An analysis of HB 619 introduced in the 44th Legislature of the State of Montana to change the method of taxing timber

Joan Trimble Toole

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AN ANALYSIS OF HB 619 INTRODUCED IN THE 44TH LEGISLATURE OF THE STATE OF MONTANA TO CHANGE THE METHOD OF TAXING TIMBER

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Presented in partial fulfillment of the requirements for the degree of Master of Science UNIVERSITY OF MONTANA 1976

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Chairman, Board of Examiners
Dean, Graduate School

Date

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An analysis of HB 619 introduced in the 44th Legislature of the state of Montana to change the method of taxing timber (64 pp.)

Director: Richard K. Smith

A number of representatives introduced HB 619 in 1975 at the request of their constituents who owned timber and timberlands. The House passed the bill and the Senate came close to doing the same. A similar bill will be introduced in 1977.

The purpose of this study is to explore the ramifications of HB 619 which would have excluded timber from the ad valorem property tax and, instead, imposed a yield tax on all timber harvested. This would include timber cut from federal lands, thus opening up a new source of revenue. Timberlands would have continued to be taxed under the ad valorem system and would have automatically been appraised as agricultural land until such time as the use changed and the land was no longer used primarily for growing timber. The owner of the land would be liable for a roll-back tax at the time of the change of use.

This study is designed to assist the legislator who must examine almost one thousand bills during each legislative session. There is first an explanation of how the private ownership of timber came about. Next, the study outlines the sections of HB 619 and discusses the views of the proponents and the opponents who testified at the public hearings held by the Taxation Committee. There is an explanation of the yield tax for timber and how much it is used in the United States, and by neighboring states in particular. Finally, the fiscal implications of the bill are shown, using Ravalli County as a typical Western Montana timber county.

The final outcome of the study may be to influence a legislator in making up his mind whether or not there should be a yield tax on timber in Montana. The facts point out that the appraised value of timber and timberlands is only about 1 percent of all land and improvements in Montana. Therefore, the fiscal implications may not bear as much weight as the fact that the yield tax should improve the management of private timber and thus provide an adequate supply of private timber for the future. The need to manage our natural resources may determine the fate of this legislation.
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CHAPTER I

INTRODUCTION

In 1975, in the state of Montana's 44th Legislative session, six representatives introduced House Bill 619, a bill for an act entitled: "An act to establish the Montana Timber Taxes Act by imposing a yield tax and a surtax on all timber harvested and by further providing a roll-back tax, and forestland tax as a method of taxing and appraising timberlands as provided in Section 84-429.12, R.C.M. 1947; and providing an effective date."

The House Taxation Committee conducted a hearing on the bill, and after listening to proponents and opponents, amended the bill and unanimously voted as a committee that the bill "do pass." The House passed the bill by a good majority (67-5).¹ In the Senate, the bill failed to pass by one vote. (In 1974, a similar bill, House Bill 906, had passed in the House with a smaller majority but the Senate Taxation Committee killed it.)

This legislation would have changed the method of taxing private timber in Montana. Timber and timberlands are classified now by the assessor and taxed as other real property, i.e., by an ad valorem property tax. Under the

proposed legislation, the timberland would have stayed within the ad valorem tax system but the standing timber would have been removed from this system. Instead, a yield tax would have been imposed on the stumpage at the time of harvest, the tax to be paid by the owner of the cut timber.

The State of Montana cannot now tax timber grown on public lands, but under House Bill 619 timber cut from the public as well as the private lands would have been subject to the yield tax. The sponsors of this legislation anticipated that the new source of revenue from timber cut on lands belonging to the United States Forest Service, to the State of Montana, and to the Indians would have replaced the tax monies lost by eliminating the ad valorem tax on private timber. This fact garnered support for HB 619 as voiced by the late Senator Miles Romney of Ravalli County, who said, "Being able to finally tax federal timber is enough to make me support the bill."²

Recognition of the need for timber taxation reform in Montana is not new. In 1924, the Board of Equalization, in its annual report to the Governor, had this to say:

Taxation of timber and timberlands: This is a matter that sooner or later must receive the serious consideration of the Montana Legislature. Forestry men and economists who have studied the taxation of timber and timberlands, almost universally agree that the taxation of timberland

²Personal interview with Senator Miles Romney, Hamilton, Montana, September 1975.
together with the growing timber each year at its full market value, amounts to confiscation and the early elimination of the growing forests of our country. All agree that the land should be assessed at a very nominal amount and for any additional grazing that it may have, and the tax on the timber should be collected but once, and that, and there, as a severance tax, when the timber is removed, at a percentum of the value of the timber or at a definite rate per 1000 feet.

Until recent years, the period 1920 to 1924 marked the only time in Montana's history when the administration actively pushed tax reform, including the taxation of timberlands. With reapportionment and the new Montana constitution of 1972, the makeup of the legislature changed and there is now a good chance for tax reform. With House Bills 906 and 619 introduced respectively in the last two sessions, many members of the Montana Legislature have shown that they are ready and willing to pursue a change in timber taxation.

Montana has sixteen million acres of forestland classified as commercial. Of these acres, approximately 68 percent is owned by the federal government, 4 percent by the State of Montana, and 28 percent by private individuals and companies. 5 The private and state ownership came about through various Federal statutes passed between 1878

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4See appendix A, U. S. Forest Service table.

and the early 1900s. Until that time Americans were not concerned about timber and its possible depletion by depre-

dation. But as the shipbuilding industry and then others became aware of the fact that timber was being cut on federal lands with little regard for the fact that it takes from fifty to one hundred years to grow a commercial tree (eighty to one hundred years in Montana), Congress then passed a series of laws intended to promote better timber management and to assure that the United States government received money equal to the value of the timber cut and the timberlands sold. There was a bewildering variety of avenues by which individuals and corporations could acquire timberlands. The Timber and Stone Act of 1878 (amended to include Montana in 1892) intended to limit the settler to 160 acres of timberland. As it turned out, large companies in need of timber broke the law by paying individuals to file on timberland for them (dummy entrymen). The result was that, in due course, in Montana alone, five entrepre-

neurs owned 50,000 acres or more.

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6 Edward B. Butcher, "An Analysis of Timber Depreda-
tions in Montana to 1900" (Master's thesis, University of Montana, 1965). This thesis gives a more detailed account of timber depredations on the public domain.


8 "Fact Sheet Regarding Forest Taxation," Montana State Forester (1956).
Due to the Railroad Land Grant Act of 1864, the railroads received grants of alternating sections, a total of 14,740,000 acres, along their right-of-way. This accounts for the fact that the private ownership of timber in Montana produced more than one-half of the commercial timber cut in the state in 1974.\(^9\) Often these sections were exchanged for other timberlands.

Foresters worry as to whether or not private timber owners are managing their timber properly. They also question whether the present ad valorem property tax discourages good management and may contribute to the increased amount of timber being cut from private lands. Ninety percent of the commercial timber in Montana is in the eight western counties. Ravalli County is typical of these counties with federal, state, and private timber, and is being used in this study as a paradigm to demonstrate the effects that HB 619 would have had on private timber owners as well as on the county's tax monies.

