

SENATE BILL 467

Introduced by Eck

3/15	Referred to Taxation
3/16	Fiscal Note Requested
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	Died in Committee

1 *Senate* BILL NO. *467*
2 INTRODUCED BY *Eck*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A YIELD TAX
5 AND A TEMPORARY SURTAX ON ALL TIMBER HARVESTED ON PUBLIC AND
6 PRIVATE LANDS; PROVIDING FOR THE DISTRIBUTION OF THE
7 PROCEEDS FROM THE YIELD TAX AND SURTAX TO LOCAL SCHOOL
8 DISTRICTS; RECLASSIFYING TIMBERLAND FOR PROPERTY TAX
9 PURPOSES; EXEMPTING TIMBER FROM PROPERTY TAXATION; AMENDING
10 SECTIONS 15-1-101, 15-6-133, 15-6-201, AND 15-7-303, MCA;
11 AND PROVIDING AN APPLICABILITY DATE."
12

13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because
15 the department of revenue is granted rulemaking authority to
16 administer the yield tax and surtax on timber harvested in
17 Montana. The legislature intends that the rules adopted
18 should, at a minimum, address the following:

- 19 (1) procedures for determining immediate harvest
20 values and for preparing appropriate harvest value tables;
21 (2) the applicable harvest factors for school
22 districts;
23 (3) the issuance of yield tax collection numbers to
24 persons notifying the department of their intent to harvest;
25 (4) the forms to be used by the taxpayer for

1 notification of intent to harvest;
2 (5) the reporting form for the payment of the yield
3 tax and surtax, along with the requirements for retention by
4 taxpayers of the necessary records; and
5 (6) the definition of terms and establishment of
6 procedures as appropriate for efficient administration of
7 the yield tax and surtax.
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 NEW SECTION. **Section 1.** Short title. [Sections 1
11 through 20] may be cited as the "Montana Timber Taxes Act".
12 NEW SECTION. **Section 2.** Legislative findings. The
13 legislature finds that:
14 (1) the interests of the state require that steps be
15 taken to modernize the system of taxation of timber;
16 (2) the existing property tax system is unsatisfactory
17 for taxation of standing timber and will increasingly
18 discourage good forestry, private ownership of timberland,
19 and investment of capital in reforestation; and
20 (3) it is desirable to replace the revenue from ad
21 valorem taxation of privately owned timber with a tax based
22 on the stumpage value at the time of harvest of any timber
23 and to continue taxing timberland under the ad valorem
24 taxation system.
25 NEW SECTION. **Section 3.** Purpose. It is the purpose of

[sections 1 through 20] to exempt privately owned timber from property taxation and, in lieu of the revenue generated from the property tax, to impose on all harvested timber a yield tax and to assess and tax timberland on its grazing productivity.

NEW SECTION. Section 4. Definitions. As used in [sections 1 through 20], unless the context requires otherwise, the following definitions apply:

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

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

(3) "Harvest factor" means the average of the aggregate value of all timber harvested within the school district in the most recent 5-year period if [sections 1 through 20] have been in effect for 5 years. If [sections 1 through 20] have not been in effect for 5 years, the period must be the number of years [sections 1 through 20] have been in effect. The aggregate value must be determined from the yield tax returns filed with the department.

(4) "Immediate harvest value" means the amount that each species or subclassification would sell for under an arm's-length transaction made in the ordinary course of business for purposes of immediate harvest, as determined under [section 6].

(5) "Owner" or "person" means an individual,

corporation, association, company, firm, joint venture, syndicate, trust or other entity that fells, cuts, or takes timber for sale or use from any publicly or privately owned land, whether owned by him or another, under a right or a license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services.

(6) "Timber" means all wood growth, mature or immature, alive or dead, standing or down, that is capable of furnishing raw material used in the manufacture of lumber or other forest products. It does not means Christmas trees that are grown on land prepared by intensive cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising Christmas trees.

