

1 *House* BILL NO. *619*
 2 INTRODUCED BY *Brand, Dinnell, Sheldon, V. Beach, Wolfe*
 3 *Magom*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH THE
 5 MONTANA TIMBERLAND TAXES ACT BY IMPOSING A TIMBER YIELD TAX,
 6 A SURTAX, AND FORESTLAND TAX AS A METHOD OF TAXING AND
 7 APPRAISING TIMBERLANDS AS PROVIDED IN SECTION 84-429.12,
 8 R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

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

10 Section 1. Short title. This act may be cited as the
11 "Montana Timberland Taxes Act".

12 Section 2. Legislative findings. The legislature
13 finds:
14

15 (1) The interests of the state require that steps be
16 taken to modernize the system of taxation of timber.

17 (2) The existing ad valorem property tax system is
18 unsatisfactory for taxation of standing timber and will
19 increasingly discourage good forestry, private ownership,
20 and investment of capital in reforestation.

21 (3) For these reasons, it is desirable to replace the
22 ad valorem taxation of timber with a tax based on the
23 stumpage value at the time of harvest and continue taxing
24 forest lands under the ad valorem taxation system.

25 Section 3. Legislative purpose. It is the purpose of

1 this act to exempt timber from levy and collection of the
2 general ad valorem property tax, and in lieu thereof, there
3 is imposed on such timber a yield tax and further, that
4 forest land shall continue to be assessed and taxed in
5 accordance with general ad valorem property tax laws.

6 Section 4. Definitions. As used in this act, unless
7 the context requires otherwise:

8 (1) "Department" means the department of revenue.

9 (2) "Director" means the director of the department of
10 revenue.

11 (3) "Forest land" means all land growing forest tree
12 species which are capable or could be capable of furnishing
13 raw material used in the manufacture of lumber or other
14 forest products. The term also includes all land from which
15 forest tree species have been removed but have not yet been
16 restocked, but it does not include land converted to uses
17 other than the growing of forest tree species. The
18 department will designate which lands qualify as forest
19 lands.

20 (4) "Harvest" means an activity related to the cutting
21 or the removal of forest trees for use or sale as a forest
22 product.

23 (5) "Owner" means every person, partnership,
24 corporation, or association of whatever nature who from
25 privately or publicly owned land, under a right or license

1 granted by lease or contract, either directly or by
 2 contracting with others for the necessary labor or
 3 mechanical services fells, cuts or takes timber for sale or
 4 use. It does not include persons performing under contract
 5 the necessary labor or mechanical services for an owner.

6 (6) "Timber" is synonymous with forest tree species
 7 and means all wood growth, mature or immature, growing or
 8 dead, standing or down, on all land that is capable of
 9 furnishing raw material used in the manufacture of lumber or
 10 other forest products. It does not mean Christmas trees,
 11 which are grown on land that has been prepared by intensive
 12 cultivation and tilling, such as by plowing or turning over
 13 the soil, and on which all unwanted plant growth is
 14 controlled continuously for the exclusive purpose of raising
 15 such Christmas trees.

16 Section 5. Rate of yield tax -- measurement of amount
 17 harvested. Every owner of timber in Montana shall be
 18 subject to a tax at the time of harvest equal to the
 19 immediate harvest value of the timber multiplied by the
 20 appropriate rate as follows:

21 (1) For timber harvested between January 1, 1977 and
 22 December 31, 1977 inclusive, the rate shall be three percent
 23 (3%);

24 (2) For timber harvested between January 1, 1978 and
 25 December 31, 1978 inclusive, the rate shall be three and one

1 quarter percent (3.25%);

2 (3) For timber harvested between January 1, 1979 and
 3 December 31, 1979 inclusive, the rate shall be three and
 4 one-half percent (3.5%);

5 (4) For timber harvested between January 1, 1980 and
 6 December 31, 1980 inclusive, the rate shall be three and
 7 three quarters percent (3.75%);

8 (5) For timber harvested between January 1, 1981 and
 9 December 31, 1981 inclusive, the rate shall be four percent
 10 (4%);

11 (6) For timber harvested on or after January 1, 1982
 12 the rate shall be determined and fixed by the legislature.
 13 The department shall furnish the legislature meeting in
 14 January 1981 with a review of the yield tax imposed by this
 15 act.

16 Section 6. Determination of immediate harvest values
 17 -- application by areas. (1) The department shall determine
 18 at least once each year the immediate harvest values to be
 19 used in computing the yield tax imposed. The values shall
 20 be determined for each species or subclassification, as
 21 provided in subsections (2) and (3) of this section. The
 22 department shall determine which areas shall be treated as
 23 units for the application of immediate harvest values
 24 determined under this section. The areas shall be selected
 25 within the discretion of the department based on

1 administrative feasibility to include timber having similar
2 growing, harvesting, and marketing characteristics.

3 (2) Immediate harvest values shall be the amount that
4 each such species or subclassification would sell for at a
5 voluntary sale made in the ordinary course of business for
6 purposes of immediate harvest, and shall be expressed in
7 terms of a dollar amount per thousand board feet or other
8 unit of measure. Such immediate harvest values shall be
9 determined from the gross proceeds from sales on the stump
10 of similar timber of like quality and character at similar
11 locations and in similar quantities and shall be determined
12 in a manner which makes reasonable and adequate allowance
13 for age, size, quality, cost of removal, accessibility to
14 point of conversion, market conditions and all other
15 relevant factors. Upon application from any owner who plans
16 to harvest damaged timber, the immediate harvest values for
17 which have been materially reduced from the values shown in
18 the applicable tables due to damage resulting from fire,
19 blowdown, ice storm, flood, or other sudden unforeseen
20 cause, the department shall revise such tables for any area
21 in which such timber is located and shall specify any
22 additional accounting or other requirements to be complied
23 with in reporting and payment of tax thereon. The amount
24 harvested shall be determined by the Scribner decimal scale
25 C or other prevalent measuring device adjusted to arrive at

1 substantially equivalent measurements.

2 (3) The completed immediate harvest value tables shall
3 be signed by the director or his designee in duplicate and
4 authenticated by the official seal of the department. One
5 (1) copy shall be delivered to the secretary of state, and
6 the other copy shall be retained on file in the office of
7 the department. A copy thereof shall be mailed to anyone
8 who has submitted to the department a written request
9 therefor. Any owner may appeal to the department for a
10 review of designated harvest values submitted by the
11 department for a specified area or areas.

12 Section 7. Notification of intent to harvest --
13 payment of yield tax -- filing of returns -- order of
14 crediting payments -- payment of tax under ten dollars (\$10)
15 excused. (1) Prior to the harvesting of any timber, all
16 owners except those planning to harvest less than two
17 hundred dollars (\$200) of timber for personal use in any
18 quarter must notify the department of the intent to harvest
19 and must secure from the department a yield tax collection
20 number. When more than one (1) harvest is to be conducted
21 in separate areas by the same owner, all harvests may be
22 included on one (1) notice. The notification required by
23 this section shall be on forms prescribed by and provided by
24 the department and shall include all relevant information
25 the department considers necessary. Promptly upon receipt

1 of the notice the department shall provide to the owner his
 2 yield tax collection number(s), instructions, immediate
 3 harvest value tables for each area in which he will harvest,
 4 and tax reporting forms.

5 (2) The yield tax shall be due and payable quarterly
 6 on or before the last day of April, July, October, and
 7 January of each year for all timber harvested during the
 8 preceding calendar quarter commencing with the calendar
 9 quarter beginning January 1, 1977. Timber shall be
 10 considered harvested for purposes of this subsection at the
 11 time when in the ordinary course of business the quantity of
 12 timber harvested is first definitely determined. The tax
 13 shall be delinquent if not paid by the due date or within
 14 the additional time allowed for filing under subsection (3)
 15 of this section.

16 (3) On or before the last day of April, July, October,
 17 and January, each owner shall make out a return on the form
 18 prescribed by the department showing the amount of tax for
 19 which he is liable for the preceding calendar quarter and
 20 such other relevant information as the department considers
 21 necessary to correctly determine the tax due and shall mail
 22 or deliver the return, together with a remittance for the
 23 amount of the tax, to the office of the department at
 24 Helena, Montana. The return shall be signed and verified by
 25 the owner or a duly authorized agent of the owner. Whenever

1 in its judgment good cause exists, the department may allow
 2 further time not exceeding thirty (30) days for filing a
 3 return and payment of the tax due.

4 (4) All payments received under this act shall be
 5 credited first to penalty and then to interest accrued on
 6 the tax being paid and then to the tax. Penalty, interest
 7 and taxes for prior delinquent quarters shall be paid in
 8 full chronologically before any payments shall be credited
 9 to any subsequent quarter.

10 (5) Owners incurring less than ten dollars (\$10) total
 11 tax liability under this act in any calendar quarter are
 12 excused from the payment of such tax but may be required to
 13 file a quarterly return.

14 Section 8. Timber tax account and subaccounts. (1)
 15 The revenue from the yield tax of this act shall be remitted
 16 by the department to the state treasurer who shall deposit
 17 it in a suspense account established under the provisions of
 18 section 79-412. After payment of refunds pursuant to
 19 subsection (2) of this section the balance remaining shall
 20 be deposited in the general fund to the credit of the timber
 21 tax account which account is established.