Most legislators do not have time to look at complex bills in depth. The purpose of this study is to present the facts necessary to help any legislator make an educated judgment on the merits of HB 619, or its counterpart due to be introduced in the legislature of 1977. The study includes

the history of timber taxation in Montana, and the present system and how it evolved. HB 619 is outlined showing how it would have been implemented if it had passed and revealing the fiscal implications. Usually only those legislators who introduce a bill or are on the committee to which the bill is assigned have time to sit in on the public hearings of the bill in question. Therefore, there is a chapter setting forth the proponents and the opponents and their reasons for their stand. The yield tax is explored, discussing the reasons for interest in it throughout the United States. Finally, the fiscal implications of HB 619 are reviewed in order to indicate the net gain in tax revenue. This study suggests that the problems in the bill are solvable and that in an overall sense the legislation is good. Although prophecy is a risky business, it would seem now that similar legislation has a good chance of passage in the 1977 legislative session.
CHAPTER II

TAXING MONTANA'S TIMBER AND TIMBERLANDS
PAST AND PRESENT

Montana's privately owned timber and timberlands are taxed by an ad valorem classified property tax. (By law, publicly owned timberlands cannot be so taxed.) The present system evolved through the years from the Constitution of 1889, which stated: "The Legislative assembly shall levy a uniform rate of assessment and taxation and shall prescribe such regulations as shall secure a just valuation for taxation of all property." In 1891, the legislature ruled that all land must be assessed at the full cash value, "the amount at which the property should be taken in payment of a just debt due from a solvent debtor: the assessor to fix values according to his own judgment." ¹

Herein lies a key to assessment problems that are still with us in Montana. Until land is assessed, it cannot be taxed, and the responsibility for the assessment until 1972 rested with one man in each county—the county assessor, an elected official. His low salary was set by the legisla-

¹Annual Report, Board of Equalization, Helena, Montana, 1891-1892.
ture. He was liable for "wilfull failure or neglect" and was fined if his lists were not submitted on time. There was pressure from the electorate to underassess. More often than not the "appraising by assessors consisted of copying last year's figures and transcribing self serving declarations by property owners."² There were, of course, great discrepancies in value over the state and even within counties.

It was not until 1919, when the legislature passed the Classification Act, that timberlands were listed separately on the tax assessment lists. The Classification Act provided for imposition of taxes, a system (with some changes) in use today. At that time property was divided into seven classes for assessment. Each class has a taxable value equal to a specified percent of the assessed value, ranging from 100 percent to 7 percent. Timberlands were in Class 4 with other agricultural land; this class provided for a taxable valuation equal to 30 percent of the assessed valuation. The basic philosophy was that property which produced the lowest income should bear the lowest rate of taxation.³ At the same time the Board of Equalization, as its name implied, was formed to give direction to assessors

³Tax Study (unpublished), League of Women Voters of Helena, 1976.
to equalize assessments in the counties and throughout the state.

In 1956, the Legislative Council (the interim committee of the legislature) made a tax study. They found that many counties had not changed an assessment since 1919 and that on the average, the property was assessed at 22 to 23 percent of sales value. Of 4,857,000 acres of private timberlands in Montana, only 894,478 acres, or approximately 18 percent, were on the books as timberlands for tax purposes. Property taxes accounted, then, for 93 percent of the local tax revenues, and this prompted the Legislative Council to state that the assessors were actually charting the fiscal policy of most local governments in Montana.

In 1957, the legislature enacted a law requiring all property to be reclassified following uniform valuation tables furnished by the State Board of Equalization. The counties were given five years to complete the reclassification of property--another attempt to achieve equalization.

In 1963, the Board held hearings throughout the state on timber and timberlands. The Board discovered that many counties were not following the law. In twelve counties, including Ravalli County, the county commissioners had not instructed the assessors to reclassify property.

In twenty-one counties there were no timberlands, and nineteen counties of the remaining twenty-three were using the classification tables.

The Reclassification Act of 1957 is still in effect today, although it has been amended seven times, resulting in a classification system within a classification system. There are eleven classes of property within which there are forty-three separate kinds, and properties within the same class are taxed at different rates.

This system requires three steps: 1) the appraisal, which is done by the appraiser using tables furnished by the state; 2) the assessment, a percentage of the appraised value set by the legislature; 3) the taxable value, again a percentage (of the assessed value) set by the legislature. No wonder taxpayers feel that the property tax is not fair. As stated in the Sixteenth Biennial Report of the State Board of Equalization, "the classification law is necessarily anchored to the full cash value provision [Section 84-401, RCM 1947] and when we deliberately cut loose from that anchor we begin to drift."^5

In 1963, the Board of Equalization directed the county assessors to assess agricultural property according to a use schedule. This marked the third time (1919, 1957, 1963) that timber and timberlands were to be reassessed.

But it was not until the new Constitution of 1972 that Montana legitimized the "de facto" differential assessment system in effect in Montana for many years. Montana also became the second state to centralize property tax assessment at the state level. Now the assessor, although elected locally, is an agent of the newly formed Department of Revenue and no longer responsible to the county commissioners. The state pays the salary of the assessor and pays rent for the space used in the county courthouse. It is taking time for taxpayers to adjust to this new system, and although Montana legally has no local assessment districts, the assessor is still subject to the same political pressures.

The Department of Revenue's property tax division employs agents to oversee the assessor's work and to explain rules and regulations. There is one field man for Montana's eight western counties. Until late in 1975, the Department employed one man to direct the up-to-date assessment of Montana's timberlands with the result that six counties (Beaverhead, Carbon, Cascade, Judith Basin, Silver Bow, and Wheatland) have completed assessing the timberlands in their respective counties and will add them to the other

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twenty-two timber counties on the tax rolls in 1976. Four other counties remain to be so classified (Big Horn, Powder River, Carter, and Rosebud).

In 1972, the Department of Revenue revised the timber valuation schedules based on "evidence adduced at due process hearings held for this purpose." This was the fourth and last change to date in assessing timber and timberlands since 1919 (1957, 1963, and 1972).

The values on the schedule are not necessarily the same as those in adjoining counties because of differences in stand volumes and species distribution between different areas. The valuations in the timber schedule reflect the following factors:

1) Updated lumber selling prices, manufacturing and logging costs, and overrun percentages.
2) Revised stand volume tables including 9-inch and 10-inch diameters as saw logs.
3) Differentials in logging costs between lands with favorable, average, and difficult accessibility and topography.

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7 See table 1, page 13.
8 See appendix B.
9 Personal interview with Mike Lambert, Department of Revenue, Helena, Montana, June 1976.
TABLE 1

