

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - 1st SPECIAL SESSION**

**COMMITTEE ON FINANCE & CLAIMS**

**Call to Order:** By Senator Judy Jacobson, Chairman, on January 13, 1992, at 8:00 a.m.

**ROLL CALL**

**Members Present:**

Judy Jacobson, Chairman (D)  
Greg Jergeson, Vice Chairman (D)  
Gary Aklestad (R)  
Esther Bengtson (D)  
Don Bianchi (D)  
Gerry Devlin (R)  
Eve Franklin (D)  
Harry Fritz (D)  
H.W. Hammond (R)  
Ethel Harding (R)  
Bob Hockett (D)  
Thomas Keating (R)  
Dennis Nathe (R)  
Larry Tveit (R)  
Eleanor Vaughn (D)  
Mignon Waterman (D)  
Cecil Weeding (D)

**Members Excused:** Senators Beck, Stimatz.

**Staff Present:** Teresa Olcott Cohea(LFA)

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

**Announcements/Discussion:** None.

**HEARING ON HOUSE BILL 3**

**Presentation and Opening Statement by Sponsor:**

Representative Thoft, sponsor, stated that HB 3 accepts the 1967 federal amendment to the Enabling Act classifying timber harvested from state lands as a crop. Ninety five percent of the timbersale proceeds from the common school trust land will be deposited in the school equalization fund. Five percent will continue to be deposited in the common schools permanent fund. He indicated this is temporary legislation which expires July 1, 1993.

#### Proponents' Testimony:

Dennis Casey, Commissioner of the Department of State Lands, testified in support of HB 3. He noted that revenue from grazing and agricultural rentals, income and interest from oil and gas leases are presently placed in the income and interest account, which is distributed on an annual basis. Revenues from timber sales, oil and gas royalties and coal royalties are placed in the permanent fund from which the interest is distributed. He concluded his obligation to the trust would be met with this change.

John North, Department of State Lands, stated his support of HB3. (See Exhibit 1 which is attached)

Don Artley, Assistant Administrator of Forestry Division, Department of State Lands, testified in support of HB 3. (See Exhibit 3)

#### Opponents' Testimony:

None.

#### Questions From Committee Members:

Senator Waterman asked Rep. Thoft if he would be supportive of this becoming a permanent transfer. Rep. Thoft said he would like the committee to do that.

When questioned by Senator Weeding if this would free up some general funds, Mr. Artley said the Department currently has no authority to spend extra money.

Senator Bianchi questioned what the resource development account was set up to do and if it was administered by the Department of State Lands. Mr. Artley said it is one of the state special accounts that the Department of State Lands estimates revenue from each biennium. When asked what the plans are for the account, Dennis Casey said in recent years the amount of money placed into resource development has been about \$350,000 a year. Senator Bianchi asked if there is anyplace to put the \$125,000 this biennium. Mr. Casey said they haven't looked very closely but presently he does not think they have resource development activity that equals the \$125,000, and it has to be spent in that manner.

Senator Bianchi asked what the restrictions are on those funds. Mr. North said the statute says that it is to be used for

projects to develop all concerned state land.

In a question from Senator Hockett, Mr. Casey said there are a total of ten trusts.

Senator Bianchi stated anytime we transfer nearly \$5 million from one fund to another, there might be a down side and stated we don't know what that is. He questioned who is losing money in this process over the long term basis versus the short term basis. Rep. Thoft said it is a permanent school trust that will eventually lose interest but if we take revenue generated by this package, it will be 20 years down the road before that happens.

When questioned by Senator Aklestad regarding actual revenues, Mr. Casey said they are estimates because there are factors beyond their control. The revenue they estimate will come to them during this biennium.

Closing by Sponsor:

Rep. Thoft closed by indicating his hope that the committee would make this permanent. He concluded it is a good use of the money.

HEARING ON HOUSE BILL 4

Presentation and Opening Statement by Sponsor:

Representative Thoft, sponsor, stated HB 4 transfers to the general fund \$1.5 million from unemployment insurance administrative funds collected through state assessments.