22 (2) The amount of moneys necessary to pay refunds of
 23 the taxes levied under this act are appropriated
 24 continuously to the department from the suspense account
 25 referred to in subsection (1) of this section, and shall be

1 used by the department for the payment of all refunds of
 2 taxes levied under this act which have been audited and
 3 approved by the department. Any penalties, interest, and
 4 taxes then due from the taxpayer shall be applied in that
 5 order in computing any refund, and only the balance due the
 6 taxpayer, if any, shall be refunded.

7 (3) Subject to subsections (2) and (4) of this section
 8 the records of the department shall reflect the tax credit
 9 for each taxing district in the same proportion that the
 10 harvest factor in each taxing district bears to the sum of
 11 all the harvest factors for all taxing districts in the
 12 state. Harvest factor for the purposes of this act shall be
 13 the average of the aggregate value of all timber harvested
 14 within the school district in the most recent five (5) year
 15 period if the act has been in effect for five (5) years. If
 16 the act has not been in effect for five (5) years, the
 17 period shall be the number of years the act has been in
 18 effect. The aggregate value shall be determined from the
 19 yield tax returns filed with the department.

20 (4) There is established a subaccount of the timber
 21 tax account to be known as the administrative subaccount.
 22 The moneys in the administrative subaccount hereby are
 23 appropriated continuously for use in reimbursing the general
 24 fund for expenses incurred in the collection of the taxes
 25 imposed by this act which have been paid from the general

1 fund. Whenever the unobligated balance in the
 2 administrative subaccount is less than ten thousand dollars
 3 (\$10,000) the department shall direct the state treasurer to
 4 transfer to the subaccount from the timber tax account the
 5 sum of ten thousand dollars (\$10,000).

6 (5) In addition to the rates specified in section 5(1)
 7 of this act, there shall be imposed upon each owner a surtax
 8 at a rate of one-half of one percent (.5%) on the immediate
 9 harvest value of timber, as specified in subsections (2) and
 10 (3) of section 6 of this act, upon timber harvested between
 11 January 1, 1977 and December 31, 1977 inclusive. The
 12 revenues from such surtax shall be deposited in a separate
 13 fund, designated as the "reserve fund subaccount", which is
 14 hereby established within the timber tax account. The
 15 surtax shall be reimposed for one (1) year, at any time the
 16 balance in the reserve fund subaccount is reduced to less
 17 than three hundred thousand dollars (\$300,000).

18 Section 9. Department to furnish estimates of
 19 distributions from timber tax account -- county
 20 commissioners to fix levies using the amount certified --
 21 apportionment to taxing districts. (1) On or before July 1
 22 of each year, commencing with 1977 and ending with 1981, the
 23 department shall furnish to the county assessor the
 24 estimated amount of yield taxes to be distributed to each
 25 taxing district in the county for the current fiscal year

1 converted to taxable value by the department. The assessor
 2 shall include such taxable value in the total taxable values
 3 to be used by the county commissioners in setting mill levy
 4 rates for the various taxing districts for the current
 5 fiscal year. Such estimates of receipts shall be based on
 6 taxable value of standing timber in 1976 plus any
 7 distributions from the timber tax reserve fund subaccount,
 8 pursuant to subsection (4) of this section.

9 (2) On or before July 1 of each year, commencing with
 10 1982, the estimated amount of yield taxes converted to
 11 taxable values and furnished to the county assessor, shall
 12 reflect a tax credit assigned to each taxing district in the
 13 same proportion that the harvest factor for each district
 14 bears to the sum of the harvest factors for all taxing
 15 districts in the state.

16 (3) All moneys to be distributed by the department to
 17 the various counties, pursuant to subsections (1) and (2) of
 18 this section, must be credited to the proper taxing
 19 districts by the department and remitted to the respective
 20 county treasurers on or before the fifteenth day of the
 21 month following April 30, July 31, October 31, and January
 22 31. Remittances to the county treasurers shall be made by
 23 the department commencing with May 15, 1977. The county
 24 treasurer shall distribute such moneys to the various funds
 25 within the proper taxing district in the same proportions

1 that collections from ad valorem taxes within the district
 2 are distributed.

3 (4) At the end of the fourth quarter of 1977 and at
 4 the end of every fourth quarter thereafter, any moneys in
 5 the timber tax reserve fund subaccount in excess of four
 6 hundred thousand dollars (\$400,000) shall be transferred to
 7 the timber tax account, and one-fourth (1/4) of the
 8 transferred moneys shall be distributed with each quarterly
 9 distribution to the counties in the immediately following
 10 year. Moneys shall be transferred in the same proportion
 11 that each taxing district's credit in the reserve fund
 12 subaccount bears to the total value in the reserve fund
 13 subaccount as a whole.

14 Section 10. Deficiency below scheduled revenues. If
 15 the amount of revenues available for crediting to the
 16 various taxing districts pursuant to subsection (3) of
 17 section 8 of this act for any quarter is less than the
 18 estimates computed by the department under subsections (1)
 19 and (2) of section 9 of this act, the deficiency shall be
 20 made up as far as possible out of any available funds in the
 21 reserve fund subaccount, which funds are continuously
 22 appropriated for such purpose.

23 Section 11. Excess over scheduled revenues. If the
 24 amount of revenues available for crediting to the various
 25 taxing districts pursuant to subsection (3) of section 8 of

1 this act for any quarter exceeds the department's estimates
 2 computed under section 9 of this act, the excess shall be
 3 credited to the reserve fund subaccount and only the amount
 4 equal to the estimated revenues shall be credited to the
 5 taxing districts in the designated fiscal year.

6 Section 12. Forest land tax. Forest land shall
 7 continue to be subject to ad valorem taxation.

8 Section 13. Appeals. Any owner may appeal for the
 9 revision or refund of any tax of this act as provided in
 10 section 84-403.

11 Section 14. Procedure to determine taxes -- penalty --
 12 tax lien. If any person shall fail, neglect, or refuse to
 13 file any statement required by this act, or shall fail to
 14 make payment of such taxes within the time therein required,
 15 the department shall, immediately after such time has
 16 expired, proceed to inform itself, as best it may, regarding
 17 the amount of timber harvested and the number of acres of
 18 forest land held by such person, during such quarter or year
 19 and shall determine and fix the amount of the taxes due to
 20 the state from such person for such quarter or year, and
 21 shall make out a statement in triplicate, showing the same,
 22 and shall add to the amount of such taxes, ten percent (10%)
 23 thereof as a penalty, and one (1) of such statements shall
 24 be in the office of the county clerk and recorder of the
 25 county in which the timber was harvested or land is located

1 and one (1) of such statements delivered to the state
 2 treasurer, who shall proceed to collect the amount of such
 3 taxes, with the penalty added thereto and interest on the
 4 whole thereof, at the rate of eight percent (8%) per year
 5 from the date of making of such statement by the department
 6 until paid. Upon request of the state treasurer, it shall
 7 be the duty of the attorney general or any county attorney
 8 to commence, and prosecute to final determination in any
 9 court of competent jurisdiction, an action at law to collect
 10 the same.

11 The taxes assessed against any person under this act,
 12 together with penalties and interest thereon, shall be a
 13 lien upon any and all property owned by such person within
 14 this state and upon the timber and forest land owned by such
 15 person, which lien shall attach on the date when the taxes
 16 are certified to the state treasurer by the department and
 17 such lien may be enforced in the name of the state of
 18 Montana, in the same manner as other liens are enforced at
 19 law.

20 Section 15. Department to review act. At the end of
 21 at least four (4) years operation of this act, the
 22 department shall present a review to the legislature of the
 23 rate of yield tax imposed by this act, and recommendations
 24 as to any proposed changes in the method of distribution of
 25 collected revenues under this act to the taxing districts.

1 Section 16. Severability clause. It is the intent of
2 the legislature that if a part of this act is invalid, all
3 valid parts that are severable from the invalid part remain
4 in effect. If a part of this act is invalid in one or more
5 of its applications, the part remains in effect in all valid
6 applications that are severable from the invalid
7 applications.

8 Section 17. Effective date. This act is effective
9 January 1, 1977.

-End-

STATE OF MONTANA

REQUEST NO. 201-75

FISCAL NOTE

Form BD-15

In compliance with a written request received February 11, 19 75, there is hereby submitted a Fiscal Note for House Bill 619 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. 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:

An act cited as the "Montana Timberland Taxes Act" to impose a timber yield tax on the harvest value of timber at a rate of 3% in 1977 and increasing by increments of .25% to 4% in 1981, and a .5% surtax in 1977. Forest land will continue to be subject to property taxes. The act is effective January 1, 1977.

ASSUMPTIONS:

1. The yield tax applies to the owner of harvested timber from private, state and federal forest land.
2. The harvest value of timber cut in 1977 will be approximately \$30,000,000.
3. Approximately \$1,000,000 in property tax on forest land would be collected in 1977 under current law; approximately 33.2% of collections are from taxes on the land.
4. Additional administrative expenses will be incurred by the Department of Revenue in FY 76 and FY 77.
5. The yield tax and surtax commence January 1, 1977. Only the yield taxes from the first quarter of CY 77 would be collected by the state and distributed to the counties in FY 77. Surtaxes from the first quarter of CY 77 would be collected by the state in FY 77 but not distributed 25% to the counties until FY 78.

