

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION**

#### **JOINT SUBCOMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN ROGER DEBRUYCKER**, on February 17, 1995, at 8:00 a.m. in Room 402 of the State Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Roger Debruycker, Chairman (R)  
Sen. Thomas F. Keating, Vice Chairman (R)  
Sen. Judy H. Jacobson (D)  
Sen. Loren Jenkins (R)  
Rep. John Johnson (D)  
Rep. William R. Wiseman (R)

**Members Excused:** none

**Members Absent:** none

**Staff Present:** Mark Lee, Legislative Fiscal Analyst  
Roger Lloyd, Legislative Fiscal Analyst  
Florine Smith, Office of Budget & Program  
Planning  
Debbie Rostocki, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: none  
Executive Action: Department of State Lands  
- Forestry Division  
Department of Agriculture  
-Agricultural Sciences Division  
Department of Health & Environmental Sciences  
- Water Quality Division  
- Environmental Remediation Division

#### **EXECUTIVE ACTION ON Department of State Lands Forestry Division**

**Motion/vote:** REP. JENKINS moved to open the budget of the Department of State Lands (DSL) back up for reconsideration; REP. JOHNSON seconded the motion. The motion carried unanimously.

**Discussion:** Mr. Bud Clinch, State Land Commissioner, spoke. HB 201 and the Fiscal Note for HB 201 were distributed. EXHIBIT 1

and **EXHIBIT 2**. In order to produce the revenue the bill has projected, the department has been mandated to increase their harvest of state lands from the existing 32 million board feet (MMBF) to 50 MMBF per year, translating to an increase of \$5.2 million in revenue. In order to do this DSL needs to increase staff and contracted services to the amount of 12 FTE and about \$562,000 per year. In the 1993 Legislative session DSL was mandated to increase their harvest from the previous 25 MMBF to 30 MMBF and the calculations the department made resulted in a successful program. Continued funding for that program is contained in **HB 50**. This additional increase in harvest of 20 MMBF in **HB 201** is in direct proportion to a change in management strategies and is in addition to what **HB 50** authorizes. **HB 50** authorizes DSL to keep on board the six FTE which had been added to reach the 32 MMBF harvest level. The fiscal note (**EXH.3**) is the estimate of the additional cost to go from 32 MMBF to 50 MMBF. He cautioned the committee that its action needs to be taken in concert with the current request under **HB 50**.

In response to **SEN. JENKINS, Mr. Clinch** said that during the phase-in year DSL will increase nine FTE, up to a total of 12 over the biennium. DSL has tried in the past to shift to contracted services as much as possible, and he stressed that the FTE increase was the "bare bones" level at which they needed to be.

**REP. WISEMAN** said that according to the revised Present Law Adjustment table for the division, 3.95 FTE were not removed from the budget and he wanted to know why this was done. **Mr. Bob Kuchenbrod**, Central Management Division Administrator, explained that those FTE were contained in a negative new proposal submitted through the Budget Office, and would not have anything to do with this project specifically. The six FTE added under **HB 50** appear in New Proposal No. 2 on p. C-72, and had to be requested as a new proposal because the legislation to increase the timber sales program had a sunset on it. The increase that is being mandated with **HB 201** is double what they were able to do under the previous directive. At present there are approximately 35 FTE in the timber sales program. **SEN. KEATING** wanted to know if there was a ratio between the number of FTE and the increase in productivity. **Mr. Clinch** explained that certain levels of efficiency were gained with new programs; however, in the past the timber program has operated in the easiest areas with the minimum of conflict, and as the "envelope is pushed" to the sustained yield of 50 MMBF, the sites are getting more complicated and there will no longer be a linear comparison between FTE and volume. He said they were currently producing 32 MMBF per year with their existing staff plus the six FTE authorized in the new proposals. The six FTE corresponded to about a 5 MMBF increase in sales. DSL will take a more aggressive approach to some of their timber sales including the implementation of different silvicultural strategies that will allow volume to increase without additional FTE. They plan to begin focusing more on revenue generation to the degree that they

are allowed to under the law. Even if they do this, his projection is that they will still be about 10 MMBF short of the projected 50 MMBF. The 10 MMBF equates to roughly twice the amount that they were able to capture with the past six FTE and this is how he came up with the conclusion that they would need twice what they did before. He said this was not a very scientific approach; due to the individual consequences of each timber sale they propose, they may spend a lot of time on a sale for 3 MMBF and there may be another sale that "slips through real easily" with a like amount.