Proponents' Testimony:

Mike Micone, Commissioner of the Department of Labor, stated their support of HB 4 in transferring the funds to the general fund.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Aklestad asked Mr. Micone if this deals with unemployment trust fund that the employers pay. Mr. Micone said we are discussing administrative tax funds that have been applied since 1983 or 1984. When questioned by Senator Aklestad regarding the commingling of funds and if this would effect a triggering mechanism on the fund balance, Mr. Micone said theoretically that is true. He added they are expending more money in the U.I. administrative fund than they are taking in,

which is a problem.

Senator Hockett said if we are taking in too much money from the employers, why don't we reduce that amount rather than using the general fund balancing mechanism. Mr. Micone said that is a prerogative of the legislature and is being considered for the next session to repeal the tax. The way the law is written, we have to collect the unemployment administrative tax and hold it in reserve.

Senator Bianchi said he wanted to be assured that employers' rates don't go up in the next year and questioned if there was a chance that would happen. Mr. Micone said the only way rates can be changed is at the discretion of the legislature; the Department does not have the ability to raise the rates.

Closing by Sponsor:

Rep. Thoft closed.

HEARING ON HOUSE BILL 5

Presentation and Opening Statement by Sponsor:

Representative Thoft, sponsor, stated that HB 5 would transfer \$605,212 for fiscal year 1993 to the general fund from the sale of goods produced or manufactured by a state institution. HB 5 terminates after the transfer.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions From Committee Members:

When questioned by Senator Waterman, Rep. Thoft indicated his thought that any significant transfer would be done in a regular legislative session.

Closing by Sponsor:

Representative Thoft closed.

HEARING ON HOUSE BILL 7

Presentation and Opening Statement by Sponsor:

Representative Thoft, sponsor, stated HB 7 provides for the

retention of certain funds not needed for district court expense reimbursements and that would otherwise be refunded to the counties.

Proponents' Testimony:

None.

Opponents' Testimony:

Gordon Morris, Executive Director of the Montana Association of Counties, in stating his opposition to HB 7 said this is a vehicle tax. It is seven percent of the monies that are collected by counties and the county treasurers of two percent vehicle tax. What is being proposed is to take money and divert it for state general fund purposes even if it is only one time.

Questions From Committee Members:

Senator Bianchi questioned if there has ever been a surplus in that account in previous years. Mr. Morris said the reimbursement account is based upon giving an estimate of what is going to be receipted into the account to start with.

Senator Devlin said regarding the estimate of \$256,000, he questioned Mr. Morris how that figure was arrived at. Mr. Morris said he obtained the figures from the Governor's book. The motor vehicle estimate for fiscal year 1993 will be showing an increase over what was originally projected when the budget was developed in the last session. He added there is more money coming into this account in the same way there is more money going into the overall two percent account. There are many new vehicles being registered and the revenue is greater than that anticipated in 1991.

Senator Waterman questioned if we were to increase the appropriation to the court reimbursement fund, could any excess funds that might be collected be utilized to offset the mental evaluations that will go back to the county. Senator Jacobson said this is an estimate and not an appropriation.

Senator Waterman said it was her understanding that Rep. Thoft's bill rather than reverting excess money to the county would divert that money to the general fund. She questioned if there was a way to increase the 1992-1993 appropriations to be sufficient so if there are additional funds, rather than going into the general fund, it would offset the costs we are shifting back to the counties.

Jane Hamman, Office of Budget and Program Planning, stated the appropriation for district court reimbursement program is in the Judiciary in House Bill 2 so if were Senator Waterman's intention to increase the appropriation, it would have to be done in the general appropriations act.

Jim Haubein, Legislative Fiscal Analyst's Office, stated that appropriation would have to be with the Department of Institutions. Senator Waterman said it is presently done in the Department of Institutions and it was her desire to have it done through the District Court reimbursement. She noted the Corrections Department assumed those costs in the past but they were reimbursable costs out of the Court fund. She felt the Department of Corrections did not need to be involved in it.

In a question from Senator Bengtson regarding costs being shifted back to the counties, Mr. Morris said in a memorandum to the senators he indicated where dollars were being identified that would impact counties. He stated the counties are cooperating in this effort to the tune of about \$2.6 million. They have identified areas that are not negotiable from the standpoint of county commissioners.