Timber land would be assessed under current law (before January 1, 1977 effective date) in March, 1976 and resulting taxes collected in FY 77. Thus, the second half of taxes due under current law would be collected after the effective date of the proposed law. Forest land property still subject to property tax will be assessed in March, 1977 and resulting taxes collected in FY 78. To portray the revenue impact of House Bill 619 for only the last half of FY 77 (impact in 1975-77 biennium) would be misleading in regard to total impact. Therefore, the revenue impact estimate presented does not consider any of the above mentioned time logs and is computed on a calendar year basis.

REVENUE IMPACT:

	CY 77
Property tax on timberland under current law	\$ 1,000,000
Yield tax under proposed law	900,000*
Surtax under proposed law	150,000**
Property tax on forestland under proposed law	332,000
Total under proposed law	\$ 1,382,000
Increase in revenue	\$ 382,000

* distributed to counties from the timber tax account

** excess over \$400,000 distributed 25% to counties from the reserve fund subaccount, the balance to the timber tax account.

EXPENDITURE IMPACT:

	FY 76	FY 77
Increased expenditure by Department of Revenue	\$ 30,000	\$ 70,000

CONCLUSION:

Enactment of House Bill 619 would raise approximately \$382,000 more revenue than under current law. State expenditures will increase \$100,000 in the 1975-77 biennium. The administrative expenses are funded from the administrative subaccount in the timber tax account.

TECHNICAL NOTE: Section 8(1), page 8, provides that the yield tax revenue is to be deposited in the General Fund to the credit of the timber tax account. Since the revenue is restricted in use, the timber tax account should be an account in the Earmarked Revenue fund.

Richard Ballings
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 20, 1975

Approved by Committee
on Taxation

1 HOUSE BILL NO. 619
 2 INTRODUCED BY BRAND, DRISCOLL, SHELDEN,
 3 W. BAETH, WOLFE, MAGONE
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH THE
 6 MONTANA TIMBERLAND TAXES ACT BY IMPOSING A TIMBER YIELD TAX,
 7 A SURTAX, A ROLL-BACK TAX, AND FORESTLAND TAX AS A METHOD OF
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 24 stumpage value at the time of harvest and continue taxing
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 13 OWNERSHIP OF TWENTY (20) OR MORE ACRES EXCLUSIVE OF FIVE (5)
 14 ACRES OF LAND DESIGNATED BY THE DEPARTMENT AS BEING USED
 15 FOR, OR IN CONNECTION WITH, A RESIDENCE, growing forest tree
 16 species which are capable or could be capable of furnishing
 17 raw material used in the manufacture of lumber or other
 18 forest products. The term also includes all land from which
 19 forest tree species have been removed but have not yet been
 20 restocked, but it does not include land converted to uses
 21 other than the growing of forest tree species. ~~The~~
 22 ~~department--will--designate--which--lands--qualify--as-forest~~
 23 lands. IDENTIFICATION AND DESIGNATION OF WHICH LANDS QUALIFY
 24 AS FOREST LANDS SHALL BE MADE BY THE DEPARTMENT UTILIZING
 25 EXISTING OR FUTURE ASSESSMENT ROLE LAND CLASSIFICATION

1 INFORMATION OR AS PROVIDED IN SECTION [12].

2 (4) "Harvest" means an activity related to the cutting
3 or the removal of forest trees for use or sale as a forest
4 product.

5 (5) "Owner" means every person, partnership,
6 corporation, or association of whatever nature who from
7 privately or publicly owned land, under a right or license
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10 mechanical services fells, cuts or takes timber for sale or
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4 December 31, 1977 inclusive, the rate shall be three percent
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7 December 31, 1978 inclusive, the rate shall be three and one
8 quarter percent (3.25%);

9 (3) For timber harvested between January 1, 1979 and
10 December 31, 1979 inclusive, the rate shall be three and
11 one-half percent (3.5%);

12 (4) For timber harvested between January 1, 1980 and
13 December 31, 1980 inclusive, the rate shall be three and
14 three quarters percent (3.75%);

15 (5) For timber harvested BETWEEN January 1, 1981
16 ~~and--December--31--1981--inclusive~~, the rate shall be four
17 percent (4%)₊.

18 ~~{6}--For-timber-harvested-on-or-after-January--1--1982~~
19 ~~the--rate--shall-be-determined-and-fixed-by-the-legislature-~~
20 ~~The-department-shall-furnish-the-legislature-meeting--in~~
21 ~~January--1981-with-a-review-of-the-yield-tax-imposed-by-this~~
22 ~~act.~~

23 Section 6. Determination of immediate harvest values
24 -- application by areas. (1) The department shall determine
25 at least once each year ON OR BEFORE DECEMBER 1, the

1 immediate harvest values to be used in computing the yield
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 13 ~~copy shall be delivered to the secretary of state, and~~
 14 ~~the other copy shall be retained on file in the office of~~
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 17 ~~therefor. A COPY OF IMMEDIATE HARVEST VALUE TABLES SHALL BE~~
 18 ~~FURNISHED TO ANYONE WHO SUBMITS A WRITTEN REQUEST TO THE~~
 19 ~~DEPARTMENT.~~ Any owner may appeal to the department for a
 20 review of designated harvest values submitted by the
 21 department for a specified area or areas.

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 2 ~~hundred--dollars--(\$200)--of--timber--for--personal--use--in--any~~
 3 ~~quarter--must--notify--the--department--of--the--intent--to--harvest~~
 4 ~~and--must--secure--from--the--department--a--yield--tax--collection~~
 5 ~~number.~~ AT LEAST THIRTY (30) DAYS PRIOR TO THE HARVESTING OF
 6 ANY TIMBER, ALL OWNERS MUST NOTIFY THE DEPARTMENT OF THEIR
 7 INTENT TO HARVEST AND MUST SECURE FROM THE DEPARTMENT A
 8 YIELD TAX COLLECTION NUMBER. When more than one (1) harvest
 9 is to be conducted in separate areas by the same owner, all
 10 harvests may be included on one (1) notice. The
 11 notification required by this section shall be on forms
 12 prescribed by and provided by the department and shall
 13 include all relevant information the department considers
 14 necessary. Promptly upon receipt of the notice the
 15 department shall provide to the owner his yield tax
 16 collection number(s), instructions, immediate harvest value
 17 tables for each area in which he will harvest, and tax
 18 reporting forms.

19 (2) The yield tax shall be due and payable quarterly
 20 on or before the last day of April, July, October, and
 21 January of each year for all timber harvested during the
 22 preceding calendar quarter commencing with the calendar
 23 quarter beginning January 1, 1977. Timber shall be
 24 considered harvested for purposes of this subsection at the
 25 time when in the ordinary course of business the quantity of

1 timber harvested is first definitely determined. The tax
 2 shall be delinquent if not paid by the due date or within
 3 the additional time allowed for filing under subsection (3)
 4 of this section.

5 (3) On or before the last day of April, July, October,
 6 and January, each owner shall make out a return on the form
 7 prescribed by the department showing the amount of tax for
 8 which he is liable for the preceding calendar quarter and
 9 such other relevant information as the department considers
 10 necessary to correctly determine the tax due and shall mail
 11 or deliver the return, together with a remittance for the
 12 amount of the tax, to the office of the department at
 13 Helena, Montana. The return shall be signed and verified by
 14 the owner or a duly authorized agent of the owner. Whenever
 15 in its judgment good cause exists, the department may allow
 16 further time not exceeding thirty (30) days for filing a
 17 return and payment of the tax due.

18 (4) All payments received under this act shall be
 19 credited first to penalty and then to interest accrued on
 20 the tax being paid and then to the tax. Penalty, interest
 21 and taxes for prior delinquent quarters shall be paid in
 22 full chronologically before any payments shall be credited
 23 to any subsequent quarter.

24 (5) Owners incurring less than ten dollars (\$10) total
 25 tax liability under this act in any calendar quarter are

1 excused from the payment of such tax but may be required to
 2 file a quarterly return.

3 Section 8. Timber tax account and subaccounts. (1)
 4 The revenue from the yield tax of this act shall be remitted
 5 by the department to the state treasurer who shall deposit
 6 it in a suspense account established under the provisions of
 7 section 79-412. After payment of refunds pursuant to
 8 subsection (2) of this section the balance remaining shall
 9 be deposited in the general fund to the credit of the timber
 10 tax account which account is established.

11 (2) The amount of moneys necessary to pay refunds of
 12 the taxes levied under this act are appropriated
 13 continuously to the department from the suspense account
 14 referred to in subsection (1) of this section, and shall be
 15 used by the department for the payment of all refunds of
 16 taxes levied under this act which have been audited and
 17 approved by the department. Any penalties, interest, and
 18 taxes then due from the taxpayer shall be applied in that
 19 order in computing any refund, and only the balance due the
 20 taxpayer, if any, shall be refunded.