**Motion:** REP. WISEMAN moved to add a total of 12 FTE over the biennium, adding 9 FTE and an additional \$562,368 in 1996 and the remainder of the FTE and an additional \$545,076 in the second year, with the funding to come from timber sale proceeds, and that the language in HB 201 be reviewed and compared with the projected amount of timber sale proceeds to determine whether or not there was any unattached money that could flow to fund this appropriation, with funding contingent upon passage and approval of HB 201; SEN. KEATING seconded the motion.

**Discussion:** Mr. Lloyd pointed out HB 201 provided that 90% of the increase of revenue over the 1994 base was to be used for the technology acquisition fund. HB 50 funds the six FTE's because it says that any amount appropriated for them is drawn off from the timber sale revenue placed in the special account to fund them; therefore, he felt there may be a conflict between the two bills. SEN. KEATING suggested the bill could be amended in the Senate so that 90% of the net income increase be used. REP. JOHNSON cautioned that the schools that had supported HB 201 should be notified of this change. Mr. Clinch stated that the fiscal note (EXH. 2) was prepared prior to the amendment that occurred in the Appropriations Committee. He estimated that 10% of the increase probably would be able to fund the additional FTE during the year the entire revenues stream started to flow but that there would be a "lag period of time;" i.e. it would take the first fiscal year to get anything on the market and the revenue might not come in for a year after the actual harvesting. REP. WISEMAN submitted that the language on p. 2, line 28 of HB 201 (EXH. 1) allowed for some flexibility because the word "may" was used.

**Vote:** The question was called for. The motion carried unanimously.

Mr. Clinch said he would provide Mr. Lloyd with the information which he used to arrive at the calculations on p. 2 of EXH. 2.

**Motion:** SEN. JENKINS then referred the committee to New Proposal No. 1 on p. C-72, and moved that it be accepted on the condition that the additional FTE be a one-time-only appropriation and that the addition of the FTE not be included in the 1999 biennium base budget because of the uncertainty of the availability of federal funding.

**Discussion:** Mr. Lloyd stated that if the federal funding stopped for those positions, they would automatically be pulled from the base budget.

**Vote:** The question was called for and the motion carried with CHAIRMAN DEBRUYCKER and SEN. KEATING opposed.

**Motion/vote:** SEN. JENKINS moved to close the section on DSL. Motion carried unanimously.

**EXECUTIVE ACTION ON Department of Agriculture**  
**Agricultural Sciences Division**

**Motion/vote:** SEN. JENKINS moved to reopen consideration of the budget of the Department of Agriculture. The motion carried unanimously.

**Discussion:** Mr. Leo Giacometto, Director of the Department of Agriculture, said that they had been requested to explain why they wanted the positions reinstated which had been removed from the budget under New Proposal No. 6 on p. C-127 as well as why they wanted the committee to accept New Proposal No. 7, which provided spending authority for an EPA grant for instruction on worker protection acts and pesticide acts and had been rejected by the committee. **EXHIBIT 3.** The agriculture industry feels that if the first four positions on **EXH. 3** are not reinstated it will damage the industry. He added that these were people who were currently on staff.

**Pam Langley**, representing the Montana Agribusiness Association and WIFE, rose in support of reinstating the positions, two of which are funded with their fees. They agreed that the fertilizer program needed to be reassessed over the next two years.

**Bob Stevens**, Montana Grain Growers Association, also rose in support of the positions being reinstated, as did **John Semple**, Association of Montana Aerial Applicators, and **Lorna Frank**, Montana Farm Bureau.

