feet) during 1989 (Bureau of Business and Economic Research, University of Montana).
2. The total volume of timber cut in Montana will remain at the 1989 level during the biennium.
3. The initial collections would not be received until the second quarter of FY92.
4. There are approximately 200 wood products processors who purchase timber in Montana (1989 Fiscal note, HB790).
5. The proposed legislation would require an additional permanent full-time 2.00 FTE (grades 14 and 8) to administer the tax program in the Department of Revenue.
6. Data processing systems development and modification would require an additional 1.50 FTE during FY92.
7. The general fund provides funding for these administrative costs.

Montana Cooperative Extension Service:


1. The forestry services provided for in the proposal would require 3.00 FTE and operating costs of \$31,500 in each fiscal year. Equipment outlays would total \$20,000 in FY92 and \$10,000 in FY93.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR 2-4-91 DATE
Office of Budget and Program Planning



BEN COHEN, PRIMARY SPONSOR 2/5/91 DATE
Fiscal Note for HB0476, as introduced **HB 476**

Fiscal Note Request, HB0476, as introduced

Form BD-15

Page 2

FISCAL IMPACT:

Expenditures:

Department of Revenue

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
F.T.E.	0	3.50	3.50	0	2.00	2.00
Personal Services	0	115,690	115,690	0	45,690	45,690
Equipment Costs	0	16,785	16,785	0	0	0
Operating Expenses	0	<u>11,265</u>	<u>11,265</u>	0	<u>5,900</u>	<u>5,900</u>
Total	0	143,740	143,740	0	51,590	51,590
<u>Funding:</u>						
General Fund	0	143,740	143,740	0	51,590	51,590

Montana Cooperative Extension Service

(Forestry Extension Service Account - 02)

F.T.E.	0	3.00	3.00	0	3.00	3.00
Personal Services	0	127,000	127,000	0	127,000	127,000
Operating Expenses	0	31,500	31,500	0	31,500	31,500
Equipment	0	<u>20,000</u>	<u>20,000</u>	0	<u>10,000</u>	<u>10,000</u>
Total	0	178,500	178,500	0	168,500	168,500
<u>Funding:</u>						
Current Unrestricted	0	178,500	178,500	0	168,500	168,500

Revenues:

Depending on the annual volume of timber harvest, the tax should raise approximately \$ 256,000 annually after FY92.

Timber Severance Tax (02)	0	192,000	192,000	0	256,000	256,000
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TECHNICAL NOTES:

see next page

HB 476

TECHNICAL NOTES:

Department of State Lands

1. There is no standard or uniform manner in which board-foot volume is calculated in Montana. Measurement of commercial timber (scaling, weighing) in Montana is done in a manner which best fits the needs of the parties in the transactions, and the needs of the primary processors (mills). It is not regulated except by individual contract, nor are there any uniform standards for conversions to board-foot volume when other measures are used.
2. In many cases the timber is delivered from company-owned lands to company-owned processing plants. This presents two problems: first, this material is not always measured to determine volume, which would now be necessary, and additional costs for this measurement would have to be borne by the company; second, it is unclear who the initial purchaser is in this situation, and who has the responsibility to collect and report the tax.

HB 476