(7) "Timberland" means contiguous land exceeding 15 acres under one ownership used to grow timber that is capable of furnishing raw material used in the manufacture of lumber or other forest products. The term also includes all land where timber has been removed but has not yet been restocked. It does not include land converted for uses other than the growing of timber.

NEW SECTION. Section 5. Rate of yield tax. Each owner of timber in Montana is subject to a tax at the time of harvest equal to the immediate harvest value of the timber

1 multiplied by the appropriate rate as follows:

2 (1) for timber harvested between January 1, 1991, and
3 December 31, 1991, inclusive, 3%;

4 (2) for timber harvested between January 1, 1992, and
5 December 31, 1992, inclusive, 3.25%;

6 (3) for timber harvested between January 1, 1993, and
7 December 31, 1993, inclusive, 3.5%;

8 (4) for timber harvested between January 1, 1994, and
9 December 31, 1994, inclusive, 3.75%;

10 (5) for timber harvested after January 1, 1995, 4%.

11 NEW SECTION. **Section 6.** Determination of immediate
12 harvest values -- application by areas. (1) The department
13 shall determine, on or before December 1 each year, the
14 immediate harvest values to be used in computing the yield
15 tax. The values must be determined for each species or
16 subclassification, as provided in subsections (3) through
17 (5), and must be expressed in terms of a dollar amount per
18 thousand board feet or other unit of measure.

19 (2) The department shall determine which areas must be
20 treated as units for the application of immediate harvest
21 values determined under this section. The areas must be
22 selected, within the discretion of the department and based
23 on administrative feasibility, to include timber having
24 similar growing, harvesting, and marketing characteristics.

25 (3) The immediate harvest value is determined from the

1 gross proceeds from sales on the stump of similar timber of
2 like quality and character at similar locations and in
3 similar quantities and must be determined in a manner that
4 makes reasonable and adequate allowance for age, size,
5 quality, cost of removal, accessibility to point of
6 conversion, market conditions, and all other relevant
7 factors.

8 (4) Upon application from any owner who plans to
9 harvest damaged timber for which the immediate harvest
10 values have been materially reduced from the values shown in
11 the applicable tables due to damage resulting from fire,
12 blowdown, ice storm, flood, infestation, or other sudden
13 unforeseen cause, the department shall revise the tables for
14 the area in which the timber is located and shall specify
15 any additional accounting or other requirements to be
16 complied with for reporting and payment of the tax. The
17 amount harvested must be determined by the Scribner decimal
18 scale C or other prevalent measuring device adjusted to
19 arrive at substantially equivalent measurements.

20 (5) A copy of immediate harvest value tables must be
21 furnished to anyone who submits a written request to the
22 department. An owner may appeal to the department for a
23 review of designated harvest values submitted by the
24 department for a specified area or areas.

25 NEW SECTION. **Section 7.** Notification of intent to

1 harvest. Prior to the harvesting of any timber, all owners
 2 except those planning to harvest less than \$200 of timber
 3 for personal use in any quarter shall notify the department
 4 of their intent to harvest and shall secure from the
 5 department a yield tax collection number. When more than one
 6 harvest is to be conducted in separate areas by the same
 7 owner, all harvests may be included on one notice. The
 8 notification required by this section must be on forms
 9 prescribed by and provided by the department and must
 10 include all relevant information the department considers
 11 necessary. Promptly upon receipt of the notice the
 12 department shall provide to the owner his yield tax
 13 collection number, instructions, immediate harvest value
 14 tables for each area in which he will harvest, and tax
 15 reporting forms.

16 NEW SECTION. **Section 8. Quarterly payment of tax.**
 17 Commencing with the calendar quarter beginning January 1,
 18 1991, a person who harvests timber shall pay the yield tax
 19 in quarterly installments for the periods ending March 31,
 20 June 30, September 30, and December 31 of each year for all
 21 timber harvested during the calendar quarter. Timber is
 22 considered harvested for purposes of this section at the
 23 time when in the ordinary course of business the quantity of
 24 timber harvested is first determined.