In response to SEN. KEATING, Mr. Semple said worker protection standards would continue to be implemented if the funding was not reinstated. This would be done either through the Department of Agriculture, which they would prefer, or the EPA. In response to CHAIRMAN DEBRUYCKER, Mr. Giacometto stated that the State did have primacy, but if the funding was not provided they would have to turn this back over to the federal government. Mr. Semple said that he had been on the Board of Directors of the National Association of Aerial Applicators and there were difficulties in working at the federal level and it was much easier to make changes at the State level within the parameters of the federal law. They are concerned that they might lose touch with what they can and cannot change. Working directly with the EPA was

not so much a matter of increased expense as it was having to implement certain aspects of the worker protection laws, such as clothing requirements. Also there was concern that the EPA might mandate changes in mid-season and cause delays in the harvest.

In response to **CHAIRMAN DEBRUYCKER**, **Mr. Giacometto** said the first four positions listed on the handout were more important than the last one, which would help speed up turn-around in the lab analyses, but the first four are actually in the field. New Proposal No. 7 is very important education-wise but the "sky would not fall" if funding was not reinstated on the grant and the fifth position. **Ms. Sandra Kuchenbrod**, Central Management Division Administrator, said that if the first four positions were reinstated, approximately \$24,000 in general fund could be reduced from the budget in the Central Management Division, and if all five positions and the grant were allowed, general fund would go down \$31,000 per year.

**Motion/vote:** **SEN. JENKINS** moved to amend New Proposal No. 6 on p. C-127 to reinstate four of the FTE as outlined on EXH. 3 (nos. 1 - 4), and to accept New Proposal No. 7 to provide for a one-time-only appropriation for an additional \$150,000 per year in federal funding, with expenditures not to be included in the 1999 biennium base budget because of the uncertainty of the availability of federal EPA grant monies and directing the LFA to make the necessary adjustments to the Central Management Division by reducing the amount of general funding and increasing state special and federal revenue accordingly. **REP. WISEMAN** seconded the motion. The motion carried unanimously.

**Discussion:** **Mr. Giacometto** said the committee bill dealing with the worker protection act (EXH. 2, 2/2/95) should not be introduced in light of the committee's action to accept New Proposals 6 and 7. He added there was another bill before the Legislature dealing with the overall State primacy issue, but it would not take effect in the coming biennium.

**Motion/vote:** **SEN. JENKINS** moved and **REP. WISEMAN** seconded the motion to close the section on the Department of Agriculture. Motion carried unanimously.

Tape No. 2:A:000

**EXECUTIVE ACTION ON Department of Health & Environmental Sciences**  
**Water Quality Division**

**Motion/vote:** **SEN. JENKINS** moved to reopen the Department of Health and Environmental Sciences (DHES) budget for consideration; **REP. WISEMAN** seconded the motion. Motion carried unanimously.

**Discussion:** **SEN. JENKINS** said that in the committee's action of the previous day, the conservation districts' funding was locked in according to their expenditures, to prevent shifting of funds. He said although their average portion of the nonpoint

source/wetlands funding was 70%, their 1994 level was 42% and in 1995 it was 82%. He said he wanted to include language that would provide that 70% of the funding go for conservation districts and that would restrict that only 10% of that amount be used for studies and the remainder would be used for on-ground work. **Mr. Lee** said that **SEN. JENKINS** was referring to Water Quality Division Present Law Adjustment No. 5 on p. B-165. The funding in that item had all been awarded with a language appropriation. In the base was \$664,755 for contracted services and the language would maintain the percentages of expenditures that went to conservation districts, which amounted to about 35%.

**Mr. Jack Thomas**, program manager for the Water Quality Division, distributed a sheet breaking down the allocation of the 1994 base for contracted services. **EXHIBIT 4**. He also distributed a five-year summary of the amount of money which had gone to the conservation districts. **EXHIBIT 5**. He explained that the Nonpoint Source (NPS) Program was the program which provided the money to the conservation districts. The wetlands money typically goes for education, and the Clean Lakes money goes to local groups for clean lakes work, particularly monitoring. He stressed that the majority of the NPS money went to the conservation districts. He added that in 1994 some of the money went to the Indian tribes and to the counties, but even though it didn't all go to the conservation districts, it was going to the local entities for on-ground uses.

