

1 Senate BILL NO. 273
 2 INTRODUCED BY Edwards
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE A ROLL-BACK
 5 TAX UPON LAND CLASSIFIED AS TIMBERLAND WHICH IS CONVERTED TO
 6 A USE OTHER THAN FORESTRY."
 7

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

9 Section 1. Roll-back tax on timberland -- computation.

10 (1) When land which is classified as timberland under
 11 section 84-429.11 is applied to a use other than forestry,
 12 it shall be subject to an additional tax known as the
 13 "roll-back tax", which tax is a lien upon the land and due
 14 and payable at the time of change of use. The word
 15 "roll-back" means the period preceding the change in use of
 16 the land, not exceeding ten (10) years, during which the
 17 land was appraised, assessed and taxed as timberland.

18 (2) The department of revenue or its agent shall
 19 determine the amount of roll-back tax chargeable on
 20 timberland by ascertaining:

21 (a) the full and fair value of the land under the
 22 valuation standards applicable to land in the county not
 23 classified as timberland;

24 (b) the amount of the land assessment for the period
 25 of the roll-back, by multiplying such full and fair market

1 value by the number of years in the roll-back and by
 2 multiplying the product obtained by the assessment ratio in
 3 effect in the year in which the change in use of the land is
 4 made;

5 (c) the average mill levy applied in the taxing
 6 district in which the land is located by dividing the
 7 aggregate mill levy actually applied in each year of the
 8 roll-back by the number of years included in the roll-back;
 9 and

10 (d) the amount of the roll-back tax by multiplying the
 11 taxable value computed from the amount of assessment
 12 computed under (b) by the average mill levy computed under
 13 (c), less the amount of real property taxes actually paid
 14 during the period of the roll-back.

15 Section 2. Roll-back tax procedures governed by
 16 general provisions -- disposition of collections. The
 17 assessment of roll-back taxes on former timberland, the
 18 attachment of the lien for such taxes, and the right of the
 19 owner or other interested party to review of any judgment of
 20 the department of revenue or county tax appeal board is
 21 governed by the general provisions of Title 84 for
 22 collection of property taxes. The roll-back tax collected
 23 shall be paid into the county treasury and paid by the
 24 treasurer to the various taxing units pro rata in accordance
 25 with the levies for the current year.

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1 Section 3. Roll-back tax attaching on change of use,
2 not change of title. Classification and appraisal of land as
3 timberland depends upon continuance of the land in forestry
4 use and not upon continuance of the same owner of title to
5 the land.

6 Section 4. Roll-back on change of use of part of
7 tract. Separation or division of a part of a parcel
8 classified as timberland, by conveyance or otherwise, for a
9 use other than forestry, subjects only the land so separated
10 or divided to the roll-back tax.

-End-

Approved by Committee
on Taxation

1 SENATE BILL NO. 273
2 INTRODUCED BY ROBERTS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~IMPOSE~~ ALLOW THE
5 CLASSIFICATION AND VALUATION ON A CURRENT USE BASIS OF
6 CERTAIN PARCELS OF LAND USED AS OPEN SPACE OR SMALL
7 WOODLOTS; PROVIDING A ROLL-BACK TAX UPON LAND CLASSIFIED AS
8 WILDLIFE HABITAT OPEN SPACE OR SMALL WOODLOT WHICH IS CONVERTED TO
9 A USE OTHER THAN OPEN SPACE OR FORESTRY."

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

12 SECTION 1. OPEN SPACE PARCEL AND SMALL WOODLOT
13 DEFINED. (1) "OPEN SPACE PARCEL" MEANS A TRACT OF LAND NOT
14 LESS THAN FIVE (5) NOR MORE THAN TWENTY-FIVE (25) ACRES IN
15 AREA, CONTAINING NOT MORE THAN ONE (1) RESIDENTIAL DWELLING,
16 WHICH IS NOT AGRICULTURAL LAND AS DEFINED IN SECTION
17 84-437.2, AND WHICH IS

18 (A) WITHIN AN AREA DESIGNATED AS OPEN SPACE OR
19 AGRICULTURAL BY AN OFFICIAL COMPREHENSIVE LAND USE PLAN OR
20 OPEN SPACE PLAN ADOPTED BY THE COUNTY OR CITY WITHIN WHICH
21 THE PARCEL IS SITUATED, OR