21 (3) Subject to ~~subsections (2) and (4)~~ SUBSECTION (2)
 22 of this section the records of the department shall reflect
 23 the tax credit for each taxing district in the same
 24 proportion that the harvest factor in each taxing district
 25 bears to the sum of all the harvest factors for all taxing

1 districts in the state. Harvest factor for the purposes of
 2 this act shall be the average of the aggregate value of all
 3 timber harvested within the school district in the most
 4 recent five (5) year period if the act has been in effect
 5 for five (5) years. If the act has not been in effect for
 6 five (5) years, the period shall be the number of years the
 7 act has been in effect. The aggregate value shall be
 8 determined from the yield tax returns filed with the
 9 department.

10 ~~(4) There is established a subaccount of the timber~~
 11 ~~tax account to be known as the administrative subaccount.~~
 12 ~~The moneys in the administrative subaccount hereby are~~
 13 ~~appropriated continuously for use in reimbursing the general~~
 14 ~~fund for expenses incurred in the collection of the taxes~~
 15 ~~imposed by this act which have been paid from the general~~
 16 ~~fund. Whenever the unobligated balance in the~~
 17 ~~administrative subaccount is less than ten thousand dollars~~
 18 ~~(\$10,000) the department shall direct the state treasurer to~~
 19 ~~transfer to the subaccount from the timber tax account the~~
 20 ~~sum of ten thousand dollars (\$10,000).~~

21 (5) (4) In addition to the rates specified in section
 22 5(1) of this act, there shall be imposed upon each owner a
 23 surtax at a rate of one-half of one percent (.5%) on the
 24 immediate harvest value of timber, as specified in
 25 subsections (2) and (3) of section 6 of this act, upon

1 timber harvested between January 1, 1977 and December 31,
 2 1977 inclusive. The revenues from such surtax shall be
 3 deposited in a separate fund, designated as the "reserve
 4 fund subaccount", which is hereby established within the
 5 timber tax account. The surtax shall be reimposed for one
 6 (1) year, at any time the balance in the reserve fund
 7 subaccount is reduced to less than three hundred thousand
 8 dollars (\$300,000).

9 Section 9. Department to furnish estimates of
 10 distributions from timber tax account -- county
 11 commissioners to fix levies using the amount certified --
 12 apportionment to taxing districts. (1) On or before July 1
 13 of each year, commencing with 1977 and ending with 1981, the
 14 department shall furnish to the county assessor the
 15 estimated amount of yield taxes to be distributed to each
 16 taxing district in the county for the current fiscal year
 17 converted to taxable value by the department. The assessor
 18 shall include such taxable value in the total taxable values
 19 to be used by the county commissioners in setting mill levy
 20 rates for the various taxing districts for the current
 21 fiscal year. Such estimates of receipts shall be based on
 22 taxable value of standing timber in 1976 plus any
 23 distributions from the timber tax reserve fund subaccount,
 24 pursuant to subsection (4) of this section.

25 (2) On or before July 1 of each year, commencing with

1 1982, the estimated amount of yield taxes converted to
 2 taxable values and furnished to the county assessor, shall
 3 reflect a tax credit assigned to each taxing district in the
 4 same proportion that the harvest factor for each district
 5 bears to the sum of the harvest factors for all taxing
 6 districts in the state.

7 (3) All moneys to be distributed by the department to
 8 the various counties, pursuant to subsections (1) and (2) of
 9 this section, must be credited to the proper taxing
 10 districts by the department and remitted to the respective
 11 county treasurers on or before the fifteenth day of the
 12 month following April 30, July 31, October 31, and January
 13 31. Remittances to the county treasurers shall be made by
 14 the department commencing with May 15, 1977. The county
 15 treasurer shall distribute such moneys to the various funds
 16 within the proper taxing district in the same proportions
 17 that collections from ad valorem taxes within the district
 18 are distributed.

19 (4) At the end of the fourth quarter of 1977 and at
 20 the end of every fourth quarter thereafter, any moneys in
 21 the timber tax reserve fund subaccount in excess of four
 22 hundred thousand dollars (\$400,000) shall be transferred to
 23 the timber tax account, and one-fourth (1/4) of the
 24 transferred moneys shall be distributed with each quarterly
 25 distribution to the counties in the immediately following

1 year. Moneys shall be transferred in the same proportion
2 that each taxing district's credit in the reserve fund
3 subaccount bears to the total value in the reserve fund
4 subaccount as a whole.

5 Section 10. Deficiency below scheduled revenues. If
6 the amount of revenues available for crediting to the
7 various taxing districts pursuant to subsection (3) of
8 section 8 of this act for any quarter is less than the
9 estimates computed by the department under subsections (1)
10 and (2) of section 9 of this act, the deficiency shall be
11 made up as far as possible out of any available funds in the
12 reserve fund subaccount, which funds are continuously
13 appropriated for such purpose.

14 Section 11. Excess over scheduled revenues. If the
15 amount of revenues available for crediting to the various
16 taxing districts pursuant to subsection (3) of section 8 of
17 this act for any quarter exceeds the department's estimates
18 computed under section 9 of this act, the excess shall be
19 credited to the reserve fund subaccount and only the amount
20 equal to the estimated revenues shall be credited to the
21 taxing districts in the designated fiscal year.

22 Section 12. ~~Forest--land--tax,---Forest---land---shall~~
23 ~~continue--to-be-subject-to-ad-valorem-taxation:~~ FOREST LAND
24 CLASSIFICATION, ASSESSMENT, AND TAX. (1) FOREST LANDS
25 DESIGNATED BY THE DEPARTMENT SHALL CONTINUE TO BE SUBJECT TO

1 AD VALOREM TAXATION NOTWITHSTANDING SECTION 84-401, AND
2 SHALL BE VALUATED, ASSESSED, AND TAXED WITH THE VALUE BEING
3 BASED ONLY ON THOSE INDICIA OF VALUE WHICH SUCH LAND HAS FOR
4 FOREST USE.

5 (2) IN ANY YEAR COMMENCING WITH JANUARY 1, 1977, AN
6 OWNER OF LAND WHOSE INTENT IS TO UTILIZE THE LAND PRIMARILY
7 FOR GROWING AND HARVESTING TIMBER AND WHICH LAND IS NOT
8 DESIGNATED AS FOREST LAND BY THE DEPARTMENT, MAY REQUEST THE
9 DEPARTMENT, IN A MANNER AND ON A FORM TO BE PRESCRIBED BY
10 THE DEPARTMENT, FOR DESIGNATION OF SUCH LAND AS FOREST LAND.
11 THE APPLICATION FORM SHALL BE PREPARED BY THE DEPARTMENT AND
12 MADE AVAILABLE TO OWNERS BY THE COUNTY APPRAISER, AND SHALL
13 INCLUDE PROVISIONS FOR THE FOLLOWING INFORMATION:

14 (A) A LEGAL DESCRIPTION OF ALL LAND THE APPLICANT
15 DESIRES TO BE DESIGNATED AS FOREST LAND;

16 (B) A BRIEF DESCRIPTION OF THE TIMBER ON THE LAND, OR
17 IF THE TIMBER HAS BEEN HARVESTED, THE APPLICANT'S PLAN FOR
18 RESTOCKING;

19 (C) WHETHER THE LAND IS SUBJECT TO A LEASE, OPTION, OR
20 OTHER RIGHT WHICH PERMITS IT TO BE USED FOR ANY PURPOSE
21 WHICH CONFLICTS WITH GROWING AND HARVESTING TIMBER;

22 (D) A STATEMENT OF THE APPLICANT'S INTENT TO UTILIZE
23 THE LAND PRIMARILY FOR GROWING AND HARVESTING TIMBER; AND

24 (E) ALL RELEVANT INFORMATION THE DEPARTMENT CONSIDERS
25 NECESSARY.

1 (3) THE DEPARTMENT SHALL NOTIFY THE APPLICANT OF
 2 APPROVAL OR DISAPPROVAL WITHIN THIRTY (30) DAYS OF THE DATE
 3 THE APPLICATION WAS FILED. WHEN THE DEPARTMENT DISAPPROVES
 4 AN APPLICATION, THE REASONS THEREFOR SHALL BE GIVEN THE
 5 APPLICANT IN WRITING AND THE APPLICANT HAS THE RIGHT TO
 6 APPEAL THE DECISION.

7 (4) LAND CLASSIFIED AS FOREST LAND IS SUBJECT TO AN
 8 ADDITIONAL TAX KNOWN AS THE "ROLL-BACK TAX" WHICH TAX IS A
 9 LIEN UPON THE LAND AND DUE AND PAYABLE AT THE TIME OF CHANGE
 10 OF USE. THE WORD "ROLL-BACK" MEANS THE PERIOD PRECEDING THE
 11 CHANGE IN USE OF THE LAND, NOT EXCEEDING FIVE (5) YEARS,
 12 DURING WHICH THE LAND WAS VALUATED, ASSESSED, AND TAXED AS
 13 FOREST LAND UNDER THE PROVISIONS OF THIS ACT.