In response to **SEN. KEATING**, **Mr. Thomas** explained that the \$383,194 in NPS contracted services for 1994 (**EXH. 4**) was not included in the \$725,156 in total contracted services for 1994 for the NPS program (**EXH. 5**). The \$383,194 includes the 1990, 1991 and 1992 cumulative EPA NPS grants. Of the \$1.4 million total for these three years, \$383,194 was spent in 1994. He explained that many of their grants involved three to five-year projects, and often the major expenditures did not occur until the last two years. The \$1.2 million figure for 1995 represents an appropriation award from the EPA. **Mr. Thomas** said that he did not have a problem with only having 10% of the funding being used for studies in the NPS program but that the wetlands money was primarily used for education, and the Clean Lakes money was primarily for monitoring the lakes in the State. As far as 70% of contracted services money going to the conservation districts, he didn't think this would be a major problem until the Wetlands and Clean Lakes programs were considered, because typically the conservation districts have not sponsored these kinds of activities. **SEN. JENKINS** clarified that he wanted 70% of the \$664,755 1994 base funding in contracted services to go to conservation districts, with no more than 10% of that amount to be used for studies and the remaining 30% could be spent without restrictions. He also wanted no more than 10% of the \$3 million in spending authority for the biennium for the conservation districts (which had been approved by the committee on Feb. 16) be used for studies. **Mr. Thomas** said he would like to have some latitude in allowing the division to contract with other people

than just the conservation districts for the Wetlands and Clean Lakes portion of the budget. **Mr. Steve Pilcher**, Water Quality Division Administrator, suggested that 70% of contracted services be for the conservation districts and 70% of the \$3 million language appropriation go to the conservation districts, but **SEN. JENKINS** was opposed to this idea. **Mr. Thomas** said the problem he saw with appropriating 70% of the contracted services base to the conservation districts was that the EPA appropriation for 1995 already included about \$300,000 for Wetlands, and money would have to be returned since this would not leave enough spending authority to meet the 70% requirement. **Mr. Pilcher** suggested that the base could be split 50/50, with half to the conservation districts and the other half to Clean Lakes and Wetlands. **SEN. JENKINS** said he would be willing to make the split 65/35 with 65% going to the conservation districts. **Mr. Lee** said this could be done through the funding mechanisms and in addition he could put language in to prevent appropriations from being moved from one federal funding source to another.

**Motion:** **SEN. JENKINS** moved to allocate 65% of the 1994 base for Contracted Services in the Water Quality Division to contracting with the conservation districts, with not more than 10% of this amount to be used for studies, and 35% of the base to other contracts including wetlands and Clean Lakes activities; and to allocate 100% of the language appropriation approved on Feb. 16 to the conservation districts, with not more than 10% of this amount to be used for studies; and to direct the LFA to provide language which would ensure that the money would not be moved from one funding source to another.

**Discussion:** **Mr. Lee** said that if the motion carried, the Wetlands project would probably not be able to come in for a budget amendment, and he would work with the department to determine what proportions of the remaining 35% would go to the other two programs.

**Vote:** The question was called for and the motion carried unanimously.

#### EXECUTIVE ACTION ON DHES Environmental Remediation Division

**Discussion:** **REP. WISEMAN** said he would like to lower the base per year on Present Law Adjustment No. 5, p. B-161, to \$100,000 or \$115,000, just State money, and put language in which would allow spending authority to use the base money to match any federal funding which might come in. **Mr. Lee** said that cost recovery monies amounting to about \$300,000 per year were also in the base, and that this amount could also be moved off-budget. **REP. WISEMAN** said he wanted all of the federal money to remain off-budget and only as a language appropriation. **Mr. Curt Chisolm**, DHES administrative officer, said they could live with this, and it would simply force the department to justify any increased expenditures above \$100,000 in that area.