25 NEW SECTION. **Section 9. Return to accompany tax**

1 payment -- records -- exemption. (1) Each person shall,
 2 within 30 days after the end of each quarter, prepare and
 3 submit on forms prescribed by the department a return
 4 showing the volume of timber harvested during the preceding
 5 calendar quarter and pay the total amount of tax due for the
 6 quarter. The return must be signed by the individual or the
 7 president, vice president, treasurer, or managing agent of
 8 the business, partnership, corporation, or other entity
 9 covered by the return. Whenever in its judgment good cause
 10 exists, the department may allow additional time not
 11 exceeding 30 days for filing a return and for payment of the
 12 tax due.

13 (2) The department shall examine each return and
 14 compute the amount of the tax assessed against and payable
 15 by the person filing the return. If the tax due is greater
 16 than the amount paid, the taxpayer shall pay the excess to
 17 the department within 10 days after a written notice of the
 18 deficiency is mailed by the department to the taxpayer. If
 19 the tax imposed is less than the amount paid, the difference
 20 must be applied as a credit against tax liability for
 21 subsequent quarters or refunded if there is no subsequent
 22 tax liability.

23 (3) Every owner of timber shall:

24 (a) keep receipts, invoices, and other pertinent
 25 records that the department may require;

(b) produce the records for inspection by the department at any time during normal business hours; and

(c) keep the records for at least 3 years from the due date of the return.

(4) A person who incurs less than \$10 total tax liability under [sections 1 through 20] in any calendar quarter is exempt from the payment of the tax but may be required to file a quarterly return.

NEW SECTION. Section 10. Department determination of tax in absence of return -- penalty and interest -- warrant for distraint. (1) If a person fails, neglects, or refuses to file a return as required and within the time limits established by [section 9], the department shall, immediately after the time has expired, proceed to determine the timber volume harvested by the person in this state during the quarter and the tax due the state from the person for the quarter.

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

(3) The department shall mail to the person responsible for the tax payment a notice setting forth the amount of tax, penalty, and interest due and informing him

that a warrant for distraint may be filed if payment is not made.

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

NEW SECTION. Section 11. Penalty for violations. A person who fails, neglects, or refuses to file a return in the manner or within the time required, who falsifies a return or other information required under [sections 1 through 20], or who violates any other provision of [sections 1 through 20] or rules adopted to implement [sections 1 through 20] is guilty of a misdemeanor punishable by a fine not exceeding \$1,000, imprisonment not exceeding 6 months, or both.

NEW SECTION. Section 12. Deficiency assessment -- hearing -- interest. (1) When the department determines that the tax due is greater than the amount disclosed by the return filed pursuant to [section 9], the department shall mail to the taxpayer a notice of the additional tax proposed to be assessed. Within 30 days after the department mails the notice, the taxpayer may file with the department a written protest against the proposed additional tax that sets forth the grounds upon which the protest is based and may request a hearing. If a protest is not filed, the amount of the additional tax proposed to be assessed becomes final

upon the expiration of the 30-day period. If a protest is filed, the department shall hold a hearing, if requested by the taxpayer, and may reconsider the proposed assessment. After consideration of the protest and evidence presented, the department shall take final action upon the protest and mail notice of its action to the taxpayer.

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

NEW SECTION. Section 13. Statute of limitations. (1) Except as otherwise provided in this section, a deficiency may not be assessed with respect to the year for which a return is filed unless the notice of additional tax is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

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

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

NEW SECTION. Section 14. Timber tax account -- reserve fund account. (1) There is within the state special revenue fund a timber tax account.

(2) All money collected under [sections 1 through 20] must be paid by the department into the timber tax account.

(3) There must be retained in the timber tax account the amounts necessary under [sections 1 through 20] to repay overpayments, pay erroneous receipts illegally assessed or collected or that are excessive in amount, and pay any refunds otherwise required.

(4) After the amounts in subsection (3) are determined, the department shall assign a tax credit for each school district in the same proportion that the harvest factor in each school district bears to the sum of all the harvest factors for all school districts in the state.