14 (5) THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF
 15 ROLL-BACK TAX CHARGEABLE ON FOREST LAND BY ASCERTAINING:

16 (A) THE FULL AND FAIR VALUE OF THE LAND UNDER THE
 17 VALUATION STANDARDS APPLICABLE TO LAND IN THE COUNTY NOT
 18 DESIGNATED AS FOREST LAND;

19 (B) THE AMOUNT OF LAND ASSESSMENT FOR THE PERIOD OF
 20 THE ROLL-BACK, BY MULTIPLYING SUCH FULL AND FAIR MARKET
 21 VALUE BY THE NUMBER OF YEARS IN THE ROLL-BACK AND BY
 22 MULTIPLYING THE PRODUCT OBTAINED BY THE ASSESSMENT RATIO IN
 23 EFFECT IN THE YEAR IN WHICH THE CHANGE IN USE OF THE LAND IS
 24 MADE;

25 (C) THE AVERAGE MILL LEVY APPLIED IN THE TAXING

1 DISTRICT IN WHICH THE LAND IS LOCATED BY DIVIDING THE
 2 AGGREGATE MILL LEVY ACTUALLY APPLIED IN EACH YEAR OF THE
 3 ROLL-BACK BY THE NUMBER OF YEARS INCLUDED IN THE ROLL-BACK;
 4 AND

5 (D) THE AMOUNT OF THE ROLL-BACK TAX BY MULTIPLYING THE
 6 TAXABLE VALUE COMPUTED FROM THE AMOUNT OF ASSESSMENT
 7 COMPUTED UNDER (B) BY THE AVERAGE MILL LEVY COMPUTED UNDER
 8 (C), LESS THE AMOUNT OF REAL PROPERTY TAXES ACTUALLY PAID
 9 DURING THE PERIOD OF THE ROLL-BACK.

10 (6) THE ASSESSMENT OF ROLL-BACK TAXES ON FORMER FOREST
 11 LAND, THE ATTACHMENT OF THE LIEN FOR SUCH TAXES, AND THE
 12 RIGHT OF THE OWNER OR OTHER INTERESTED PARTY TO REVIEW OF
 13 ANY JUDGMENT OF THE DEPARTMENT IS GOVERNED BY THE GENERAL
 14 PROVISIONS OF TITLE 84 FOR COLLECTION OF PROPERTY TAXES.
 15 THE ROLL-BACK COLLECTED SHALL BE PAID INTO THE COUNTY
 16 TREASURY AND PAID BY THE TREASURER TO THE VARIOUS TAXING
 17 UNITS PRO RATA IN ACCORDANCE WITH THE LEVIES FOR THE CURRENT
 18 YEAR.

19 (7) DESIGNATION AND APPRAISAL OF LAND AS FOREST LAND
 20 DEPENDS UPON CONTINUANCE OF THE USE OF THE LAND PRIMARILY
 21 FOR GROWING AND HARVESTING TIMBER AND NOT UPON CONTINUANCE
 22 OF THE SAME OWNER OF TITLE TO THE LAND.

23 Section 13. Appeals. Any owner may appeal for the
 24 revision or refund of any tax of this act as provided in
 25 section 84-403.

1 Section 14. Procedure to determine taxes -- penalty --
 2 tax lien. If any person shall fail, neglect, or refuse to
 3 file any statement required by this act, or shall fail to
 4 make payment of such taxes within the time therein required,
 5 the department shall, immediately after such time has
 6 expired, proceed to inform itself, as best it may, regarding
 7 the amount of timber harvested and the number of acres of
 8 forest land held by such person, during such quarter or year
 9 and shall determine and fix the amount of the taxes due to
 10 the state from such person for such quarter or year, and
 11 shall make out a statement in triplicate, showing the same,
 12 and shall add to the amount of such taxes, ten percent (10%)
 13 thereof as a penalty, and one (1) of such statements shall
 14 be in the office of the county clerk and recorder of the
 15 county in which the timber was harvested or land is located
 16 and one (1) of such statements delivered to the state
 17 treasurer, who shall proceed to collect the amount of such
 18 taxes, with the penalty added thereto and interest on the
 19 whole thereof, at the rate of eight percent (8%) per year
 20 from the date of making of such statement by the department
 21 until paid. Upon request of the state treasurer, it shall
 22 be the duty of the attorney general or any county attorney
 23 to commence, and prosecute to final determination in any
 24 court of competent jurisdiction, an action at law to collect
 25 the same.

1 The taxes assessed against any person under this act,
 2 together with penalties and interest thereon, shall be a
 3 lien upon any and all property owned by such person within
 4 this state and upon the timber and forest land owned by such
 5 person, which lien shall attach on the date when the taxes
 6 are certified to the state treasurer by the department and
 7 such lien may be enforced in the name of the state of
 8 Montana, in the same manner as other liens are enforced at
 9 law.

10 SECTION 15. RULES -- REGULATIONS -- FORMS. THE
 11 DEPARTMENT MAY PROMULGATE RULES AND PRESCRIBE FORMS IT DEEMS
 12 NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ACT.

13 Section 16. Department to review act. At the end of
 14 at least four (4) years operation of this act, the
 15 department shall present a review to the legislature of the
 16 rate of yield tax imposed by this act, and recommendations
 17 as to any proposed changes in the method of distribution of
 18 collected revenues under this act to the taxing districts.

19 Section 17. Severability clause. It is the intent of
 20 the legislature that if a part of this act is invalid, all
 21 valid parts that are severable from the invalid part remain
 22 in effect. If a part of this act is invalid in one or more
 23 of its applications, the part remains in effect in all valid
 24 applications that are severable from the invalid
 25 applications.

1 Section 18. Effective date. This act is effective
2 January 1, 1977.

-End-

1 HOUSE BILL NO. 619

2 INTRODUCED BY BRAND, DRISCOLL, SHELDEN,

3 W. BAETH, WOLFE, MAGONE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH THE
6 MONTANA TIMBERLAND TAXES ACT BY IMPOSING A TIMBER YIELD TAX,
7 A SUKTAX, A ROLL-BACK TAX, AND FORESTLAND TAX AS A METHOD OF
8 TAXING AND APPRAISING TIMBERLANDS AS PROVIDED IN SECTION
9 84-429.12, R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Short title. This act may be cited as the
13 "Montana Timberland Taxes Act".

14 Section 2. Legislative findings. The legislature
15 finds:

16 (1) The interests of the state require that steps be
17 taken to modernize the system of taxation of timber.

18 (2) The existing ad valorem property tax system is
19 unsatisfactory for taxation of standing timber and will
20 increasingly discourage good forestry, private ownership,
21 and investment of capital in reforestation.

22 (3) ~~For these reasons, it~~ IT is desirable to replace
23 the ad valorem taxation of timber with a tax based on the
24 stumpage value at the time of harvest and continue taxing
25 forest lands under the ad valorem taxation system.

1 Section 3. Legislative purpose. It is the purpose of
2 this act to exempt timber from levy and collection of the
3 general ad valorem property tax, and in lieu thereof, there
4 is imposed on such timber a yield tax and further, that
5 forest land shall continue to be assessed and taxed in
6 accordance with general ad valorem property tax laws.

7 Section 4. Definitions. As used in this act, unless
8 the context requires otherwise:

9 (1) "Department" means the department of revenue.

10 (2) "Director" means the director of the department of
11 revenue.

12 (3) "Forest land" means all land IN ANY CONTIGUOUS
13 OWNERSHIP OF TWENTY (20) OR MORE ACRES EXCLUSIVE OF FIVE (5)
14 ACRES OF LAND DESIGNATED BY THE DEPARTMENT AS BEING USED
15 FOR, OR IN CONNECTION WITH, A RESIDENCE, growing forest tree
16 species which are capable or could be capable of furnishing
17 raw material used in the manufacture of lumber or other
18 forest products. The term also includes all land from which
19 forest tree species have been removed but have not yet been
20 restocked, but it does not include land converted to uses
21 other than the growing of forest tree species. ~~The~~
22 ~~department--will--designate--which--lands--qualify--as--forest~~
23 lands, IDENTIFICATION AND DESIGNATION OF WHICH LANDS QUALIFY
24 AS FOREST LANDS SHALL BE MADE BY THE DEPARTMENT UTILIZING
25 EXISTING OR FUTURE ASSESSMENT ROLE LAND CLASSIFICATION

1 INFORMATION OR AS PROVIDED IN SECTION [12].

2 (4) "Harvest" means an activity related to the cutting
3 or the removal of forest trees for use or sale as a forest
4 product.

5 (5) "Owner" means every person, partnership,
6 corporation, or association of whatever nature who from
7 privately or publicly owned land, under a right or license
8 granted by lease or contract, either directly or by
9 contracting with others for the necessary labor or
10 mechanical services fells, cuts or takes timber for sale or
11 use. It does not include persons performing under contract
12 the necessary labor or mechanical services for an owner.

13 (6) "Timber" is synonymous with forest tree species
14 and means all wood growth, mature or immature, growing or
15 dead, standing or down, on all land that is capable of
16 furnishing raw material used in the manufacture of lumber or
17 other forest products. It does not mean Christmas trees,
18 which are grown on land that has been prepared by intensive
19 cultivation and tilling, such as by plowing or turning over
20 the soil, and on which all unwanted plant growth is
21 controlled continuously for the exclusive purpose of raising
22 such Christmas trees.