Motion/vote: REP. WISEMAN then moved to lower the base per year on the Leaking Underground Storage Tank (LUST) Program to include only state money of about \$100,000, and that the approximately \$300,000 in cost recovery monies be appropriated as an off-budget language appropriation as well as all federal funding, and providing that the money in the base could be used as matching money for federal funds. SEN. JENKINS seconded the motion. Motion carried unanimously.

Motion/vote: SEN. KEATING moved to close the section on DHES. REP. WISEMAN seconded the motion. The motion carried unanimously.



ADJOURNMENT

Adjournment: 11:00 a.m.

  
\_\_\_\_\_  
ROGER DEBRUYCKER, Chairman

  
\_\_\_\_\_  
DEBBIE ROSTOCKI, Secretary

RD/dr

The meeting was recorded on two 60-minute audiocassette tapes.

EXHIBIT 1  
DATE 2/17/95  
HB                     

## HOUSE BILL NO. 201

INTRODUCED BY ELLIS, TASH, CURTISS, GRADY, DEBRUYCKER, ANDERSON; BRAINARD, DENNY,  
WAGNER, ORR

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT ANNUAL SUSTAINABLE YIELD BE USED AS  
A FACTOR IN THE MANAGEMENT OF FORESTED STATE TRUST LANDS; DEFINING "ANNUAL  
SUSTAINABLE YIELD" AND ESTABLISHING ANNUAL SUSTAINABLE YIELD AS THE ANNUAL TIMBER  
SALE REQUIREMENT; ~~AND~~ PROVIDING FOR DECENNIAL REVIEW OF ANNUAL SUSTAINABLE YIELD;  
PROVIDING THAT A PORTION OF INCOME FROM SUSTAINABLE YIELD FROM SCHOOL TRUST LAND BE  
USED TO FUND SCHOOL TECHNOLOGY; AMENDING SECTION 20-9-343, MCA; AND PROVIDING AN  
EFFECTIVE DATE."

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

NEW SECTION. Section 1. Definition. As used in [sections 1 through 3], "annual sustainable  
yield" means the quantity of timber that can be harvested from forested state lands each year in  
accordance with all applicable state and federal laws, taking into account the ability of state forests to  
generate replacement tree growth.

NEW SECTION. Section 2. Determination of annual sustainable yield. (1) The department, under  
the direction of the board, shall commission a study by a qualified independent third party to determine,  
using scientific principles, the annual sustainable yield on forested state lands.

(2) Until the study required by subsection (1) is completed, the annual sustainable yield is  
considered to be 50 million board feet.

NEW SECTION. Section 3. Annual sustainable yield as timber sale requirement -- review. (1) The  
annual sustainable yield constitutes the annual timber sale requirement for the state timber sale program  
administered by the department.

(2) After it is determined under [section 2], the annual sustainable yield must be reviewed and  
redetermined by the department, under the direction of the board at least once every 10 years.

1        SECTION 4. SECTION 20-9-343, MCA, IS AMENDED TO READ:

2        "20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term  
3        "state equalization aid" means the account in the state special revenue fund that receives revenue as  
4        required in this section plus any legislative appropriation of money from other sources for:

5            (a) distribution to the public schools for the purposes of payment of systems development and  
6        other related costs resulting from the enactment of legislation that requires changes to the automated  
7        system used to administer the BASE funding program, guaranteed tax base aid, BASE aid, state  
8        reimbursement for school facilities, ~~and~~ matching funds for the systemic initiative for Montana mathematics  
9        and science grant, and grants for school technology purchases;

10           (b) negotiated payments authorized under 20-7-420(3) up to \$500,000 per biennium; and

11           (c) the Montana educational telecommunications network as provided in 20-32-101.

12           (2) The superintendent of public instruction may spend funds appropriated from the state  
13        equalization aid account as required for the purposes of systems development and other related costs  
14        resulting from the enactment of legislation that requires changes to the automated system used to  
15        administer the BASE funding program, guaranteed tax base aid, BASE aid for the BASE funding program,  
16        state reimbursement for school facilities, negotiated payments authorized under 20-7-420(3), ~~and the~~  
17        Montana educational telecommunications network, ~~throughout the biennium, and for the biennium~~  
18        ~~beginning July 1, 1993,~~ equipment purchases that qualify as the state match for the systemic initiative  
19        for Montana mathematics and science grant, and school technology purchases, throughout the biennium.