(5) In addition to the rates specified in [section 5(1)], there is imposed on each owner a surtax at a rate of 0.5% on the immediate harvest value, as specified in [section 6], of timber harvested between January 1, 1991, and December 31, 1991, inclusive. The revenue from the surtax must be deposited in a separate fund, designated as the reserve fund account, which is established within the timber tax account. The surtax must be reimposed for 1 year if the balance in the reserve fund account is less than \$300,000.

NEW SECTION. Section 15. Department to furnish estimates of distributions from timber tax account -- distributions to be used in setting mill levies -- apportionment to school districts. (1) On or before July 1 of each year, commencing with 1991 and ending with 1995, the

department shall furnish to the county assessor the estimated amount of yield taxes to be distributed to each school district in the county for the fiscal year, converted to taxable value by the department. The assessor shall include the taxable value in the total taxable values to be used by the county commissioners in setting mill levy rates for the various school districts for the fiscal year. The estimated annual amount of yield tax to be distributed to each school district must be determined by the department according to the proportion that the taxable value of standing timber in 1990 of that school district bears 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, plus any distributions from the timber tax reserve fund account pursuant to subsection (4).

(2) On or before July 1 of each year, commencing with 1995, the estimated amount of yield taxes converted to taxable values and furnished to the county assessor must reflect a tax credit assigned to each school district in the same proportion that the harvest factor for each district bears to the sum of the harvest factors for all school districts in the state.

(3) All money distributed by the department to the various counties pursuant to subsections (1) and (2) must be credited to the proper school districts by the department

1 and remitted to the respective county treasurers within 15
2 days of the month following April 30, July 31, October 31,
3 and January 31. Remittances to the county treasurers must be
4 made by the department commencing May 15, 1991. The county
5 treasurer shall distribute the money to the various funds
6 within the proper school district in the same proportions
7 that collections from property taxes within the district are
8 distributed.

9 (4) At the end of the fourth quarter of 1991 and at
10 the end of every succeeding fourth quarter, any money in the
11 timber tax reserve fund account in excess of \$400,000 must
12 be transferred to the timber tax account, and one-fourth of
13 the transferred money must be distributed with each
14 quarterly distribution to the counties in the immediately
15 following year. Money must be transferred in the same
16 proportion that each school district's credit in the reserve
17 fund account bears to the total value in the reserve fund
18 account as a whole.

19 NEW SECTION. Section 16. Deficiency below scheduled
20 revenue. If the amount of revenue available in the timber
21 tax account for any quarter is less than the estimate
22 computed by the department under [section 15(1) and (2)],
23 the deficiency must be made up as far as possible out of any
24 available funds in the reserve fund account appropriated for
25 that purpose.

1 NEW SECTION. Section 17. Excess over scheduled
2 revenue. If the amount of revenue available to the various
3 school districts pursuant to [section 15(3)] for any quarter
4 exceeds the department's estimates computed under [section
5 15(1) and (2)], the excess must be credited to the reserve
6 fund account and only the amount equal to the estimated
7 revenue may be credited to the school districts in the
8 designated fiscal year.

9 NEW SECTION. Section 18. Rules -- forms. The
10 department of revenue shall promulgate rules and prescribe
11 forms it considers necessary to administer the provisions of
12 [sections 1 through 20].

13 NEW SECTION. Section 19. Department to review act. At
14 the end of at least 4 years' operation of [sections 1
15 through 20], the department shall present a review to the
16 legislature of the rate of yield tax imposed by [sections 1
17 through 20] and recommendations as to any proposed changes
18 in the method of distribution of revenues collected under
19 [sections 1 through 20] to the school districts.

20 NEW SECTION. Section 20. Transition provision. Timber
21 harvested before July 1, 1992, pursuant to a contract signed
22 before January 1, 1989, is not subject to the yield tax
23 imposed by [section 5].

24 **Section 21.** Section 15-1-101, MCA, is amended to read:

25 **"15-1-101. Definitions.** (1) Except as otherwise

1 specifically provided, when terms mentioned in this section
2 are used in connection with taxation, they are defined in
3 the following manner:

4 (a) The term "agricultural" refers to the raising of
5 livestock, poultry, bees, and other species of domestic
6 animals and wildlife in domestication or a captive
7 environment, and the raising of field crops, fruit, and
8 other animal and vegetable matter for food or fiber.