MONTANA TIMBER ON TAX ROLLS, 1975

BY COUNTY

<table>
<thead>
<tr>
<th>County</th>
<th>Acres</th>
<th>Average Value</th>
<th>Taxable Value</th>
<th>Taxable Value of all Real Estate and Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broadwater</td>
<td>16,601</td>
<td>$2.58</td>
<td>$12,882</td>
<td>$1,263,768</td>
</tr>
<tr>
<td>Chouteau</td>
<td>753</td>
<td>3.00</td>
<td>677</td>
<td>10,792,992</td>
</tr>
<tr>
<td>Deer Lodge</td>
<td>35,900</td>
<td>2.17</td>
<td>23,388</td>
<td>1,323,815</td>
</tr>
<tr>
<td>Fergus</td>
<td>105,852</td>
<td>2.41</td>
<td>76,561</td>
<td>6,006,674</td>
</tr>
<tr>
<td>Flathead</td>
<td>460,690</td>
<td>8.55</td>
<td>1,182,845</td>
<td>8,729,110</td>
</tr>
<tr>
<td>Gallatin</td>
<td>101,382</td>
<td>2.62</td>
<td>79,693</td>
<td>2,261,740</td>
</tr>
<tr>
<td>Golden Valley</td>
<td>12,974</td>
<td>2.22</td>
<td>8,654</td>
<td>834,960</td>
</tr>
<tr>
<td>Granite</td>
<td>111,299</td>
<td>6.01</td>
<td>200,763</td>
<td>952,294</td>
</tr>
<tr>
<td>Jefferson</td>
<td>44,045</td>
<td>2.23</td>
<td>29,851</td>
<td>1,269,996</td>
</tr>
<tr>
<td>Lake</td>
<td>107,179</td>
<td>8.89</td>
<td>286,159</td>
<td>3,987,983</td>
</tr>
<tr>
<td>Lewis and Clark</td>
<td>129,712</td>
<td>4.58</td>
<td>178,309</td>
<td>4,527,599</td>
</tr>
<tr>
<td>Lincoln</td>
<td>427,133</td>
<td>10.94</td>
<td>1,402,357</td>
<td>3,565,329</td>
</tr>
<tr>
<td>Madison</td>
<td>59,141</td>
<td>2.71</td>
<td>48,158</td>
<td>2,902,444</td>
</tr>
<tr>
<td>Meagher</td>
<td>92,103</td>
<td>2.21</td>
<td>61,238</td>
<td>19,289,103</td>
</tr>
<tr>
<td>Mineral</td>
<td>91,157</td>
<td>8.40</td>
<td>229,806</td>
<td>466,370</td>
</tr>
<tr>
<td>Missoula</td>
<td>369,394</td>
<td>8.20</td>
<td>908,856</td>
<td>11,306,228</td>
</tr>
<tr>
<td>Musselshell</td>
<td>113,986</td>
<td>2.89</td>
<td>99,146</td>
<td>2,045,661</td>
</tr>
<tr>
<td>Park</td>
<td>82,581</td>
<td>3.57</td>
<td>88,653</td>
<td>2,964,350</td>
</tr>
<tr>
<td>Powell</td>
<td>236,377</td>
<td>6.95</td>
<td>493,299</td>
<td>1,962,152</td>
</tr>
<tr>
<td>Ravalli</td>
<td>106,410</td>
<td>10.16</td>
<td>324,446</td>
<td>3,134,299</td>
</tr>
<tr>
<td>Sanders</td>
<td>283,725</td>
<td>8.61</td>
<td>733,523</td>
<td>1,890,607</td>
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<tr>
<td>Stillwater</td>
<td>7,448</td>
<td>2.36</td>
<td>5,283</td>
<td>2,454,095</td>
</tr>
<tr>
<td>Sweet Grass</td>
<td>17,961</td>
<td>2.56</td>
<td>13,808</td>
<td>1,624,635</td>
</tr>
</tbody>
</table>


4) Differentials in logging costs due to varying board feet volumes of timber per acre.

The values on the assessed land vary by the access and the topography (favorable, average, and difficult) and include the minimum (G 6) grazing value. Values are added for land on which a grade of grazing higher than G 6 is established.

The Department also ordered that a valuation record must be kept for each owner of timberlands in the county. Land with classified timber must be assessed as timberland even though its value as grazing may exceed the value of the timber.

When this change took place in 1972, the office of the appraiser of Ravalli County sent letters to all timberland owners of record (1,062) offering the services of a trained forester to check the assessed value of each owner's timber and timberland. The previous reclassification had been done by aerial map in 1957. Very few property owners responded and there were few changes in the appraisals made in 1957. The new valuation tables for assessment of timber reflected prices over the preceding five years (1967-1971) and caused a healthy increase in assessed valuation of timber and timberlands. The total assessed value of timber and

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10 Personal interview with Mae Chaffin, Appraiser, Ravalli County, Hamilton, Montana, May 1976.
timberlands in the state jumped from $8,416,382 in 1964 to $13,201,373 in 1972.
CHAPTER III

HB 619--WHAT IT WOULD HAVE DONE

The legislative purpose of HB 619, as amended, was threefold:

1) To exempt private timber from the ad valorem property tax;
2) To impose, instead, a yield tax on all harvested timber;
3) To provide for a roll-back tax\(^1\) on the timberland.

The provision for the roll-back tax was not in the original bill but was added at the request of Senator Joe Roberts of Libby and the bill was thus amended by the House. After the bill as amended had been passed by the House, the Senate also amended the bill before "indefinitely postponing"\(^2\) it. It is necessary to point out these Senate amendments, although the House could have rejected any or all of them. The House must approve the amendments made by the Senate before the bill can go to the Governor.

\(^1\) Roll-back tax is explained on pages 25-26 of this chapter.

The following definitions are part of the bill and are necessary to an understanding of its intent:

1) Department--Department of Revenue

2) Director--Director of the Department of Revenue

3) Forestland--All land in any contiguous ownership of twenty or more acres exclusive of five acres of land designated by the Department as being used for, or in connection with, a residence, growing tree species which are capable or could be capable of furnishing raw material used in the manufacture of lumber or other forest products. The term also includes all land from which forest tree species have been removed but have not yet been restocked, but it does not include land converted to uses other than the growing of forest tree species.

The Senate amended the definition of forestland to say "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." In other words, an owner of only one acre, or less than twenty acres not
contiguous (if presently classified and appraised as forest-
land), would have been included in the provisions of this
act.

4) Harvest--An activity related to the cut-
ting or the removal of forest trees for
use or sale as a forest product.

5) Owner--every person, partnership, corpora-
tion, or association of whatever nature
who from privately or publicly owned land
under a right or license granted by lease
or contract, either directly or by contract-
ing with others for the necessary labor or
mechanical services fell, cuts, or takes
timber for sale or use. It does not include
persons performing under contract the neces-
sary labor or mechanical services for an
owner.

The Senate added that the above applied "whether
upon his own land or upon the land of another." This
assured the inclusion of those cutting timber on their
own land, such as loggers contracting to sell to a mill,
and it also included those who own both the timber and the
sawmill and do their own cutting.

6) Timber--Forest tree species and includes

\(^3\)Ibid.
all wood growth, mature or immature, growing or dead, standing or down, on all land that is capable of furnishing raw material used in the manufacture of lumber or other forest products. It does not mean Christmas trees . . . on land controlled continuously for the exclusive purpose of raising such trees.

The changeover in the method of taxing timber and timberlands would have taken a five-year period from January 1, 1977 to December 31, 1981. All harvested timber, whether from private or public lands in Montana, were subject to a yield tax. The rate of the yield tax would have started at 3 percent of the fair market value of the timber on the stump in 1977 and increased one-fourth of 1 percent each year to 4 percent in 1981.

In Section 6: The immediate harvest value to be used in computing the yield tax was a value determined by the Department. The Department was to determine first, the values for each species, or sub-species, and second, which areas were to be considered as units, with timber having similar growing, harvesting, and marketing characteristics. The Department was directed to prepare harvest tables containing values to be used in measuring the yield tax at least once each year before December 1.

The values put on the various species in the various
units would have been the amount each species or sub-species "would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest," expressed in terms of a dollar amount per thousand board feet. The Department was to figure these values on the basis of "the gross proceeds of sales on the stump of similar timber of like quality and character at similar locations and in similar quantities." (Values for damaged timber would have been adjusted accordingly.) The harvest tables, thus prepared, would have been available from the Department upon request.

Section 7 dealt with the mechanics of imposing and collecting the yield tax. All owners would be required to notify the Department of intent to harvest timber at least thirty days prior to the harvesting in order to receive a yield tax collection number. The Senate amended this to exempt those planning to harvest less than $200 of timber for personal use in any quarter. The Senate also removed the thirty day requirement, changing the wording from "at least 30 days" to "prior."