23 Section 5. Rate of yield tax -- measurement of amount
24 harvested. Every owner of timber in Montana shall be
25 subject to a tax at the time of harvest equal to the

1 immediate harvest value of the timber multiplied by the
2 appropriate rate as follows:

3 (1) For timber harvested between January 1, 1977 and
4 December 31, 1977 inclusive, the rate shall be three percent
5 (3%);

6 (2) For timber harvested between January 1, 1978 and
7 December 31, 1978 inclusive, the rate shall be three and one
8 quarter percent (3.25%);

9 (3) For timber harvested between January 1, 1979 and
10 December 31, 1979 inclusive, the rate shall be three and
11 one-half percent (3.5%);

12 (4) For timber harvested between January 1, 1980 and
13 December 31, 1980 inclusive, the rate shall be three and
14 three quarters percent (3.75%);

15 (5) For timber harvested between AFTER January 1, 1981
16 ~~and--December--31,--1981--inclusive,~~ the rate shall be four
17 percent (4%);

18 ~~(6)--For-timber-harvested-on-or-after-January--1,--1982~~
19 ~~the--rate--shall-be-determined-and-fixed-by-the-legislature~~
20 ~~The-department-shall--furnish--the--legislature--meeting--in~~
21 ~~January--1981-with-a-review-of-the-yield-tax-imposed-by-this~~
22 ~~act.~~

23 Section 6. Determination of immediate harvest values
24 -- application by areas. (1) The department shall determine
25 at least once each year ON OR BEFORE DECEMBER 1, the

1 immediate harvest values to be used in computing the yield
 2 tax imposed. The values shall be determined for each
 3 species or subclassification, as provided in subsections (2)
 4 and (3) of this section. The department shall determine
 5 which areas shall be treated as units for the application of
 6 immediate harvest values determined under this section. The
 7 areas shall be selected within the discretion of the
 8 department based on administrative feasibility to include
 9 timber having similar growing, harvesting, and marketing
 10 characteristics.

11 (2) Immediate harvest values shall be the amount that
 12 each such species or subclassification would sell for at a
 13 voluntary sale made in the ordinary course of business for
 14 purposes of immediate harvest, and shall be expressed in
 15 terms of a dollar amount per thousand board feet or other
 16 unit of measure. Such immediate harvest values shall be
 17 determined from the gross proceeds from sales on the stump
 18 of similar timber of like quality and character at similar
 19 locations and in similar quantities and shall be determined
 20 in a manner which makes reasonable and adequate allowance
 21 for age, size, quality, cost of removal, accessibility to
 22 point of conversion, market conditions and all other
 23 relevant factors. Upon application from any owner who plans
 24 to harvest damaged timber, the immediate harvest values for
 25 which have been materially reduced from the values shown in

1 the applicable tables due to damage resulting from fire,
 2 blowdown, ice storm, flood, INFESTATION, or other sudden
 3 unforeseen cause, the department shall revise such tables
 4 for any area in which such timber is located and shall
 5 specify any additional accounting or other requirements to
 6 be complied with in reporting and payment of tax thereon.
 7 The amount harvested shall be determined by the Scribner
 8 decimal scale C or other prevalent measuring device adjusted
 9 to arrive at substantially equivalent measurements.

10 (3) ~~The completed immediate harvest value tables shall~~
 11 ~~be signed by the director or his designee in duplicate and~~
 12 ~~authenticated by the official seal of the department. One~~
 13 ~~(i) copy shall be delivered to the secretary of state, and~~
 14 ~~the other copy shall be retained on file in the office of~~
 15 ~~the department. A copy thereof shall be mailed to anyone~~
 16 ~~who has submitted to the department a written request~~
 17 ~~therefor. A COPY OF IMMEDIATE HARVEST VALUE TABLES SHALL BE~~
 18 ~~FURNISHED TO ANYONE WHO SUBMITS A WRITTEN REQUEST TO THE~~
 19 ~~DEPARTMENT.~~ Any owner may appeal to the department for a
 20 review of designated harvest values submitted by the
 21 department for a specified area or areas.

22 Section 7. Notification of intent to harvest --
 23 payment of yield tax -- filing of returns -- order of
 24 crediting payments -- payment of tax under ten dollars (\$10)
 25 excused. (1) ~~Prior to the harvesting of any timber, all~~

1 ~~owners except those planning to harvest less than two~~
 2 ~~hundred dollars (\$200) of timber for personal use in any~~
 3 ~~quarter must notify the department of the intent to harvest~~
 4 ~~and must secure from the department a yield tax collection~~
 5 ~~number. AT LEAST THIRTY (30) DAYS PRIOR TO THE HARVESTING OF~~
 6 ~~ANY TIMBER, ALL OWNERS MUST NOTIFY THE DEPARTMENT OF THEIR~~
 7 ~~INTENT TO HARVEST AND MUST SECURE FROM THE DEPARTMENT A~~
 8 ~~YIELD TAX COLLECTION NUMBER.~~ When more than one (1) harvest
 9 is to be conducted in separate areas by the same owner, all
 10 harvests may be included on one (1) notice. The
 11 notification required by this section shall be on forms
 12 prescribed by and provided by the department and shall
 13 include all relevant information the department considers
 14 necessary. Promptly upon receipt of the notice the
 15 department shall provide to the owner his yield tax
 16 collection number(s), instructions, immediate harvest value
 17 tables for each area in which he will harvest, and tax
 18 reporting forms.

19 (2) The yield tax shall be due and payable quarterly
 20 on or before the last day of April, July, October, and
 21 January of each year for all timber harvested during the
 22 preceding calendar quarter commencing with the calendar
 23 quarter beginning January 1, 1977. Timber shall be
 24 considered harvested for purposes of this subsection at the
 25 time when in the ordinary course of business the quantity of

1 timber harvested is first definitely determined. The tax
 2 shall be delinquent if not paid by the due date or within
 3 the additional time allowed for filing under subsection (3)
 4 of this section.

5 (3) On or before the last day of April, July, October,
 6 and January, each owner shall make out a return on the form
 7 prescribed by the department showing the amount of tax for
 8 which he is liable for the preceding calendar quarter and
 9 such other relevant information as the department considers
 10 necessary to correctly determine the tax due and shall mail
 11 or deliver the return, together with a remittance for the
 12 amount of the tax, to the office of the department at
 13 Helena, Montana. The return shall be signed and verified by
 14 the owner or a duly authorized agent of the owner. Whenever
 15 in its judgment good cause exists, the department may allow
 16 further time not exceeding thirty (30) days for filing a
 17 return and payment of the tax due.

18 (4) All payments received under this act shall be
 19 credited first to penalty and then to interest accrued on
 20 the tax being paid and then to the tax. Penalty, interest
 21 and taxes for prior delinquent quarters shall be paid in
 22 full chronologically before any payments shall be credited
 23 to any subsequent quarter.

24 (5) Owners incurring less than ten dollars (\$10) total
 25 tax liability under this act in any calendar quarter are

1 excused from the payment of such tax but may be required to
 2 file a quarterly return.

3 Section 8. Timber tax account and subaccounts. (1)
 4 The revenue from the yield tax of this act shall be remitted
 5 by the department to the state treasurer who shall deposit
 6 it in a suspense account established under the provisions of
 7 section 79-412. After payment of refunds pursuant to
 8 subsection (2) of this section the balance remaining shall
 9 be deposited in the general fund to the credit of the timber
 10 tax account which account is established.

11 (2) The amount of moneys necessary to pay refunds of
 12 the taxes levied under this act are appropriated
 13 continuously to the department from the suspense account
 14 referred to in subsection (1) of this section, and shall be
 15 used by the department for the payment of all refunds of
 16 taxes levied under this act which have been audited and
 17 approved by the department. Any penalties, interest, and
 18 taxes then due from the taxpayer shall be applied in that
 19 order in computing any refund, and only the balance due the
 20 taxpayer, if any, shall be refunded.

21 (3) Subject to ~~subsections (2) and (4)~~ SUBSECTION (2)
 22 of this section the records of the department shall reflect
 23 the tax credit for each taxing district in the same
 24 proportion that the harvest factor in each taxing district
 25 bears to the sum of all the harvest factors for all taxing

1 districts in the state. Harvest factor for the purposes of
 2 this act shall be the average of the aggregate value of all
 3 timber harvested within the school district in the most
 4 recent five (5) year period if the act has been in effect
 5 for five (5) years. If the act has not been in effect for
 6 five (5) years, the period shall be the number of years the
 7 act has been in effect. The aggregate value shall be
 8 determined from the yield tax returns filed with the
 9 department.