Closing by Sponsor:

Representative Thoft closed.

EXECUTIVE ACTION ON HOUSE BILL 3

Motion:

Senator Weeding moved that House Bill 3 BE CONCURRED IN.

Discussion:

None.

Amendments, Discussion, and Votes:

Senator Weeding moved to amend HB 3 to strike the termination date so it would become a permanent fund.

Senator Waterman stated that once this is put into the equalization account, this money is gone. She added that thought should be put into this before there is action on it.

Senator Jacobson questioned Mr. Haubein as to how this will be handled during the next legislative session. Mr. Haubein said if HB 3 were to pass, it would be treated as part of the revenues going to the school equalization.

Senator Weeding's amendment motion failed on a roll call vote.

Recommendation and Vote:

Senator Weeding's motion that HB 3 BE CONCURRED IN carried with Senator Waterman opposed.

EXECUTIVE ACTION ON HOUSE BILL 4

Motion:

Senator Nathe moved that HB 4 BE CONCURRED IN.

Discussion:

Senator Harding said she wanted payroll taxes being cut rather than used to plug the general fund. She noted she would vote for the bill because of the financial condition we are in, but added she felt this is the wrong way to go. If we have extra money in the unemployment account, it should go back to the employers and the rates should be decreased.

Senator Waterman noted we are spending more money out of the UI admin account than we are collecting and to divert the money is not what the employers intended to do.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

Senator Nathe's motion that HB 4 BE CONCURRED IN carried with Senator Waterman opposed. Senator Nathe will carry HB 4.

EXECUTIVE ACTION ON HOUSE BILL 5

Motion:

Senator Bianchi moved that House Bill 5 BE CONCURRED IN.

Discussion:

None.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Senator Bianchi's motion that House Bill 5 BE CONCURRED IN carried with Senator Waterman opposed. Senator Bianchi will carry HB 5.

EXECUTIVE ACTION ON HOUSE BILL 7Motion:

Senator Aklestad moved that HOUSE BILL 7 BE CONCURRED IN.

Discussion:

Senator Hockett stated his opposition to HB 7 in that the counties are being asked to carry more than their share of the State's budget problems. Senator Harding also stated her opposition to HB 7 in that we are restricting the counties.

Senator Jacobson stated this is one case where she felt it would help the counties; the counties have not gotten this money very often. She asked Mr. Morris if it isn't figured into their budgets at this point; Mr. Morris said that was correct.

Senator Waterman stated her opposition to HB 7. She felt the counties needed help in their budgets, and if we do not concur in this bill, some counties will get money to help them.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

Senator Aklestad made a substitute motion that HOUSE BILL 7 BE NOT CONCURRED IN.

Senator Aklestad's substitute motion that HOUSE BILL 7 BE NOT CONCURRED IN carried unanimously. Senator Aklestad will carry the adverse committee report.

ADJOURNMENT

Adjournment At: 9:15 a.m.

  
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JUDY JACOBSON, Chairman

  
\_\_\_\_\_  
LYNN STALEY, Secretary

ROLL CALL

FINANCE AND CLAIMS

COMMITTEE

DATE

1/13/92

SPECIAL

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR JACOBSON	✓		
SENATOR JERGESON			
SENATOR AKLESTAD	✓		
SENATOR BECK			✓
SENATOR BENGTON	✓		
SENATOR BIANCHI	✓		
SENATOR DEVLIN	✓		
SENATOR FRANKLIN	✓		
SENATOR FRITZ	✓		
SENATOR HAMMOND	✓		
SENATOR HARDING	✓		
SENATOR HOCKETT	✓		
SENATOR KEATING	✓		
SENATOR NATHE	✓		
SENATOR STIMATZ			✓

Each day attach to minutes.



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 13, 1992

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 3 (third reading copy -- blue), respectfully report that House Bill No. 3 be concurred in.

Signed: Judy H. Jacobson  
Judy H. Jacobson, Chair

MA 1-13-92  
And. Coord.

SB 1-13-92  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 13, 1992

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 4 (third reading copy -- blue), respectfully report that House Bill No. 4 be concurred in.