9 (b) The term "assessed value" means the value of
10 property as defined in 15-8-111.

11 (c) The term "average wholesale value" means the value
12 to a dealer prior to reconditioning and profit margin shown
13 in national appraisal guides and manuals or the valuation
14 schedules of the department of revenue.

15 (d) (i) The term "commercial", when used to describe
16 property, means any property used or owned by a business, a
17 trade, or a nonprofit corporation as defined in 35-2-102 or
18 used for the production of income, except that property
19 described in subsection (ii).

20 (ii) The following types of property are not
21 commercial:

22 (A) agricultural lands;

23 (B) timberlands;

24 (C) single-family residences and ancillary
25 improvements and improvements necessary to the function of a

1 bona fide farm, ranch, or stock operation;

2 (D) mobile homes used exclusively as a residence
3 except when held by a distributor or dealer of trailers or
4 mobile homes as his stock in trade;

5 (E) all property described in 15-6-135;

6 (F) all property described in 15-6-136; and

7 (G) all property described in 15-6-146.

8 (e) The term "comparable property" means property that
9 has similar use, function, and utility; that is influenced
10 by the same set of economic trends and physical,
11 governmental, and social factors; and that has the potential
12 of a similar highest and best use.

13 (f) The term "credit" means solvent debts, secured or
14 unsecured, owing to a person.

15 (g) The term "improvements" includes all buildings,
16 structures, fences, and improvements situated upon, erected
17 upon, or affixed to land. When the department of revenue or
18 its agent determines that the permanency of location of a
19 mobile home or housetrailer has been established, the mobile
20 home or housetrailer is presumed to be an improvement to
21 real property. A mobile home or housetrailer may be
22 determined to be permanently located only when it is
23 attached to a foundation which cannot feasibly be relocated
24 and only when the wheels are removed.

25 (h) The term "leasehold improvements" means

1 improvements to mobile homes and mobile homes located on
2 land owned by another person. This property is assessed
3 under the appropriate classification and the taxes are due
4 and payable in two payments as provided in 15-24-202.
5 Delinquent taxes on such leasehold improvements are a lien
6 only on such leasehold improvements.

7 (i) The term "livestock" means cattle, sheep, swine,
8 goats, horses, mules, and asses.

9 (j) The term "mobile home" means forms of housing
10 known as "trailers", "housetrailers", or "trailer coaches"
11 exceeding 8 feet in width or 45 feet in length, designed to
12 be moved from one place to another by an independent power
13 connected to them, or any "trailer", "housetrailer", or
14 "trailer coach" up to 8 feet in width or 45 feet in length
15 used as a principal residence.

16 (k) The term "personal property" includes everything
17 that is the subject of ownership but that is not included
18 within the meaning of the terms "real estate" and
19 "improvements".

20 (l) The term "poultry" includes all chickens, turkeys,
21 geese, ducks, and other birds raised in domestication to
22 produce food or feathers.

23 (m) The term "property" includes moneys, credits,
24 bonds, stocks, franchises, and all other matters and things,
25 real, personal, and mixed, capable of private ownership.

1 This definition must not be construed to authorize the
2 taxation of the stocks of any company or corporation when
3 the property of such company or corporation represented by
4 the stocks is within the state and has been taxed.

5 (n) The term "real estate" includes:

6 (i) the possession of, claim to, ownership of, or
7 right to the possession of land;

8 (ii) all mines, minerals, and quarries in and under the
9 land subject to the provisions of 15-23-501 and Title 15,
10 chapter 23, part 8; ~~all timber belonging to individuals or~~
11 ~~corporations growing or being on the lands of the United~~
12 ~~States;~~ and all rights and privileges appertaining thereto.