10 ~~(4) There is established a subaccount of the timber~~
 11 ~~tax account to be known as the administrative subaccount.~~
 12 ~~The moneys in the administrative subaccount hereby are~~
 13 ~~appropriated continuously for use in reimbursing the general~~
 14 ~~fund for expenses incurred in the collection of the taxes~~
 15 ~~imposed by this act which have been paid from the general~~
 16 ~~fund. Whenever the unobligated balance in the~~
 17 ~~administrative subaccount is less than ten thousand dollars~~
 18 ~~(\$10,000) the department shall direct the state treasurer to~~
 19 ~~transfer to the subaccount from the timber tax account the~~
 20 ~~sum of ten thousand dollars (\$10,000).~~

21 (5) (4) In addition to the rates specified in section
 22 5(1) of this act, there shall be imposed upon each owner a
 23 surtax at a rate of one-half of one percent (.5%) on the
 24 immediate harvest value of timber, as specified in
 25 subsections (2) and (3) of section 6 of this act, upon

1 timber harvested between January 1, 1977 and December 31,
 2 1977 inclusive. The revenues from such surtax shall be
 3 deposited in a separate fund, designated as the "reserve
 4 fund subaccount", which is hereby established within the
 5 timber tax account. The surtax shall be reimposed for one
 6 (1) year, at any time the balance in the reserve fund
 7 subaccount is reduced to less than three hundred thousand
 8 dollars (\$300,000).

9 Section 9. Department to furnish estimates of
 10 distributions from timber tax account -- county
 11 commissioners to fix levies using the amount certified --
 12 apportionment to taxing districts. (1) On or before July 1
 13 of each year, commencing with 1977 and ending with 1981, the
 14 department shall furnish to the county assessor the
 15 estimated amount of yield taxes to be distributed to each
 16 taxing district in the county for the current fiscal year
 17 converted to taxable value by the department. The assessor
 18 shall include such taxable value in the total taxable values
 19 to be used by the county commissioners in setting mill levy
 20 rates for the various taxing districts for the current
 21 fiscal year. Such estimates of receipts shall be based on
 22 taxable value of standing timber in 1976 plus any
 23 distributions from the timber tax reserve fund subaccount,
 24 pursuant to subsection (4) of this section.

25 (2) On or before July 1 of each year, commencing with

1 1982, the estimated amount of yield taxes converted to
 2 taxable values and furnished to the county assessor, shall
 3 reflect a tax credit assigned to each taxing district in the
 4 same proportion that the harvest factor for each district
 5 bears to the sum of the harvest factors for all taxing
 6 districts in the state.

7 (3) All moneys to be distributed by the department to
 8 the various counties, pursuant to subsections (1) and (2) of
 9 this section, must be credited to the proper taxing
 10 districts by the department and remitted to the respective
 11 county treasurers on or before the fifteenth day of the
 12 month following April 30, July 31, October 31, and January
 13 31. Remittances to the county treasurers shall be made by
 14 the department commencing with May 15, 1977. The county
 15 treasurer shall distribute such moneys to the various funds
 16 within the proper taxing district in the same proportions
 17 that collections from ad valorem taxes within the district
 18 are distributed.

19 (4) At the end of the fourth quarter of 1977 and at
 20 the end of every fourth quarter thereafter, any moneys in
 21 the timber tax reserve fund subaccount in excess of four
 22 hundred thousand dollars (\$400,000) shall be transferred to
 23 the timber tax account, and one-fourth (1/4) of the
 24 transferred moneys shall be distributed with each quarterly
 25 distribution to the counties in the immediately following

1 year. Moneys shall be transferred in the same proportion
 2 that each taxing district's credit in the reserve fund
 3 subaccount bears to the total value in the reserve fund
 4 subaccount as a whole.

5 Section 10. Deficiency below scheduled revenues. If
 6 the amount of revenues available for crediting to the
 7 various taxing districts pursuant to subsection (3) of
 8 section 8 of this act for any quarter is less than the
 9 estimates computed by the department under subsections (1)
 10 and (2) of section 9 of this act, the deficiency shall be
 11 made up as far as possible out of any available funds in the
 12 reserve fund subaccount, which funds are continuously
 13 appropriated for such purpose.

14 Section 11. Excess over scheduled revenues. If the
 15 amount of revenues available for crediting to the various
 16 taxing districts pursuant to subsection (3) of section 8 of
 17 this act for any quarter exceeds the department's estimates
 18 computed under section 9 of this act, the excess shall be
 19 credited to the reserve fund subaccount and only the amount
 20 equal to the estimated revenues shall be credited to the
 21 taxing districts in the designated fiscal year.

22 Section 12. ~~Forest--land--tax,---Forest---land---shall~~
 23 ~~continue--to-be-subject-to-ad-valorem-taxation.~~ FOREST LAND
 24 CLASSIFICATION, ASSESSMENT, AND TAX. (1) FOREST LANDS
 25 DESIGNATED BY THE DEPARTMENT SHALL CONTINUE TO BE SUBJECT TO

1 AD VALOREM TAXATION NOTWITHSTANDING SECTION 84-401, AND
 2 SHALL BE VALUATED, ASSESSED, AND TAXED WITH THE VALUE BEING
 3 BASED ONLY ON THOSE INDICIA OF VALUE WHICH SUCH LAND HAS FOR
 4 FOREST USE.

5 (2) IN ANY YEAR COMMENCING WITH JANUARY 1, 1977, AN
 6 OWNER OF LAND WHOSE INTENT IS TO UTILIZE THE LAND PRIMARILY
 7 FOR GROWING AND HARVESTING TIMBER AND WHICH LAND IS NOT
 8 DESIGNATED AS FOREST LAND BY THE DEPARTMENT, MAY REQUEST THE
 9 DEPARTMENT, IN A MANNER AND ON A FORM TO BE PRESCRIBED BY
 10 THE DEPARTMENT, FOR DESIGNATION OF SUCH LAND AS FOREST LAND.
 11 THE APPLICATION FORM SHALL BE PREPARED BY THE DEPARTMENT AND
 12 MADE AVAILABLE TO OWNERS BY THE COUNTY APPRAISER, AND SHALL
 13 INCLUDE PROVISIONS FOR THE FOLLOWING INFORMATION:

14 (A) A LEGAL DESCRIPTION OF ALL LAND THE APPLICANT
 15 DESIRES TO BE DESIGNATED AS FOREST LAND;

16 (B) A BRIEF DESCRIPTION OF THE TIMBER ON THE LAND, OR
 17 IF THE TIMBER HAS BEEN HARVESTED, THE APPLICANT'S PLAN FOR
 18 RESTOCKING;

19 (C) WHETHER THE LAND IS SUBJECT TO A LEASE, OPTION, OR
 20 OTHER RIGHT WHICH PERMITS IT TO BE USED FOR ANY PURPOSE
 21 WHICH CONFLICTS WITH GROWING AND HARVESTING TIMBER;

22 (D) A STATEMENT OF THE APPLICANT'S INTENT TO UTILIZE
 23 THE LAND PRIMARILY FOR GROWING AND HARVESTING TIMBER; AND

24 (E) ALL RELEVANT INFORMATION THE DEPARTMENT CONSIDERS
 25 NECESSARY.

1 (3) THE DEPARTMENT SHALL NOTIFY THE APPLICANT OF
 2 APPROVAL OR DISAPPROVAL WITHIN THIRTY (30) DAYS OF THE DATE
 3 THE APPLICATION WAS FILED. WHEN THE DEPARTMENT DISAPPROVES
 4 AN APPLICATION, THE REASONS THEREFOR SHALL BE GIVEN THE
 5 APPLICANT IN WRITING AND THE APPLICANT HAS THE RIGHT TO
 6 APPEAL THE DECISION.

7 (4) LAND CLASSIFIED AS FOREST LAND IS SUBJECT TO AN
 8 ADDITIONAL TAX KNOWN AS THE "ROLL-BACK TAX" WHICH TAX IS A
 9 LIEN UPON THE LAND AND DUE AND PAYABLE AT THE TIME OF CHANGE
 10 OF USE. THE WORD "ROLL-BACK" MEANS THE PERIOD PRECEDING THE
 11 CHANGE IN USE OF THE LAND, NOT EXCEEDING FIVE (5) YEARS,
 12 DURING WHICH THE LAND WAS VALUATED, ASSESSED, AND TAXED AS
 13 FOREST LAND UNDER THE PROVISIONS OF THIS ACT.

14 (5) THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF
 15 ROLL-BACK TAX CHARGEABLE ON FOREST LAND BY ASCERTAINING:

16 (A) THE FULL AND FAIR VALUE OF THE LAND UNDER THE
 17 VALUATION STANDARDS APPLICABLE TO LAND IN THE COUNTY NOT
 18 DESIGNATED AS FOREST LAND;

19 (B) THE AMOUNT OF LAND ASSESSMENT FOR THE PERIOD OF
 20 THE ROLL-BACK, BY MULTIPLYING SUCH FULL AND FAIR MARKET
 21 VALUE BY THE NUMBER OF YEARS IN THE ROLL-BACK AND BY
 22 MULTIPLYING THE PRODUCT OBTAINED BY THE ASSESSMENT RATIO IN
 23 EFFECT IN THE YEAR IN WHICH THE CHANGE IN USE OF THE LAND IS
 24 MADE;

25 (C) THE AVERAGE MILL LEVY APPLIED IN THE TAXING

1 DISTRICT IN WHICH THE LAND IS LOCATED BY DIVIDING THE
 2 AGGREGATE MILL LEVY ACTUALLY APPLIED IN EACH YEAR OF THE
 3 ROLL-BACK BY THE NUMBER OF YEARS INCLUDED IN THE ROLL-BACK;
 4 AND

5 (D) THE AMOUNT OF THE ROLL-BACK TAX BY MULTIPLYING THE
 6 TAXABLE VALUE COMPUTED FROM THE AMOUNT OF ASSESSMENT
 7 COMPUTED UNDER (B) BY THE AVERAGE MILL LEVY COMPUTED UNDER
 8 (C), LESS THE AMOUNT OF REAL PROPERTY TAXES ACTUALLY PAID
 9 DURING THE PERIOD OF THE ROLL-BACK.