22 (B) IF NO SUCH PLAN HAS BEEN ADOPTED, A LAND AREA, THE
23 PRESERVATION OF WHICH IN ITS PRESENT USE WOULD CONSERVE AND
24 ENHANCE NATURAL OR SCENIC RESOURCES, WOULD ENHANCE THE VALUE
25 TO THE PUBLIC OF ABUTTING OR NEIGHBORING PARKS, FORESTS, OR

1 WILDLIFE HABITAT, OR WOULD AID IN THE TIMING AND ORDERLY
2 CONTROL OF URBAN EXPANSION.

3 (2) "SMALL WOODLOT" MEANS A TRACT OF LAND NOT LESS
4 THAN FIVE (5) NOR MORE THAN TWENTY-FIVE (25) ACRES IN AREA
5 INCLUDING ROADS AND RIGHTS OF WAY, CONTAINING NOT MORE THAN
6 ONE (1) RESIDENTIAL DWELLING, WHICH IS DEVOTED PRIMARILY TO
7 THE GROWTH AND HARVEST OF FOREST CROPS.

8 SECTION 2. CLASSIFICATION OF LAND AS OPEN SPACE OR
9 SMALL WOODLOT BY LOCAL GOVERNING BODY. LAND MAY BE
10 CLASSIFIED AS AN OPEN SPACE PARCEL OR A SMALL WOODLOT BY THE
11 DEPARTMENT OF REVENUE UPON APPLICATION BY THE OWNER OF SUCH
12 LAND AND APPROVAL OF SUCH CLASSIFICATION BY THE GOVERNING
13 BODY OF THE COUNTY OR CITY IN WHICH THE LAND IS LOCATED.
14 THE GOVERNING BODY MAY ACT UPON AN APPLICATION FOR SUCH
15 CLASSIFICATION AFTER NOTICE TO THE PUBLIC AND HEARING OF
16 PROTESTS, IF ANY, AT A MEETING OF THE GOVERNING BODY. IN
17 DETERMINING WHETHER SUCH CLASSIFICATION SHOULD BE APPROVED,
18 THE GOVERNING BODY MAY TAKE COGNIZANCE OF THE BENEFITS TO
19 THE GENERAL WELFARE OF PRESERVING THE CURRENT USE OF THE
20 PROPERTY WHICH IS THE SUBJECT OF THE APPLICATION, AND MAY
21 CONSIDER WHETHER OR NOT PRESERVATION OF CURRENT USE OF THE
22 LAND WILL CONSERVE AND ENHANCE NATURAL OR SCENIC RESOURCES,
23 OR WILL ENHANCE THE VALUE TO THE PUBLIC OF ABUTTING OR
24 NEIGHBORING PARKS, FORESTS OR WILDLIFE HABITAT, OR WILL AID
25 IN THE TIMING AND ORDERLY CONTROL OF URBAN EXPANSION; SUCH

1 BENEFITS MAY BE WEIGHTED AGAINST THE POTENTIAL LOSS IN
 2 REVENUE WHICH MAY RESULT FROM GRANTING APPLICATION. THE
 3 GOVERNING BODY MAY, PRIOR TO APPROVING AN APPLICATION FOR
 4 CLASSIFICATION UNDER THIS SECTION, REQUIRE THAT CERTAIN
 5 CONDITIONS BE MET, INCLUDING WITHOUT LIMITATION THE GRANTING
 6 OF EASEMENTS, OR MAY GRANT THE APPLICATION ONLY IN PART. IF
 7 ANY PART OF THE APPLICATION IS DENIED, THE APPLICANT MAY
 8 WITHDRAW THE ENTIRE APPLICATION.

9 SECTION 3. OPEN SPACE AND SMALL WOODLOT LAND -- DUTIES
 10 OF DEPARTMENT. (1) WHEN A GOVERNING BODY APPROVES THE
 11 CLASSIFICATION OF LAND AS AN OPEN SPACE PARCEL OR A SMALL
 12 WOODLOT, IT SHALL NOTIFY THE DEPARTMENT OF REVENUE THROUGH
 13 THE COUNTY ASSESSOR. THE DEPARTMENT SHALL DETERMINE THE
 14 VALUE OF OPEN SPACE LAND OR SMALL WOODLOTS BY CONSIDERING
 15 ONLY THE USES TO WHICH SUCH LANDS ARE CURRENTLY BEING PUT,
 16 EXCLUDING CONSIDERATION OF POTENTIAL USES. FOR THIS PURPOSE
 17 OPEN SPACE MAY HAVE A VALUE OF ITS OWN, LESS THAN CURRENT
 18 MARKET VALUE. THE ASSESSED VALUATION OF OPEN SPACE LAND
 19 WITH NO CURRENT USE MAY NOT BE LESS THAN THAT WHICH WOULD
 20 RESULT IF SUCH LAND WERE ASSESSED AS AGRICULTURAL LAND.