The yield tax was due and payable quarterly, following the harvesting calendar quarter. Timber was considered "harvested" when in the ordinary course of business the quantity of timber harvested was first definitely determined.

The owner was required to file a form showing the amount of tax for which he was liable in the preceding
quarter together with a remittance for the amount of the tax. (The Department could extend this time limit to thirty days if there was good cause.)

All payments received were to be credited first to penalty, then to interest accrued, and then to the tax. Any owner incurring less than $10 tax liability in any quarter was excused from payment.

Section 8 dealt with what happened to the yield tax monies thus collected. 4

The bill set up a new account, The Timber Tax Account, within which there was a separate fund, designated as the "reserve fund subaccount." The yield tax monies collected were to be remitted by the Department to the State Treasurer who was to deposit these monies in a suspense account (Section 79-412). Any refunds due were to be paid from the suspense account and the balance deposited in the general fund to the credit of the newly established Timber Tax Account. The credits to the school districts were in the same proportion that the timber harvested in each taxing district was to the sum of all timber harvested in all taxing districts from an average of the preceding five years; or if not in effect for five years, for the number of years the act was in effect.

In Section 9 it was provided that the distribution

4See table 2 on page 22.
Yield tax (3% first year) → Suspense → Suspect

Surtax (1/4 of 1% first year) → Reserve Fund Subaccount

Excess over $400,000 at year end → Report → Dept. of Revenue, Administration

Monies remitted quarterly → County Treasurer

County Assessor
as set forth in Section 8 should commence in 1982. In Section 9, the Department was to furnish estimates of the distributions to be made from the Timber Tax Account to the taxing districts. These estimates were to be determined not by the timber harvested but by the taxable value of standing timber in 1976.

The Senate changed this to read that "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." No doubt, this amendment was intended to clarify the formula but it tends grammatically and semantically to make matters worse. The Senate also changed the word "taxing" district to "school" district throughout the bill. As all property taxes are figured by school districts, the change is a logical one.

The estimates were to be given to the county assessor to fix levies for the current year. (The Department was to convert the estimates to taxable value.) The assessor was to include such 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 current fiscal year.
These estimates were to include any distributions from the timber tax reserve fund subaccount. This fund was to be set up by a separate tax—a surtax—of .5 percent on the immediate harvest value of timber imposed upon each owner, for the timber harvested between January 1, 1977 and December 31, 1977 (the first year of this act). The balance in the reserve fund was to be kept above $300,000 or the surtax could be reimposed after the first year. At the end of any year if the fund had a balance of over $400,000, the excess was to be transferred to the Timber Tax Account. One-quarter of these transferred monies was to be distributed quarterly to the counties in the following year in the same proportion that each school district's credit in the reserve fund subaccount bore to the total value in the reserve fund subaccount as a whole.

The purpose of the reserve fund was to make up deficiencies if the revenue did not equal the estimates of yield tax made by the Department and given to the county assessor for each fiscal year. If, on the other hand, the amount of the yield tax collected exceeded the estimates, the surplus was to go into the reserve account to stay there unless the balance of the account exceeded $400,000. The fund could only fluctuate between the balance of $300,000 and $400,000.

To this point HB 619 dealt with the harvesting of timber. Section 12 pertained to forestland. Under the
present system the land is taxed by an ad valorem property tax. The value put on the land by the Department varies according to its classification: favorable, average, or difficult. These values would not change under HB 619, which stated that the land was to be evaluated, assessed, and taxed with the value being based only on those indicia of value which such land has for forest use. Thus, the law would not change the number of acres of forestland on the assessment lists.

In addition, a landowner not taxed for timberland under the present system could have requested the Department to designate his land as timberland. The owner was to furnish all pertinent information relevant to the land's use including the timber on the land or the timber to be stocked. The Department had thirty days to notify the owner of the approval or disapproval of his application, a decision which could be appealed to the State Tax Appeals Board.

This section would also automatically include timberlands as lands subject to a "roll-back" tax. At the present time owners of five or more acres of agricultural land, which is determined by the value of crops produced, can apply to have the land taxed on an agricultural use basis rather than on the market value of the land. If the land is subsequently sold for a non-agricultural purpose, the new owner is liable for the difference in taxes for the past three years (which will increase to five years when the law has
been in effect two more years). Thus the word "roll-back" refers to going backward to change the basis for taxing the land. The intent was to help the owner of the agricultural land stay in the business of farming or ranching by keeping his property taxes from escalating as the land around him sold for development at inflated prices.

Under HB 619 owners of timberlands would not have had to apply for the preferred tax basis. The roll-back period could not exceed five years; and, as with agricultural land, the appraised value could rise only with a change of use, not necessarily a change of ownership.

The roll-back tax would have been a lien upon the land, due and payable at the time of change of use. To compute (determine) the amount of tax due, the Department would ascertain the full and fair value of land in the county not designated as forestland. Then the Department would multiply the assessed value of the land by the number of years in the roll-back and then by the assessment ratio in effect in that year in which the change in use of the land was made. The average of the mills levied in that district for the years of the roll-back would be applied to the taxable value arrived at above. But to compute the roll-back tax due, the taxes paid on the land as forestland during the roll-back years were to be deducted from the total tax figured as though the land had not been forestland.

The treasurer would have paid the monies collected
as roll-back tax to the various taxing units in accordance with the levies for the current year.

In Section 13 there was provision for appeal for the revision or refund of any tax of this act as provided in section 84-403.

In Section 14 there were penalties set up for refusing either to file the necessary statements or to pay the required taxes. The penalty was 10 percent of taxes due with interest at 8 percent. The taxes, penalties, and interest would have been a lien upon "any and all" property owned by such person within the state and upon the timber and forestland owned by such person. The lien would have attached on the date that the Department certified the amount due to the State Treasurer.

Section 15 was an amendment adopted by the House and stated that the Department "may promulgate rules and prescribe forms it deems necessary to administer the provisions of this act."

Section 16: At the end of at least four years the Department would be required to review for the legislature the rate of yield tax with recommendations for any changes in the method of distributing the collected yield taxes.

The final section, number 17, contained the usual severability clause: if a part of the act were declared invalid all other parts would remain in effect. The Senate amended this section to state: "In the event this tax is
held not to apply to timber cut on National Forest Land this act shall be invalid in its entirety." An amendment that Representative John Driscoll, a sponsor of the bill, stated that he could not accept.
CHAPTER IV

PROONENTS AND OPPONENTS

The testimony of the proponents and opponents of HB 906 in 1974 and HB 619 in 1975 was recorded at the hearings held by the Taxation Committee of the House.¹

In 1974, the idea of changing Montana's system of taxing timber was a new one; so new that the Department of Revenue did not actively support HB 906 as they were to support HB 619 the following year. Representative Robert Stephens, chairman of the subcommittee of the Taxation Committee to which the bill had been assigned, stated that "something must eventually be done" about the timber tax laws and suggested that HB 906 was a "good, workable bill to get the job started." Representative John Driscoll testified that nothing could be worse than the present system. Mike Morris of the Legislative Council, who wrote the bill, reminded the committee that the bill was flexible and would be reviewed in five years. The impression given by the proponents was clear: any change in the ad valorem system of taxing timber was better than no change.