Signed:

Judy H. Jacobson  
Judy H. Jacobson, Chair

MA 1-13-92  
And. Coord.

SB 1-13-92  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 13, 1992

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 5 (third reading copy -- blue), respectfully report that House Bill No. 5 be concurred in.

Signed: Judy H. Jacobson  
Judy H. Jacobson, Chair

JAA 1-13-92  
Asst. Coord.  
SB 1-13-92  
Sec. of Senate

# ADVERSE

## SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 13, 1992

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 7 (third reading copy -- blue), respectfully report that House Bill No. 7 be not concurred in.

Signed: \_\_\_\_\_

*Judy W. Jacobson*  
Judy W. Jacobson, Chair

191 7-13-72  
Amd. Coord.

SB 1-13 9:55  
Sec. of Senate

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January 13, 1992

In 1889, Congress authorized Washington, Montana, North Dakota, and South Dakota to become states by passing the Enabling Act. In the Enabling Act, Congress made certain commitments to the prospective states and required the states to make certain commitments in return. Because of these mutual commitments, the courts view the Enabling Act as a compact or contract. A contract cannot be altered by one party. Both must agree. Therefore, no amendment to the Enabling Act is effective until the state agrees to it.

In the Enabling Act, Congress granted the Montana lands to be held in trust for the public schools and other beneficiary institutions<sup>1</sup>. It provided, however, as follows:

With the exception of the lands granted for public buildings, the proceeds from the sale and other permanent disposition of any of the said lands and from any part thereof, shall constitute permanent funds for the support and maintenance of the public schools and the various state institutions for which the lands have been granted.

This means that revenues from the sale of timber, which by law is part of the land, must be deposited in the permanent trust funds to earn interest rather than be distributed to the schools and other institutions for their use.

In 1967, Congress amended the Enabling Act to allow the four states to distribute timber sale revenues to the beneficiary institutions. Washington immediately accepted the amendment and has been using timber sale revenues to build school buildings ever since. Montana never accepted the amendment.

Section 1 of H.B. 3 would accept the amendment to the Enabling Act and authorize, but not require, the Legislature to distribute timber sale revenues to the schools and other institutions. Two state statutes, 20-9-341 and 20-9-601, require that timber sale revenues from school trust lands be deposited in the school trust permanent fund. Sections 2 and 3 of the bill amend these statutes to divert those revenues to the foundation program. Section 4 ensures that no other trusts are affected. Upon passage and approval of H.B. 3, all timber sale revenues from school trust lands would immediately be distributable to the beneficiary institutions.

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<sup>1</sup>These other beneficiaries are public buildings, school of mines (Montana Tech), agricultural college (MSU), university (U of M), state normal school (Western), state reform school (Pine Hills), deaf and dumb asylum (School of Deaf and Blind), veteran's home, and agricultural experiment station.

TESTIMONY -- HB3  
DON ARTLEY  
DEPARTMENT OF STATE LANDS  
January 13, 1992

HB3, as amended, will make a temporary, but major change in the way the Department distributes revenues from the sale of timber from common schools trust lands. This proposed change will allow the State to deposit timber sale proceeds from these trust lands into the interest and income account, instead of the permanent trust account. The immediate effect of this change will be to significantly increase the revenue available for distribution to the school equalization account during the current biennium.

**BACKGROUND:**

The Department of State Lands currently manages about 500,000 acres of forested, state-owned trust lands. Of these, about 339,642 acres (68%) are common school grants. As on other state trust lands, the Department is mandated by the provisions of the Enabling Act of 1889 to earn income from the management of those lands. Income is currently derived from the sale of forest products and the leasing or licensing of state forest lands for various uses, such as grazing, mining, homesite and commercial uses. Management must ensure that trust lands are not diverted from producing income and the trusts are compensated for any use. Management practices must also guarantee that income is sustainable over the long run.