20           (3) The following must be paid into the state equalization aid account for the public schools of the  
21        state:

22           (a) money allocated to state equalization from the collection of the severance tax on coal;

23           (b) money received from the treasurer of the United States as the state's shares of oil, gas, and  
24        other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

25           (c) (i) subject to subsection (3)(c)(ii), interest and income money described in 20-9-341 and  
26        20-9-342;

27           (ii) an amount of money equal to 90% of the income money attributable to the difference between  
28        the 1994 timber harvest from state lands and the sustainable yield provided in [section 2(2)] may be  
29        appropriated for purposes of [section 5];

30           (d) money received from the state equalization aid levy under 20-9-360;

(e) income from the lottery, as provided in 23-7-402;

(f) the surplus revenues collected by the counties for BASE funding program support according to 20-9-331 and 20-9-333; and

(g) investment income earned by investing money in the state equalization aid account in the state special revenue fund.

(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.

(5) Any surplus revenue in the state equalization aid account at the end of a fiscal year must be transferred to the general fund."

NEW SECTION. SECTION 5. TECHNOLOGY ACQUISITION FUND -- LIMITATIONS. (1) THE TRUSTEES OF A DISTRICT MAY ESTABLISH A TECHNOLOGY ACQUISITION FUND FOR SCHOOL DISTRICT EXPENDITURES INCURRED FOR THE PURCHASE, RENTAL, REPAIR, AND MAINTENANCE OF TECHNOLOGICAL EQUIPMENT, INCLUDING COMPUTERS AND COMPUTER NETWORK ACCESS.

(2) THE TRUSTEES OF A DISTRICT SHALL FUND THE BUDGET FOR THE TECHNOLOGY ACQUISITION FUND BY TRANSFERRING MONEY FROM THE DISTRICT GENERAL FUND AND WITH THE STATE MONEY RECEIVED UNDER SECTION 61.

(3) WHENEVER THE TRUSTEES OF A DISTRICT DETERMINE THAT AN AMOUNT OF REVENUE IS REQUIRED FOR A TECHNOLOGY ACQUISITION FUND BUDGET, THE TRUSTEES SHALL:

(A) WHEN THE TRUSTEES ESTABLISH THE FUND, ADOPT A RESOLUTION STATING THE REASONS AND PURPOSE FOR FINANCING A TECHNOLOGY ACQUISITION FUND BUDGET;

(B) ADOPT A BUDGET FOR THE AMOUNT REQUIRED FOR THE TECHNOLOGY ACQUISITION FUND THAT DOES NOT EXCEED 2% OF THE SCHOOL DISTRICT'S TOTAL GENERAL FUND BUDGET ADOPTED FOR THE ENSUING SCHOOL FISCAL YEAR; AND.

(C) REPORT THE TECHNOLOGY ACQUISITION FUND BUDGET TO THE COUNTY SUPERINTENDENT ON THE REGULAR BUDGET FORM PRESCRIBED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION IN ACCORDANCE WITH 20-9-103.

(4) THE TRUSTEES OF A DISTRICT MAY NOT USE REVENUE IN THE TECHNOLOGY ACQUISITION FUND TO FINANCE CONTRIBUTIONS TO THE TEACHERS' RETIREMENT SYSTEM, THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, OR THE FEDERAL SOCIAL SECURITY SYSTEM OR FOR

1 UNEMPLOYMENT COMPENSATION INSURANCE.

2

3 NEW SECTION. SECTION 6. SCHOOL TECHNOLOGY PURCHASES. THE SUPERINTENDENT OF  
4 PUBLIC INSTRUCTION SHALL ALLOCATE THE AMOUNT APPROPRIATED FOR GRANTS FOR SCHOOL  
5 TECHNOLOGY PURCHASES TO EACH DISTRICT BASED ON THE RATIO THAT EACH DISTRICT'S BASE  
6 BUDGET BEARS TO THE STATEWIDE BASE BUDGET AMOUNT FOR ALL SCHOOL DISTRICTS MULTIPLIED  
7 BY THE AMOUNT OF MONEY PROVIDED IN 20-9-343(3)(C)(II) IN THE CURRENT SCHOOL YEAR.