¹House Taxation Committee Records, 43rd Legislature, 1974; 44th Legislature, 1975.
The opponents' arguments also had a common theme: a need for further study. Robert Helding, a lobbyist for the St. Regis Paper Company, said that there was a lack of background information for the introduction of the bill. He reminded the committee that timber taxation was a complex subject. Ty Robinson, attorney for the Burlington Northern, recognized the bill as "in part a conservation control measure" but said he wanted more study done by the legislature because he felt that the Department had rewritten the bill initiated by the Legislative Council. Mr. Hudson of St. Regis agreed that there was a "need for a thoroughly studied and reasonable timber tax to keep the forest products industry viable."

Both Mike Lambert of the Department's Property Tax Division and Bill Douglas, a former tax counselor to the Board of Equalization, touched on the problems of classifying timber and timberlands under the present system. They reminded the committee that "enormous funds" would be required to classify timber and timberlands that had never been on the assessment rolls and that those timberlands on the rolls were "grossly undertaxed." From their testimony one would assume that it would be both less costly and more equitable to change to a yield tax.

Finally, in 1974, a number of small ranchers from Sweet Grass County, who owned and cut timber for their own use, testified against HB 906. Specifically, they were
afraid that they could not cut firewood, fence posts, or lumber for their own use without a lot of paperwork and perhaps penalties.

It was obvious, after the House Taxation Committee hearing, that there was a need for time to work out problems in the bill and to apprise the timber owner of the purpose of the bill. The committee did recommend that the rewritten bill "do pass" by a vote of 11 to 3. The House passed the bill but the Senate voted to accept the committee report of the Senate Taxation Committee that HB 906 do not pass.

In 1975, Representative Joe Brand of Powell County appeared before the Taxation Committee of the House to explain why he had introduced HB 619. The farmers and ranchers in his constituency disliked the increased valuation put on their timber by the Department. In 1973, the assessed value of the timber had risen by as much as 25 percent in his area. Mr. Brand stated:

The yield tax in this bill would exempt these owners from paying a yearly ad valorem tax. The rise in ad valorem taxes has economically forced many landowners to cut low quality timber rather than pay taxes on it. The tax also forces premature cut. The effect is poor timber management and conservation.

Mr. Brand pointed out the following salient facts:

1) HB 619 was patterned after an Oregon law

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and was similar to yield tax laws for timber in Idaho and Washington.

2) The Department of Revenue carefully reviewed the bill and approved its passage.

3) The Legislative Council researched the legal problem of whether or not the State of Montana could tax timber cut from federal lands. The Council found that both federal and state court cases had consistently found that this could be done.

4) The bill would not hurt the schools of Montana in either lost funds or bonding procedures.

John Driscoll, a co-sponsor of the bill, agreed that the present ad valorem system "encourages poor timber management; is inequitable, and that it costs too much money for the state to cruise timberlands." He pointed out:

1) HB 619 would phase out the present system over a period of five years in two ways. The rate of the yield tax would go up each year from 3 to 4%. The credit to the taxing districts would be based on the amount of timber assessed under the old system for the first five years, only then would the monies go directly to the taxing districts where the timber was cut.

2) To help stabilize, there would be a timber tax-reserve account set up so that counties would know what to expect.

3) The bill would allow ranchers to cut timber for their personal use and exempt 2000 board feet of that cut timber from a yield tax if the tax were to be less than $15 per quarter.

4) The bill allowed timber cut on federal
lands to be taxed but that would not threaten the present 25% paid to counties.\(^3\)

More proponents testified for HB 619 than for HB 906 in the previous year. Both the Burlington Northern and the Montana Railroad Association testified in favor of the bill. Don Nettleton, a forester with the Burlington Northern Railroad, said that Montana needed the timber growth production that this bill would stimulate. He offered some amendments to the bill. These amendments concerned the designation of forestland and the role the Department would play in its assessment when the roll-back tax was applied. He reminded the committee that Burlington Northern was a large business and must be able to plan ahead.

Mr. Kirkpatrick of the Wood Products Association testified neither as a proponent nor opponent of HB 619. He questioned the constitutionality of the yield tax being applied to federal timber.

At this hearing the small timber owners from Sweet Grass County were absent, but there were a number of proponents from Mineral County in western Montana. They all stated that something must be done about timber taxation to prevent the small owner from being forced for economic reasons to change the use of his forestland. One landowner, Mrs. Ella Haskins of Superior, had made an excellent

\(^3\)National forests pay one-quarter of their net revenues to the counties in which they are located.
"conservative" (her word) analysis of her timber situation.\(^4\) She concluded that at the end of thirty years, her investment in property taxes alone would be $63.71 per acre. If she were to harvest the stand in thirty years she might receive $159.60 per acre which would not take into account risk of fire or infestation. Those same monies invested at 6 percent over thirty years would have produced an income of over $400 per acre. This analysis did not take into account the opportunity cost in holding timberland when similar land in the area was selling for as much as $1000 per acre.

Mr. Helding of the St. Regis Paper Company testified against the bill as he had testified against HB 906. His major reasons:

1) The need for a study for such a "major tax shift."

2) Concern whether the 25 percent received from the federal government would be changed.

3) Question that the bill might affect bond issues in school districts.

4) Is there double taxation: the yield tax and fire assessment?\(^5\)

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\(^4\) House Taxation Committee, 44th Legislature of the State of Montana, 1975.

\(^5\) Explained on pages 35 and 36 of this chapter.
5) Do we have the right to tax Indian cut timber?

HB 619, as amended and passed by the House, did address most of the areas of concern brought up by both the proponents and opponents, who testified at the hearings held in both 1974 and 1975. Section 7 allowed the small owner to cut timber for his own use without filing an intent to harvest if he planned to harvest less than $200 for personal use in any one quarter. In Section 9, the Department would give estimates of yield tax revenues to each county, such estimates to be converted to taxable value to be included in the total taxable values. This would make it possible for the counties to plan and make certain the bonding capacity of a school district.6

The allusion to double taxation is a curious one. Timberland is assessed now for fire protection and would continue to be so assessed. The Forestry Division of the Department of Natural Resources of the State of Montana is responsible for the fire protection of all privately owned timberlands in the state. Timberland is classed as either class #1 or #2 by the assessor. The treasurer adds the proper fire protection tax to the tax bill, collects the monies so designated, and remits these monies to the Depart-

6Further explained in chapter 5.
ment of Natural Resources. The Department of Natural Resources, in turn, remits the monies to whatever agency has contracted to protect the timberlands in a specific school (taxing) district.\footnote{Personal interview with Roger Bergmeier, State Forester, Department of Natural Resources, Missoula, June 1976.}

As evidenced by the Senate amendment to HB 619 in Section 18, timber cut on federal land appears to be the largest stumbling block to the passage of this bill. Roger Tippy, an attorney for the Legislative Council, is satisfied that it is \textit{not} unconstitutional to levy a yield tax on timber cut from federal lands.\footnote{Personal interview with Roger Tippy, Helena, Montana, March 1976.} Timber cut from Indian lands, or by an Indian, poses a problem that needs to be recognized before this bill comes up again in the legislature. The yield tax is payable by the "owner" of the cut timber. Therefore, if a non-Indian cuts Indian timber that he holds under contract, the result is the same as cutting timber from Forest Service land. But if an Indian is the owner, whether the timber cut is from Indian land or from non-Indian land, it cannot be assumed that he is liable for a yield tax on that timber.\footnote{Personal interview with Gary Kimble, Missoula, Montana, May 1976.}
CHAPTER V

FOREST TAXATION--THE YIELD TAX

For more than a century economists have criticized the application of the general property tax to private forest properties.\(^1\) They state that this method of taxing timber is an obstacle to forest management and that it has been responsible for the rapid liquidation of mature timber, for the instability of forestland ownership, and for the failure of owners to provide for the production of a new crop of trees on cut-over land. In 1961, Cal Lloyd of the Northern Pacific Railroad Company, at a meeting of the Society of American Foresters, said that ad valorem taxes were an "insidious, profit-vaporizing aspect of forest land management."\(^2\)

Early interest in the yield tax movement started about 1910 and some states adopted a form of yield tax as early as 1911. In 1935 the Forest Taxation Inquiry, established within the United States Forest Service, pub-

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\(^1\)Ellis T. Williams, "Trends in Forest Taxation," National Tax Journal, XIV (June 1961)

lished the Fairchild Report, *Forest Taxation in the United States*. This major effort stemmed from the widespread feeling of experts that property taxes were second only to the risk of forest fires in being a major obstacle to the practice of sustained yield forestry. This study has been cited frequently since its publication and has been used for numerous studies in the area of forest taxation to the present.