13 (o) "Research and development firm" means an entity
14 incorporated under the laws of this state or a foreign
15 corporation authorized to do business in this state whose
16 principal purpose is to engage in theoretical analysis,
17 exploration, and experimentation and the extension of
18 investigative findings and theories of a scientific and
19 technical nature into practical application for experimental
20 and demonstration purposes, including the experimental
21 production and testing of models, devices, equipment,
22 materials, and processes.

23 (p) The term "taxable value" means the percentage of
24 market or assessed value as provided for in 15-6-131 through
25 15-6-149.

(q) The term "weighted mean assessment ratio" means the total of the assessed values divided by the total of the selling prices of all area sales in the stratum.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

Section 22. Section 15-6-133, MCA, is amended to read:

"15-6-133. Class three property -- description -- taxable percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202; and

(b) timberland. For the purpose of this section, "timberland" means contiguous land that exceeds 15 acres in one ownership and that is capable of producing timber that can be harvested in commercial quantity.

(2) Class three property is taxed at the taxable percentage rate-"P" as follows:

(a) Property described in subsection (1)(a) is taxed at 30% of its productive capacity.

(b) Property described in subsection (1)(b) is taxed

at 30% of its productive grazing capacity.

(3) Until July 1, 1986, the taxable percentage rate "P" for class three property is 30%.

(4) Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class three property for the revaluation cycle beginning January 1, 1986, as follows:

(a) The director of the department of revenue shall certify to the governor before July 1, 1986, the percentage by which the appraised value of all property in the state classified under class three as of January 1, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the "certified statewide percentage increase".

(b) The taxable value of property in class three is determined as a function of the certified statewide percentage increase in accordance with the table shown below:

(c) This table limits the statewide increase in taxable valuation resulting from reappraisal to 0%. In calculating the percentage increase, the department may not consider agricultural use changes during calendar year 1985.

(d) The taxable percentage must be calculated by interpolation to coincide with the nearest whole number certified statewide percentage increase from the following

1 ~~table:~~

2 Certified-Statewide	Class-Three-Taxable
3 Percentage-Increase	Percentage-"P"
4 -0	30-00
5 10	27-27
6 20	25-00
7 30	23-00
8 40	21-43
9 50	20-00

10 ~~{5}--After July 1, 1986, no adjustment may be made by~~
 11 ~~the department to the taxable percentage rate "P" until a~~
 12 ~~revaluation has been made as provided in 15-7-111."~~

13 **Section 23.** Section 15-6-201, MCA, is amended to read:

14 "15-6-201. Exempt categories. (1) The following
 15 categories of property are exempt from taxation:

16 (a) the property of:

17 (i) the United States, the state, counties, cities,
 18 towns, school districts, except, if congress passes
 19 legislation that allows the state to tax property owned by
 20 an agency created by congress to transmit or distribute
 21 electrical energy, the property constructed, owned, or
 22 operated by a public agency created by the congress to
 23 transmit or distribute electric energy produced at privately
 24 owned generating facilities (not including rural electric
 25 cooperatives);

1 (ii) irrigation districts organized under the laws of
 2 Montana and not operating for profit;
 3 (iii) municipal corporations; and
 4 (iv) public libraries;
 5 (b) buildings, with land they occupy and furnishings
 6 therein, owned by a church and used for actual religious
 7 worship or for residences of the clergy, together with
 8 adjacent land reasonably necessary for convenient use of
 9 such buildings;

10 (c) property used exclusively for agricultural and
 11 horticultural societies, for educational purposes, and for
 12 nonprofit health care facilities, as defined in 50-5-101,
 13 licensed by the department of health and environmental
 14 sciences and organized under Title 35, chapter 2 or 3. A
 15 health care facility that is not licensed by the department
 16 of health and environmental sciences and organized under
 17 Title 35, chapter 2 or 3, is not exempt.