21 (2) IF A RESIDENCE IS LOCATED ON AN OPEN SPACE PARCEL
 22 OR SMALL WOODLOT, THE DEPARTMENT SHALL EXCLUDE FROM OPEN
 23 SPACE OR SMALL WOODLOT VALUATION THE RESIDENTIAL IMPROVEMENT
 24 AND THE LAND, NOT EXCEEDING ONE (1) ACRE, ON WHICH SUCH
 25 IMPROVEMENT IS SITUATED. THIS LAND AND IMPROVEMENT SHALL BE

1 VALUED AS OTHER RESIDENTIAL PROPERTY IN THE COUNTY.

2 Section 4. Roll-back tax on ~~timberland~~ OPEN SPACE
 3 PARCELS OR SMALL WOODLOTS -- computation. (1) When land
 4 which is classified as ~~timberland~~ OPEN SPACE OR A SMALL
 5 WOODLOT under section ~~84-429.11~~ [2 OF THIS ACT] is applied
 6 to a use other than OPEN SPACE OR forestry, it shall be
 7 subject to an additional tax known as the "roll-back tax",
 8 which tax is a lien upon the land and due and payable at the
 9 time of change of use. The word "roll-back" means the
 10 period preceding the change in use of the land, not
 11 exceeding ~~ten-(10)~~ FOUR (4) years, during which the land was
 12 appraised, assessed and taxed as timberland.

13 (2) The department of revenue or its agent shall
 14 determine the amount of roll-back tax chargeable on
 15 ~~timberland~~ AN OPEN SPACE PARCEL OR SMALL WOODLOT by
 16 ascertaining:

17 (a) the full and fair value of the land under the
 18 valuation standards applicable to land in the county not
 19 classified as OPEN SPACE OR timberland;

20 (b) the amount of the land assessment for the period
 21 of the roll-back, by multiplying such full and fair market
 22 value by the number of years in the roll-back and by
 23 multiplying the product obtained by the assessment ratio in
 24 effect in the year in which the change in use of the land is
 25 made;

1 (c) the average mill levy applied in the taxing
 2 district in which the land is located by dividing the
 3 aggregate mill levy actually applied in each year of the
 4 roll-back by the number of years included in the roll-back;
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6 (d) the amount of the roll-back tax by multiplying the
 7 taxable value computed from the amount of assessment
 8 computed under (b) by the average mill levy computed under
 9 (c), less the amount of real property taxes actually paid
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11 Section 5. Roll-back tax procedures governed by
 12 general provisions -- disposition of collections. The
 13 assessment of roll-back taxes on A former timberland OPEN
 14 SPACE PARCEL OR SMALL WOODLOT, the attachment of the lien
 15 for such taxes, and the right of the owner or other
 16 interested party to review of any judgment of the department
 17 of revenue or county tax appeal board is governed by the
 18 general provisions of Title 84 for collection of property
 19 taxes. The roll-back tax collected shall be paid into the
 20 county treasury and paid by the treasurer to the various
 21 taxing units pro rata in accordance with the levies for the
 22 current year.

23 Section 6. Roll-back tax attaching on change of use,
 24 not change of title. Classification and appraisal of land as
 25 timberland OPEN SPACE OR SMALL WOODLOT LAND depends upon

1 continuance of the land in OPEN SPACE OR forestry use and
 2 not upon continuance of the same owner of title to the land.

3 Section 7. Roll-back on change of use of part of
 4 tract. Separation or division of a part of a parcel
 5 classified as ~~timberland~~ OPEN SPACE OR SMALL WOODLOT LAND,
 6 by conveyance or otherwise, for a use other than OPEN SPACE
 7 OR forestry, subjects only the land so separated or divided
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