Fairchild pointed out the problem areas:

1) The high cost of local government which necessitates a heavy tax burden.

2) The faulty administration of the property tax whereby forestry may be bearing more than its fair share of the cost of government.

3) The inherent disadvantages of the property tax in respect to deferred yield forests.

Montana was and is no exception to these problems. First, local government relies heavily on property taxes. The per capita property tax is second highest in the United

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3 Lawrence Jakub, "Forest Taxation Problems and Development in the United States With Special Emphasis on the Property Tax" (Master's thesis, Montana State University, 1965).

States: $235 versus a national average of $184 per capita. There is a continuing upward pressure upon rural land values and upon demands for local government services.\textsuperscript{5}

Second, historically, the assessment of forest properties has been "weak and shabby."\textsuperscript{6} The land is hard to locate, classify and value. There is a practical difficulty in cruising timberlands, although Montana's Department of Revenue has improved the methods of assessing timber and timberlands. In 1970, Montana was one of four states with a separate timber assessment manual (California, Utah, Washington). It is ironic that improvements in administration often serve as a catalyst which sets in motion serious efforts by timber owners to find alternative systems of taxation.\textsuperscript{7} It was the new timber valuation tables in 1972 that caused timber owners to complain. It did not take them long to express their dissatisfaction which resulted in the introduction of HB 906 in 1974 and HB 619 in 1975.

While timber taxes have been increasing in Montana, the situation on the national forest has changed. More timber is being cut from private lands to satisfy the timber production demand. This accentuates the need for properly

\textsuperscript{5}Environmental Quality Council, State of Montana, Third Annual Report, 1974.

\textsuperscript{6}Kenneth D. Ramsing, "Forest Taxation," \textit{Western Economic Journal} (Fall 1962)

managed private forestlands. "No one is going to grow forests as a commercial enterprise if he knows that the cumulated tax plus interest costs on the taxes will be as great as the value of the stumpage at maturity even without considering risks."

A yield tax is designed to aid forestry by exempting timber from annual payment of property taxes and imposing, instead, a tax when the timber is cut. Forest conservation is not the only criterion in forest taxation but it is of prime importance if local government revenues from forest properties are to be maintained. Hopefully, timber owners would take advantage of the various timber management programs offered in Montana. These programs are offered through the offices of the State Forester and the Agriculture Stabilization Committee of the United States Department of Agriculture. These agencies have worked together for over sixty years to improve Montana's forest resources.

During this past year (in the fall of 1975 and in June of 1976) the Forestry Division of the Montana Department of Natural Resources and Conservation mailed a survey questionnaire to a number of private timber owners in Montana.

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8 Ibid.


10 Private forest owner survey, Montana Department of Natural Resources and Conservation, Forestry Division, 1976.
They sought information to help develop a long range Cooperative Forest Management Plan in Montana. For instance: "What type of forest taxation do you favor?" About 75 percent of those timber owners who answered either were not sure or wanted some type other than the present ad valorem system. The answers also demonstrate that there is confusion in the minds of many owners about the fire assessment tax and the ad valorem property tax. If the yield tax on timber should be put into effect, the Board of Natural Resources would be of great importance in assuring adequate private timber in the years to come.

The yield tax is receiving increased attention for its effect on the timber industry in general and as a means of achieving environmental planning goals. As can be seen in table 3, of the thirty-six states with forest taxation laws, seventeen states have a yield tax, including Montana's neighboring states of Idaho, Oregon and Washington. California is also considering a yield tax and now exempts immature timber from the ad valorem property tax. Montana had the advantage of knowing the problems encountered by these states and incorporated sections into HB 619 to prevent the same problems from occurring here.


12 See appendix C for explanation of tax terms.
TABLE 3
CLASSIFICATION OF FOREST TAX LAWS BY
STATE AND TYPE OF LAW

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<th>State</th>
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<th>Modified Rate</th>
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CHAPTER VI

FISCAL IMPLICATIONS OF HB 619

The fiscal note for HB 619 prepared by the Office of Budget and Program Planning, points out aspects of this bill not previously discussed in this study.

1) The administrative costs: The Department of Revenue estimated that it would need $30,000 for the first year that the bill was in effect and $70,000 for the second.\(^1\) In any reconstituted version of HB 619 which may be introduced in the 1976 session of the Montana Legislature, this aspect clearly needs more study. This was demonstrated effectively by the lobbyists in the hearings held before both the House and Senate Taxation Committees.\(^2\)

Montana has a "slash law," so called. It requires a Fire Hazard Reduction Agreement administered by the Department of Natural Resources through its Division of Forestry. Anyone who cuts timber (called an "operator" under the law) must post a bond and state exactly how much timber will be cut and the location. This is done through the

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\(^1\)Fiscal Note, Office of Budget and Program Planning, February 11, 1975.

\(^2\)House and Senate Taxation Committee Hearings, 44th Legislature, 1975.
office of the local State Forester, who knows the area and can personally check the site if necessary. One would hope that this would cut down the extra administrative expense necessitated by the permit, which applies to any operator who cuts more than $200 worth of timber. In addition, it would seem logical that under the provisions of HB 619 the Department of Revenue could use the expertise of the State Forester in determining the harvest value of the timber for calculating the yield tax.

2) The ad valorem tax on forestland: Approximately 33.2 percent of the tax now (under current law) collected on timber and timberland is the tax on the land. If HB 619 had been enacted these monies would have continued to be collected and therefore would have been taken into consideration when the loss in property tax to school districts was figured—the loss actually being 66.8 percent of the tax monies then collected from timber and timberlands.

There are twenty-three counties now assessing timberlands. The Department of Revenue has completed the assessing of six more counties and there are three to be done in the future, making a total of thirty-two counties destined to receive tax monies from the timberland as well as from

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3 Montana's Fire Hazard Reduction or Management Law, Section 28, Revised Codes of Montana, 1947.

the yield tax if a bill similar to HB 619 should be enacted.  

The Budget Director estimated a yield tax collection in 1977 (3 percent of the value of the timber cut) of $900,000 and predicted an increased revenue under HB 619:

Revenue Impact:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property tax on timber and timberland (under current law)</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Yield tax</td>
<td>900,000</td>
</tr>
<tr>
<td>Surtax (for the reserve fund)</td>
<td>150,000</td>
</tr>
<tr>
<td>Property tax--timberland</td>
<td>332,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,382,000</strong></td>
</tr>
<tr>
<td>Increase in Revenue</td>
<td>382,000</td>
</tr>
<tr>
<td>Less Administrative Costs</td>
<td>30,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$352,000</strong></td>
</tr>
</tbody>
</table>

The above shows the impact for all the timber counties (twenty-three) in Montana.