18 (d) property that meets the following conditions:

19 (i) is owned and held by any association or
 20 corporation organized under Title 35, chapter 2, 3, 20, or
 21 21;

22 (ii) is devoted exclusively to use in connection with a
 23 cemetery or cemeteries for which a permanent care and
 24 improvement fund has been established as provided for in
 25 Title 35, chapter 20, part 3; and

1 (iii) is not maintained and operated for private or
 2 corporate profit;
 3 (e) institutions of purely public charity;
 4 (f) evidence of debt secured by mortgages of record
 5 upon real or personal property in the state of Montana;
 6 (g) public art galleries and public observatories not
 7 used or held for private or corporate profit;
 8 (h) all household goods and furniture, including but
 9 not limited to clocks, musical instruments, sewing machines,
 10 and wearing apparel of members of the family, used by the
 11 owner for personal and domestic purposes or for furnishing
 12 or equipping the family residence;
 13 (i) a truck canopy cover or topper weighing less than
 14 300 pounds and having no accommodations attached. Such
 15 property is also exempt from taxation under 61-3-504(2) and
 16 61-3-537.
 17 (j) a bicycle, as defined in 61-1-123, used by the
 18 owner for personal transportation purposes;
 19 (k) motor homes, travel trailers, and campers;
 20 (l) all watercraft;
 21 (m) land, fixtures, buildings, and improvements owned
 22 by a cooperative association or nonprofit corporation
 23 organized to furnish potable water to its members or
 24 customers for uses other than the irrigation of agricultural
 25 land;

1 (n) the right of entry that is a property right
 2 reserved in land or received by mesne conveyance (exclusive
 3 of leasehold interests), devise, or succession to enter land
 4 whose surface title is held by another to explore, prospect,
 5 or dig for oil, gas, coal, or minerals;
 6 (o) property owned and used by a corporation or
 7 association organized and operated exclusively for the care
 8 of the developmentally disabled, mentally ill, or
 9 vocationally handicapped as defined in 18-5-101, which is
 10 not operated for gain or profit;
 11 (p) all farm buildings with a market value of less
 12 than \$500 and all agricultural implements and machinery with
 13 a market value of less than \$100; and
 14 (q) timber as defined in [section 4] located on
 15 privately or federally owned land; and
 16 ~~fq(r)~~ property owned by a nonprofit corporation
 17 organized to provide facilities primarily for training and
 18 practice for or competition in international sports and
 19 athletic events and not held or used for private or
 20 corporate gain or profit. For purposes of this subsection
 21 (l)(q), "nonprofit corporation" means an organization exempt
 22 from taxation under section 501(c) of the Internal Revenue
 23 Code and incorporated and admitted under the Montana
 24 Nonprofit Corporation Act.
 25 (2) (a) The term "institutions of purely public

1 charity" includes organizations owning and operating
2 facilities for the care of the retired or aged or
3 chronically ill, which are not operated for gain or profit.

4 (b) The terms "public art galleries" and "public
5 observatories" include only those art galleries and
6 observatories, whether of public or private ownership, that
7 are open to the public without charge at all reasonable
8 hours and are used for the purpose of education only.

9 (3) The following portions of the appraised value of a
10 capital investment made after January 1, 1979, in a
11 recognized nonfossil form of energy generation, as defined
12 in 15-32-102, are exempt from taxation for a period of 10
13 years following installation of the property:

14 (a) \$20,000 in the case of a single-family residential
15 dwelling;

16 (b) \$100,000 in the case of a multifamily residential
17 dwelling or a nonresidential structure. (Subsection (1)(c)
18 applicable to taxable years beginning after December 31,
19 1987--sec. 4, Ch. 455, L. 1987.)"

20 **Section 24.** Section 15-7-303, MCA, is amended to read:

21 "15-7-303. Definitions. As used in this part, the
22 following definitions apply:

23 (1) "Partial interest" means a percentage interest in
24 property when less than 100%.

25 (2) "Person" means and includes an individual,

1 corporation, partnership, or other business organization,
2 trust, fiduciary, or agent or any other party presenting a
3 document for recordation.

4 (3) "Real estate" includes:

5 (a) land;

6 ~~{b}--growing-timber;~~

7 ~~{c}{b}~~ buildings, structures, fixtures, fences, and
8 improvements affixed to land.