8

9 NEW SECTION. Section 7. Codification instruction INSTRUCTIONS. (1) [Sections 1 through 3]  
10 are intended to be codified as an integral part of Title 77, chapter 5, part 2, and the provisions of Title 77,  
11 chapter 5, part 2, apply to [sections 1 through 3].

12 (2) [SECTIONS 5 AND 6] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 20,  
13 CHAPTER 9, AND THE PROVISIONS OF TITLE 20, CHAPTER 9, APPLY TO [SECTIONS 5 AND 6].

14

15 NEW SECTION. SECTION 8. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 1995.

16

-END-

## STATE OF MONTANA - FISCAL NOTE

## Fiscal Note for HB0201, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring that annual sustainable yield be used as a factor in the management of forested trust lands; defining "annual sustainable yield" and establishing annual sustainable yield as the annual timber sale requirement; and providing the decennial review of annual sustainable yield.

ASSUMPTIONS:

## Department of State Lands (DSL)

1. The State Land Board is required to administer the school trust lands to secure the largest measure of legitimate and reasonable advantage to the trust (77-1-202, MCA).
2. Under the direction of the State Land Board, DSL is authorized to sell timber and other forest products off of trust lands (77-5-201, MCA).
3. The current annual harvest rate is 32 million board feet (MMBF).
4. DSL will sell an additional 18 MMBF of timber annually as a result of this act, beginning with 9 MMBF in FY97 and 18 (MMBF) in FY98.
5. DSL will sell the additional volume at an average rate of \$290 per thousand board feet (MBF).
6. 50% of the timber volume sold in FY97 will be logged in FY98, and the other 50% will be logged in FY99. Similarly, 50% of the timber volume sold in FY98 will be logged in FY99, and the other 50% will be harvested in FY 2000.
7. Stumpage prices will not increase.
8. Revenue estimates are based on additional timber volume contracted for sale as a result of the act.
9. Due to time requirements for hiring new personnel and implementing an expanded program, in FY96 DSL will use 75% of the FTE recommended to carry out this act. In FY97 DSL will utilize 100% of the FTE recommended to carry out this program.
10. In order to meet the 50 MMBF target, DSL will have to adopt a more aggressive timber harvest management strategy for state-owned forest lands including the following:
  - DSL will proceed with timber harvests that may result in significant impacts to wildlife, visuals, and other resources, where those impacts are outweighed by potential revenue. Rather than mitigating those impacts, DSL will disclose such impacts in EIS documents as necessary to comply with MEPA.
  - DSL will apply mitigation to protect fish and wildlife habitat, visual resources, old growth forests, or other public concerns, only to the extent that they are specifically protected by state or federal law or the trust is compensated.
  - Habitat for threatened or endangered species (T&E) will be managed to standards that avoid violation of the Endangered Species Act.
  - DSL will be involved in increasing litigation surrounding these management strategies and some proposed harvests may be delayed.
  - Some other uses of state trust land will be secondary to timber management. Some uses may be suspended or restricted in areas where it impacts timber production.
  - Approximately 40% of the total harvest will be from even-aged management, which may include some clearcutting.

(continued on page 2)

Dave Lewis 1-20-95

DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

ALVIN ELLIS, PRIMARY SPONSOR DATE

Fiscal Note for HB0201, as introduced

HB 201

- Proposed projects will be modified to address public concerns to the extent consistent with state trust obligations.
- The best way to produce long-term trust income from forested trust lands is to manage the lands for timber production.
- Constraints to state annual harvest will result from T&E species requirements, Streamside Management Zone requirements, air and water quality requirements, the Antiquities Act, and Forestry Best Management Practices.
- Timber sale packages will be expanded to include more and larger sales within a single environmental analysis to capture efficiencies of scale.