To illustrate the impact and make it more readily understandable to a legislator, Ravalli County has been used in this study as a typical western Montana timber county. Table 4 shows the proportion of taxable timber and timberland to the total taxable valuation of Ravalli County to be very small. After subtracting the approximate percentage (66.8 percent) of timber from the timberland, the result in 1975

---

5Personal interview with Mike Lambert, Department of Revenue, Helena, Montana, May 1976.
TABLE 4

RAVALLI COUNTY TIMBER AND TIMBERLANDS

FOR SELECTED YEARS

<table>
<thead>
<tr>
<th>Year</th>
<th>Acres</th>
<th>Average Value</th>
<th>Assessed Value</th>
<th>Taxable Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1921</td>
<td>108,280</td>
<td>$17.98</td>
<td>$1,947,698</td>
<td>$584,309</td>
</tr>
<tr>
<td>1922</td>
<td>87,411</td>
<td>17.83</td>
<td>1,558,873</td>
<td>467,662</td>
</tr>
<tr>
<td>1956</td>
<td>1,675</td>
<td>6.85</td>
<td>11,469</td>
<td>3,441</td>
</tr>
<tr>
<td>1960</td>
<td>1,048</td>
<td>9.25</td>
<td>9,689</td>
<td>2,907</td>
</tr>
<tr>
<td>1972</td>
<td>115,721</td>
<td>4.48</td>
<td>518,404</td>
<td>155,521</td>
</tr>
<tr>
<td>1974</td>
<td>107,029</td>
<td>10.24</td>
<td>1,094,717</td>
<td>328,415</td>
</tr>
<tr>
<td>1975</td>
<td>106,410</td>
<td>10.16</td>
<td>1,081,488</td>
<td>324,446</td>
</tr>
</tbody>
</table>

The total taxable valuation of Ravalli County:

1972 $14,895,607 timber and timberlands = 1%
1974 $19,133,523 timber and timberlands = 1.7%
1975 $19,835,770a timber and timberlands = 1.6%

aThis figure would be over $25 million if the reassessment to date were not stopped by the taxpayers' lawsuit in the court. Personal interview, Jim McKinly, County Commissioner, Ravalli County, Hamilton, Montana, 1976.
revealed that the taxable value of the timber alone was about 1 percent of the total taxation valuation of the county. By applying the individual school district levies in the county to the taxable valuation of timber and timberlands in each district, and then separating the timber from the timberland, the approximate loss in tax monies in Ravalli County would be $43,000.

To estimate the amount of yield tax to be collected for distribution to Ravalli County, it is necessary to estimate the harvest value of the approximate 28 million board feet (commonly expressed as 28,000M board feet) cut in Ravalli County in 1975. There are many variables (kind of timber, proximity to mill, accessibility and the lumber market) to be considered in arriving at an approximate harvest value figure. A "ballpark" figure for 1975 is $90 per M board feet, or $2,520,000. Three percent of $2,520,000 equals $75,600, the estimated yield tax to be collected for Ravalli County. The result would have been a net increase in revenue of $32,600.

The study of the application of HB 619 (had it passed) to Ravalli County would seem to indicate clearly that the yield tax incorporated therein would result in more revenue.

---

6 $24,369M board feet, Bitterroot National Forest Timber Cut; 4,037M board feet, private timber cut.

7 Personal interview with Mark Lewing, State Forester, Ravalli County, Hamilton, Montana, 1976.
It is also evident that the ad valorem taxes now collected on timber and timberland are a small percentage (1 percent) of all revenue from land and improvements; and therefore not significant for the overall tax base of Ravalli County or the state of Montana.

The yield tax would be a boon to the landowner, small or large, who does not cut his own timber. Burlington Northern, the largest private timber owner, was an effective proponent of HB 619 in 1975. They would be relieved of paying property tax on the timber, as would any private land owner. St. Regis Paper Company, on the other hand, continued to actively oppose the yield tax. St. Regis cuts and processes its own timber and would have to bear the burden of the yield tax. It remains to be seen whether this would be reflected in an increase in the price of the processed lumber.

Thus, both government and most private land owners would benefit from the passage of this legislation. If the problem of taxing Indian timber can be solved, it seems there is a good chance that legislators will vote favorably for a yield tax bill which will encourage better management of the forests, assuring an adequate supply of timber in the years to come.
APPENDICES
## APPENDIX A

### TOTAL LAND AREA AND NATIONAL FOREST ACRES

#### MONTANA AND SELECTED COUNTIES

1973

<table>
<thead>
<tr>
<th>County</th>
<th>Total Land Area Acres (000's)</th>
<th>National Forest Acres&lt;sup&gt;a&lt;/sup&gt; (000's)</th>
<th>Percent of Total Land Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beaverhead</td>
<td>3,553</td>
<td>1,367</td>
<td>38.5</td>
</tr>
<tr>
<td>Flathead</td>
<td>3,288</td>
<td>1,795</td>
<td>54.6</td>
</tr>
<tr>
<td>Granite</td>
<td>1,109</td>
<td>660</td>
<td>59.5</td>
</tr>
<tr>
<td>Jefferson</td>
<td>1,058</td>
<td>464</td>
<td>43.9</td>
</tr>
<tr>
<td>Lake</td>
<td>956</td>
<td>163</td>
<td>17.1</td>
</tr>
<tr>
<td>Lewis and Clark</td>
<td>2,224</td>
<td>991</td>
<td>44.6</td>
</tr>
<tr>
<td>Lincoln</td>
<td>2,377</td>
<td>1,750</td>
<td>73.6</td>
</tr>
<tr>
<td>Meagher</td>
<td>1,506</td>
<td>442</td>
<td>29.3</td>
</tr>
<tr>
<td>Mineral</td>
<td>782</td>
<td>647</td>
<td>82.7</td>
</tr>
<tr>
<td>Missoula</td>
<td>1,671</td>
<td>677</td>
<td>40.5</td>
</tr>
<tr>
<td>Park</td>
<td>1,681</td>
<td>801</td>
<td>47.7</td>
</tr>
<tr>
<td>Powell</td>
<td>1,495</td>
<td>642</td>
<td>42.9</td>
</tr>
<tr>
<td>Ravalli</td>
<td>1,524</td>
<td>1,110</td>
<td>72.8</td>
</tr>
<tr>
<td>Sanders</td>
<td>1,778</td>
<td>911</td>
<td>51.2</td>
</tr>
<tr>
<td>All other counties</td>
<td>68,156</td>
<td>4,290</td>
<td>6.3</td>
</tr>
<tr>
<td>TOTAL--Montana</td>
<td>93,158</td>
<td>16,710</td>
<td>17.9</td>
</tr>
</tbody>
</table>

<sup>a</sup>Net National Forest acres as of June 30, 1973.

Source: U. S. Forest Service, Regional Office, Missoula, unpublished data.
APPENDIX B

TO: BOARDS OF COUNTY COMMISSIONERS
COUNTY ASSESSORS

(Flathead, Granite, Lake, Lewis and Clark, Lincoln, Mineral, Missoula, Powell, Ravalli and Sanders Counties.)