9 (4) "Transfer" means an act of the parties or of the
10 law by which the title to real property is conveyed from one
11 person to another.

12 (5) "Value" means the amount of the full actual
13 consideration therefor paid or to be paid, including the
14 amount of any lien or liens thereon."

15 NEW SECTION. **Section 25.** Extension of authority. Any
16 existing authority to make rules on the subject of the
17 provisions of [this act] is extended to the provisions of
18 [this act].

19 NEW SECTION. **Section 26.** Codification instruction.
20 [Sections 1 through 20] are intended to be codified as an
21 integral part of Title 15, and the provisions of Title 15
22 apply to [sections 1 through 20].

23 NEW SECTION. **Section 27.** Severability. If a part of
24 [this act] is invalid, all valid parts that are severable
25 from the invalid part remain in effect. If a part of [this

LC 1731/01

1 act] is invalid in one or more of its applications, the part
2 remains in effect in all valid applications that are
3 severable from the invalid applications.

4 NEW SECTION. Section 28. Applicability. [This act]
5 applies to taxable years beginning after December 31, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB467, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act imposing a yield tax and a temporary surtax on all timber harvested on public and private lands; providing for the distribution of the proceeds from the yield tax and surtax to local school districts; reclassifying timberland for property tax purposes; exempting timber from property taxation; and providing an applicability date.

FISCAL IMPACT:

The proposal applies to taxable years beginning after December 31, 1990. The first application of the timber yield tax will be for the quarter January 1, 1991 to March 31, 1991. The receipts for this quarter will be due before April 30, 1991. This quarter's receipts will be the only impact during the coming biennium. The change in the property tax valuation, valuing timberland as grazing land, will occur for taxable year 1991. The first receipts for this taxable year will be in November 1991, after the end of the 1990-91 biennium.

There will be expenses incurred in the biennium. The proposal requires the department to develop new forms, procedures, and systems to administer the yield tax. In FY90, there will be planning costs of \$40,715. In FY91, there will be start-up and administrative costs of \$269,099. Costs are as follows:

	<u>FY90</u>	<u>FY91</u>
Personal Services	\$ 31,515	\$ 186,399
Operation Expenses	3,200	37,700
Equipment Costs	6,000	45,000
Total	\$ 40,715	\$ 269,099

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

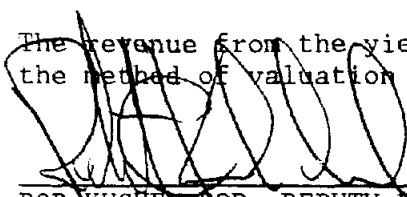
The revenue from the harvesting of timber varies dramatically from year to year. An attempt to compute the stumpage value of harvested timber in 1987 estimated the harvested value at about \$62,000,000. The study lacked significant data and is only a best guess of the harvested value. If the harvested value were \$62,000,000 annually the revenue raised by applying a 3% tax would be \$1,860,000. This revenue would be placed in the Timber Tax Account until distributed to the local governments.

There also is a 0.5% tax required in the first year of application which would raise \$310,000 at the \$62,000,000 value for the Timber Tax Reserve Fund. This 0.5% tax would continue for a second year if the first year did not raise the minimum of \$300,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The taxable value of class thirteen property, timberland, averaged \$6,483,000 for the taxable years 1987 and 1988. There are approximately 3,540,000 acres of timberland in Montana. Under the proposal, starting with taxable year 1991, this property would be assessed as grazing land. Using the current per acre value of grade five grazing land of \$1.47 per acre, the market value would be \$5,203,800. Using the taxable percentage of 30% for class three property results in a taxable value of \$1,561,140.

The revenue from the yield tax would be distributed to the counties to help offset the loss of revenue from changing the method of valuation for timberland.


DATE 3/20/89
BOB KUCHENBROD, DEPUTY DIRECTOR
Office of Budget and Program Planning


DATE 3/20/89
DOROTHY ECK, PRIMARY SPONSOR

Fiscal Note for SB467, as introduced

SB 467