This change in state forest land management strategies will result in approximately 25% increase in annual harvest ( $25\% \times 32 \text{ MMBF} = 8 \text{ MMBF}$ ) within existing staffing levels. Subsequently the DSL's current funded level of harvest (32 MMBF) will translate to 40 MMBF. The 10 MMBF shortfall will be captured through increased resources, staff and contracted services as indicated below.

11. The Sustained Yield Study Commission is composed of volunteers with a paid analyst who reports to the commission.
12. The sustained yield study will include an independent review of the methodology and assumptions used by DSL to arrive at its estimate of biological capacity. It will also include a review of the constraints applied to the biological capacity that result in DSL's estimate of sustained yield. This study will cost \$30,000.

FISCAL IMPACT:

## DSL Forestry Division

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	9.00	12.00
Personal Services	268,368	359,076
Operating Expenses (10 MMBF)	146,000	186,000
Operating Expenses (Sus. Yield Study)	30,000	0
Equipment	<u>118,000</u>	<u>0</u>
Total	562,368	545,076

Revenues:

State Special Revenue (02)	0	0
School Equalization	0	0
Permanent Trust	0	0

Net Impact:

State Special Revenue (02)	(562,368)	(545,076)
School Equalization	0	0
Permanent Trust	0	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal would increase spending in the local communities and sustain the timber-dependent tax base.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Annual revenues should increase by \$1.3 million in FY98, \$3.9 million in FY99, and \$5.2 million in FY2000. The revenue increases occur as the annual timber volume harvest increase of 18 MMBF is realized.

TECHNICAL NOTES:

1. The bill does not indicate whether the annual requirement is on a calendar year, state fiscal year (July 1 to June 30), or federal fiscal year (October 1 to September 30).
2. The bill becomes effective October 1, 1995, and requires sales of 50 MMBF the first year. DSL projects only half the increase to be achievable the first year, with 50 MMBF not being attainable until FY98.



NATURAL RESOURCES APPROPRIATIONS SUBCOMMITTEE

FEBRUARY 17, 1995

Montana Department of Agriculture  
Agricultural Sciences Division

Prioritization of Positions

- #1 Agricultural Specialist - Noxious Weed and Agricultural  
Chemical Ground Water  
Protection Programs

Funding: Noxious Weed Special Revenue (50%)  
Agricultural Chemical special Revenue  
(50%)

- #2 Agricultural Specialist - Feed and Fertilizer Programs.

Funding: Feed Account (50%)  
Fertilizer Account (50%)

- #3 Agricultural Specialist - Pesticide Safety and Worker  
Protection

Funding: EPA Grant

- #4 Training and Development Specialist -  
Pesticide Disposal,  
Certification, Ground Water  
and Worker Protection.

Funding: EPA Grant

- #5 Chemist - Pesticide Worker Protection  
sample analyses.

Funding: EPA Grant

Other

\$150,000 per year.

Funding: EPA Grant

WATER QUALITY MANAGEMENT - CONTRACTED SERVICES

1994 - BASE

	Total Contracted Services	Total To CDs	Total To Others
Nonpoint Source Program	383,194	229,756 (60%)	153,438 (40%)
Wetlands	201,624		201,624
Clean Lakes	79,937		79,937
	<hr/>	<hr/>	<hr/>
TOTAL	664,755	229,756 (35%)	434,999 (65%)

DHES NONPOINT SOURCE PROGRAM

CONTRACTED SERVICES

<u>FFY</u>	<u>Total</u> <u>Contracted Services</u>	<u>Total</u> <u>To CDs</u>	<u>Percent</u> <u>To CDs</u>
1995	1,245,290	1,025,896	82%
1994	725,156	303,524	42%
1993	275,209	170,817	62%
1992	371,544	182,024	49%
1991	297,201	213,201	72%
1990	901,405	794,545	88%
	<hr/>	<hr/>	<hr/>
TOTAL	\$3,815,470	\$2,690,007	71%

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

NAT. RESOURCES SUB COMMITTEE

**BILL NO.**

DATE 2/17 SPONSOR(S)

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