RE: REVISED TIMBER VALUATION SCHEDULES AND INSTRUCTIONS

The following instructions and attached timber and timber land valuation schedules supercede all instructions and values previously furnished by this Board, and it is hereby ordered that they be used for assessment of timber and timber lands in your county for the year 1973 and succeeding years unless rescinded by this Board. The changes from previous valuation schedules and instructions are based upon evidence adduced at due process hearings held for this purpose.

The values shown on the schedule are per acre assessed values by access and topography classes for each condition class. They are not necessarily the same as those in an adjoining county because of differences in stand volumes and species distribution between different areas. Condition class designations are abbreviated to speed up valuation computation. For instance, the condition classes P9WM and P9MM are valued alike, so only one designation, P9M is shown. Likewise, P9P includes P9WP, P9MP and P9PP; and L9P includes L9WP, L9MP and L9PP, etc.

The following factors have been considered and reflected
in the attached valuations:

(a) Updated lumber selling prices including chips and miscellaneous byproducts, updated manufacturing and logging costs and updated overrun percentages.

(b) Revised stand volume tables including 9" and 10" diameters as saw logs.

(c) Differentials in logging costs between lands with favorable, average, and difficult accessibility and topography.

(d) Differentials in logging costs due to varying board foot volumes of timber per acre.
TIMBER AND TIMBERLAND VALUATION SCHEDULE - RAVALLI COUNTY

August 16, 1972

<table>
<thead>
<tr>
<th>Access and Topography Class</th>
<th>Access and Topography Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>P</td>
<td>Favorable</td>
</tr>
<tr>
<td>9 W</td>
<td>$41.81</td>
</tr>
<tr>
<td>9 M</td>
<td>33.96</td>
</tr>
<tr>
<td>9 P</td>
<td>17.92</td>
</tr>
<tr>
<td>8 W</td>
<td>12.04</td>
</tr>
<tr>
<td>8 M</td>
<td>9.01</td>
</tr>
<tr>
<td>8 P</td>
<td>3.77</td>
</tr>
</tbody>
</table>

| S  |  |  |
|----------------|-----------------|
| 9 W | 52.57 | 32.16 |
| 9 M | 32.29 | 18.44 |
| 9 P | 13.70 | 6.58 |
| 8 W | 6.93 | 2.86 |
| 8 M | 5.19 | 2.52 |
| 8 P | 3.57 | 2.30 |

| LP  |
|----------------|----------------|
| 9 W | 16.16 | 8.15 |
| 9 M | 8.19 | 3.16 |
| 9 P | 4.92 | 2.20 |
| 8 W | 5.63 | 2.13 |
| 8 M | 7.89 | 3.16 |
| 8 P | 5.88 | 2.64 |

| TF  |
|----------------|----------------|
| 9 P | 5.00 | 1.92 |
| 8 M | 4.17 | 2.26 |
| 8 P | 3.25 | 2.11 |

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RAVALLI COUNTY

The above values are per acre assessed values. They include land values of $1.65 on Favorable, $1.00 on Average and $.40 on Difficult timberlands. They also include a G6 grazing grade. For grazing graded higher than G6, add the following:

- For G5 add $0.65 per acre
- For G4 add $1.70 per acre
- For G3 add $2.90 per acre
- For G2B add $4.60 per acre

A value for Christmas trees that are being harvested may also be added at the discretion of the county commissioners.

BY ORDER OF STATE BOARD OF EQUALIZATION

J. Morley Coover, Chairman

John C. Alley, Member

Vernon B. Miller, Secretary

Ray J. Wayrynen, Member

August 16, 1972
APPENDIX C

PLAN OF ARRANGEMENT

Special forest tax laws are listed under four headings: (1) exemption and rebate laws, (2) modified property tax laws, (3) yield tax laws, and (4) severance tax laws. Modified property tax laws in turn fall under the subheadings: (a) modified assessment, and (b) modified rate.

Individual tax law summaries are arranged under uniform headings by states. Citations indicate where the laws may be found in the compiled statutes of the respective States or, in the case of more recent enactments, in the session laws.

EXPLANATION OF TERMS

Exemptions, as the term indicates, remove forest land and timber or the timber alone from the property tax rolls either for a term of years or, in some cases, indefinitely. To qualify for exemption, forest tracts may need to comply with certain forest management requirements. Moreover, with respect to timber, the exemption may apply to all that standing on the tract or only to immature timber, planted trees, trees of particular species, trees planted for a specific purpose such as windbreaks, etc. A rebate law permits the landowner to apply for abatement of taxes levied.

Under modified property tax laws of the modified assessment type, a fixed assessment per acre may be provided or, in
the case of more recent legislation, assessment of forest land and timber at a "forest value" irrespective of a higher value in some other use. The modified rate laws are varied but have in common the use of a tax rate that differs from the millage rate applicable to real property in general.

Yield taxes are designed to aid forestry by relieving timber from payment of annual property taxes and imposing instead a tax at the time of timber harvest. The forest land itself usually remains subject to the property tax, sometimes in modified form.

Severance taxes are similar in some respects to yield taxes but imposed solely for revenue purposes. Terminology is not consistent from State to State, and laws classified in this survey as yield taxes are at times referred to in practice as severance taxes. Criteria used in classifying forest yield and timber severance taxes are listed in the tabulation that follows.
<table>
<thead>
<tr>
<th><strong>Primary purpose of tax</strong></th>
<th>To aid forestry by eliminating the annual tax on timber and substituting a tax at time of harvest.</th>
<th>To obtain additional revenue (proceeds may be devoted to State forest program.)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Relations to the property tax</strong></td>
<td>Imposed in place of the property tax.</td>
<td>Imposed in addition to the property tax (or to the yield tax if latter has been substituted.)</td>
</tr>
<tr>
<td><strong>Basis of payment: Timber</strong></td>
<td>Usually ad valorem, e.g., 10 percent of stumpage value.</td>
<td>Usually specific, e.g., 50 cents per 1,000 board feet.</td>
</tr>
<tr>
<td><strong>Bare land</strong></td>
<td>Remains subject to property tax, sometimes in modified form.</td>
<td>Not affected.</td>
</tr>
<tr>
<td><strong>Responsibility for payment</strong></td>
<td>Rests upon the timber.</td>
<td>Rests primarily upon the timber operator.</td>
</tr>
<tr>
<td><strong>Application of tax</strong></td>
<td>Usually optional although mandatory in some instances.</td>
<td>Always mandatory.</td>
</tr>
<tr>
<td><strong>Nature of tax</strong></td>
<td>Gross income tax.</td>
<td>Occupation or privilege tax.</td>
</tr>
</tbody>
</table>

SELECTED BIBLIOGRAPHY
SELECTED BIBLIOGRAPHY

Books


Articles


Williams, Ellis T. "Site Value Taxation--How Does it Relate to Forest Land?" National Tax Journal 27 (December 1974): 29-44.

Williams, Ellis T. "Trends in Forest Taxation." National Tax Journal 14 (June 1961): 113-144.


Government Documents


California. Technical Supplement to a Summary Report to the California State Assembly, August, 1974.


Montana. Lewis, Gordon D. A Possible Approach to Forest Land Taxation. Missoula: Montana State University, Montana Forest and Conservation Experiment Station, School of Forestry, Bulletin 22, September, 1962.


Unpublished Material


Reports

1974 Statistical Yearbook, Western Wood Products Association, Statistical Department, Portland, Oregon.


Personal Interviews


Lambert, Mike. Property Tax Division, Department of Revenue, Helena, Montana. Interviews, May to August 1976.