10 (6) THE ASSESSMENT OF ROLL-BACK TAXES ON FORMER FOREST
 11 LAND, THE ATTACHMENT OF THE LIEN FOR SUCH TAXES, AND THE
 12 RIGHT OF THE OWNER OR OTHER INTERESTED PARTY TO REVIEW OF
 13 ANY JUDGMENT OF THE DEPARTMENT IS GOVERNED BY THE GENERAL
 14 PROVISIONS OF TITLE 34 FOR COLLECTION OF PROPERTY TAXES.
 15 THE ROLL-BACK COLLECTED SHALL BE PAID INTO THE COUNTY
 16 TREASURY AND PAID BY THE TREASURER TO THE VARIOUS TAXING
 17 UNITS PRO RATA IN ACCORDANCE WITH THE LEVIES FOR THE CURRENT
 18 YEAR.

19 (7) DESIGNATION AND APPRAISAL OF LAND AS FOREST LAND
 20 DEPENDS UPON CONTINUANCE OF THE USE OF THE LAND PRIMARILY
 21 FOR GROWING AND HARVESTING TIMBER AND NOT UPON CONTINUANCE
 22 OF THE SAME OWNER OF TITLE TO THE LAND.

23 Section 13. Appeals. Any owner may appeal for the
 24 revision or refund of any tax of this act as provided in
 25 section 84-403.

1 Section 14. Procedure to determine taxes -- penalty --
 2 tax lien. If any person shall fail, neglect, or refuse to
 3 file any statement required by this act, or shall fail to
 4 make payment of such taxes within the time therein required,
 5 the department shall, immediately after such time has
 6 expired, proceed to inform itself, as best it may, regarding
 7 the amount of timber harvested and the number of acres of
 8 forest land held by such person, during such quarter or year
 9 and shall determine and fix the amount of the taxes due to
 10 the state from such person for such quarter or year, and
 11 shall make out a statement in triplicate, showing the same,
 12 and shall add to the amount of such taxes, ten percent (10%)
 13 thereof as a penalty, and one (1) of such statements shall
 14 be in the office of the county clerk and recorder of the
 15 county in which the timber was harvested or land is located
 16 and one (1) of such statements delivered to the state
 17 treasurer, who shall proceed to collect the amount of such
 18 taxes, with the penalty added thereto and interest on the
 19 whole thereof, at the rate of eight percent (8%) per year
 20 from the date of making of such statement by the department
 21 until paid. Upon request of the state treasurer, it shall
 22 be the duty of the attorney general or any county attorney
 23 to commence, and prosecute to final determination in any
 24 court of competent jurisdiction, an action at law to collect
 25 the same.

1 The taxes assessed against any person under this act,
 2 together with penalties and interest thereon, shall be a
 3 lien upon any and all property owned by such person within
 4 this state and upon the timber and forest land owned by such
 5 person, which lien shall attach on the date when the taxes
 6 are certified to the state treasurer by the department and
 7 such lien may be enforced in the name of the state of
 8 Montana, in the same manner as other liens are enforced at
 9 law.

10 SECTION 15. RULES -- REGULATIONS -- FORMS. THE
 11 DEPARTMENT MAY PROMULGATE RULES AND PRESCRIBE FORMS IT DEEMS
 12 NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ACT.

13 Section 16. Department to review act. At the end of
 14 at least four (4) years operation of this act, the
 15 department shall present a review to the legislature of the
 16 rate of yield tax imposed by this act, and recommendations
 17 as to any proposed changes in the method of distribution of
 18 collected revenues under this act to the taxing districts.

19 Section 17. Severability clause. It is the intent of
 20 the legislature that if a part of this act is invalid, all
 21 valid parts that are severable from the invalid part remain
 22 in effect. If a part of this act is invalid in one or more
 23 of its applications, the part remains in effect in all valid
 24 applications that are severable from the invalid
 25 applications.

1 Section 18. Effective date. This act is effective
2 January 1, 1977.

-End-

April 2, 1975

SENATE COMMITTEE ON TAXATION
AMENDMENTS TO HOUSE BILL NO. 619

That House Bill No. 619, third reading, be amended as follows:

1. Amend title, line 6.
Following: "MONTANA"
Strike: "TIMBERLAND"
Insert: "timber"
2. Amend title, line 6.
Following: "IMPOSING A"
Strike: "TIMBER"
3. Amend title, line 6.
Following: "TAX"
Strike: ", "
Insert: "and"
4. Amend title, line 7.
Following: "SURTAX"
Strike: ", "
Insert: "on all timber harvested; and by further providing"
5. Amend page 1, section 1, line 13.
Following: "Montana"
Strike: "Timberland"
Insert: "Timber"
6. Amend page 1, section 2, line 23.
Following: "the"
Insert: "revenue from"
7. Amend page 1, section 2, line 23.
Following: "of"
Insert: "private"
8. Amend page 1, section 2, line 24.
Following: "harvest"
Insert: "of any timber"
9. Amend page 2, section 3, line 2.
Following: "exempt"
Insert: " private"
10. Amend page 2, section 3, line 3.
Following: "lieu"
Strike: "thereof"
Insert: "of the revenue therefrom"

11. Amend page 2, section 3, line 4.
Following: "on"
Strike: "such"
Insert: "all harvested"
12. Amend page 2, section 4, line 25.
Following: "ASSESSMENT"
Strike: "ROLE"
Insert: "rolls"
13. Amend page 3, section 4, line 1.
Following: "[12]"
Insert: "; provided that the acreage limitation contained in this paragraph shall not apply to any land assessed as timberland prior to the effective date of this act and such land shall be entitled to retain its timberland assessment until the owner shall demonstrate a different use"
14. Amend page 3, section 4, line 7.
Following: "land,"
INSERT: "whether upon his own land or upon the land of another"
15. Amend page 7, section 7, lines 5 through 8.
Following: "~~number-~~"
Strike: "AT LEAST THIRTY (30) DAYS PRIOR TO THE HARVESTING OF ANY TIMBER, ALL OWNERS MUST NOTIFY THE DEPARTMENT OF THEIR INTENT TO HARVEST AND MUST SECURE FROM THE DEPARTMENT A YIELD TAX COLLECTION NUMBER."
Insert: "Prior to the harvesting of any timber, all owners except those planning to harvest less than two hundred dollars (\$200) of timber for personal use in any quarter must notify the department of the intent to harvest and must secure from the department a yield tax collection number."
16. Amend page 9, section 8, line 23.
Following: "each"
Strike: "taxing"
Insert: "school"
17. Amend page 9, section 8, line 24.
Following: "each"
Strike: "taxing"
Insert: "school"
18. Amend page 9, section 8, line 25.
Following: "all"
Strike: "taxing"
Insert: "school"
19. Amend page 11, section 9, line 16.
Following: line 15
Strike: "taxing"
Insert: "school"

20. Amend page 11, section 9, line 20.
Following: "various"
Strike: "taxing"
Insert: "school"
21. Amend page 11, section 9, line 21 and 22.
Following: "year."
Strike: "Such estimates of receipts shall be based on taxable value of standing timber in 1976"
Insert: "The estimated annual amount of yield tax to be distributed to each taxing school district shall be determined by the department according to the proportion that the taxable value of standing timber in 1976 of that school district relates to the taxable value of all standing timber in the state, as applied to the harvest factor for the entire state for the year in question"
22. Amend page 12, section 9, line 3.
Following: "each"
Strike: "taxing"
Insert: "school"
23. Amend page 12, section 9, line 5.
Following: "all"
Strike: "taxing"
Insert: "school"
24. Amend page 12, section 9, line 9.
Following: "proper"
Strike: "taxing"
Insert: "school"
25. Amend page 12, section 9, line 16.
Following: "proper"
Strike: "taxing"
Insert: "school"
26. Amend page 13, section 9, line 2.
Following: "each"
Strike: "taxing"
Insert: "school"
27. Amend page 13, section 10, line 7.
Following: "various"
Strike: "taxing"
Insert: "school"
28. Amend page 13, section 11, line 16.
Following: line 15
Strike: "taxing"
Insert: "school"

29. Amend page 13, section 11, line 21.
Following: line 20
Strike: "taxing"
Insert: "school"
30. Amend page 18, section 16, line 18.
Following: line 18
Insert: "Section 17. Timber harvested before July 1, 1978,
pursuant to a contract signed before April 1, 1975, is not
subject to the yield tax imposed by section 5 of this act."
Renumber: All subsequent sections
31. Amend page 18, section 17, line 25.
Following: "applications."
Insert: "In the event this tax is held not to apply to timber
cut on National Forest lands this act shall be invalid in its
entirety."

AND AS SO AMENDED, BE CONCURRED IN