**Pertinent facts include:**

- The Department manages the timber resource in order to provide sustainable income over the long run. This means that we plan to harvest a continuing series of timber crops in perpetuity.
- It takes from 80 to 120 years to grow a new stand of trees to merchantable size.
- The income generated from each tract or section of state land is designated to a specific trust account by the Enabling Act. However, we manage our forest lands as a whole, not by specific tract or trust account.
- It is difficult to estimate annual timber sale revenues because there are many variables over which the Department has little control. For example:
  - (1) Our timber sale contracts often allow the purchaser up to 3 years in which to complete the harvest, and we do not receive any income until the timber is actually cut.

Ex. 2  
1/13/92  
HB 3

- (2) Timber prices can be very volatile in the short run.
- (3) Planned timber sales may be delayed because of unusual public interest or concern, or as a result of law suits.

PROCEDURE UNDER CURRENT LAW:

Income from timber sales is deposited into non-expendable, permanent trust accounts based on the specific tract from which the timber was cut<sup>1</sup>. Only the annual interest is available for distribution to the beneficiaries of the trusts. However, there are two cases.

- 1. Common Schools Account:
  - 95% of the annual interest is distributed to the School Equalization Account.
  - 5% of the annual interest is returned to the permanent trust.
- 2. Eight other trust accounts: 100% of the annual interest is distributed to the beneficiaries.

PROCEDURE UNDER PROPOSED LAW:

Under the proposed law, the Department would distribute timber sale proceeds from common schools grants differently than we do for other trust grants. Income from timber sales on common schools grants would be deposited directly into the Interest and Income Account (less 2.5% which would go the resource development fund for future improvements to the land). Of the remaining 97.5%, 95% would be distributed to the School Equalization Account, and 5% would be deposited in the permanent trust.

The distribution of timber sale revenue to the other trusts would remain the same as it is under the current law.

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<sup>1</sup>The one exception is the Public Building Trust which has no permanent fund.

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HB 3

EXAMPLE:

We have identified the timber sale volume attributable to common schools tracts from the sales that we currently have under contract (but which have not yet been harvested), as well as from those sales we plan to sell through the rest of this year. Given a number of assumptions, we estimate that over the remainder of the current biennium we will earn a little less than \$5 million dollars from timber sales on those tracts. That revenue would be distributed as follows:

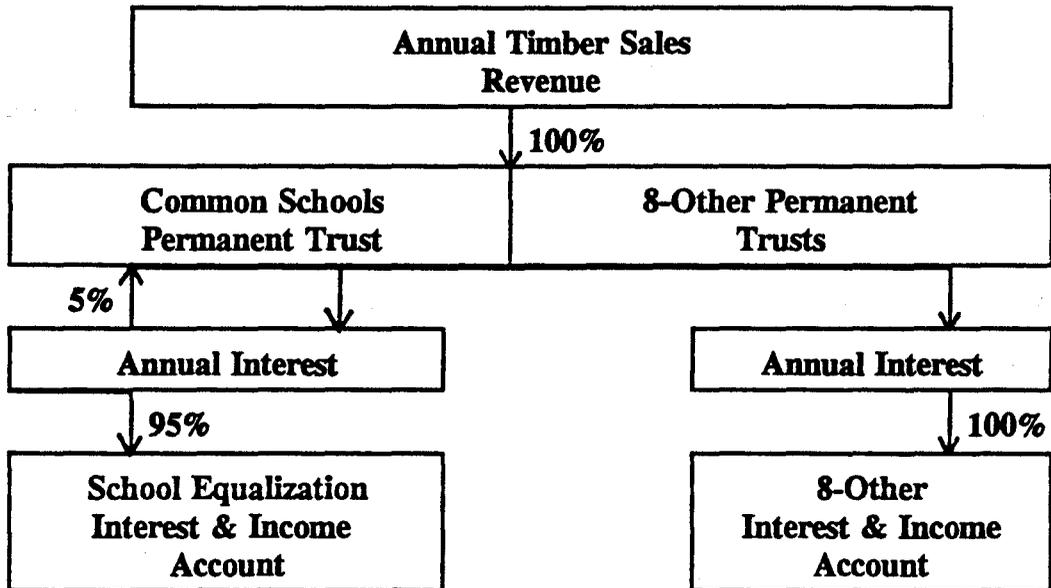
Under current law:

Common Schools Permanent Trust	5.0 million
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Under the proposed law:

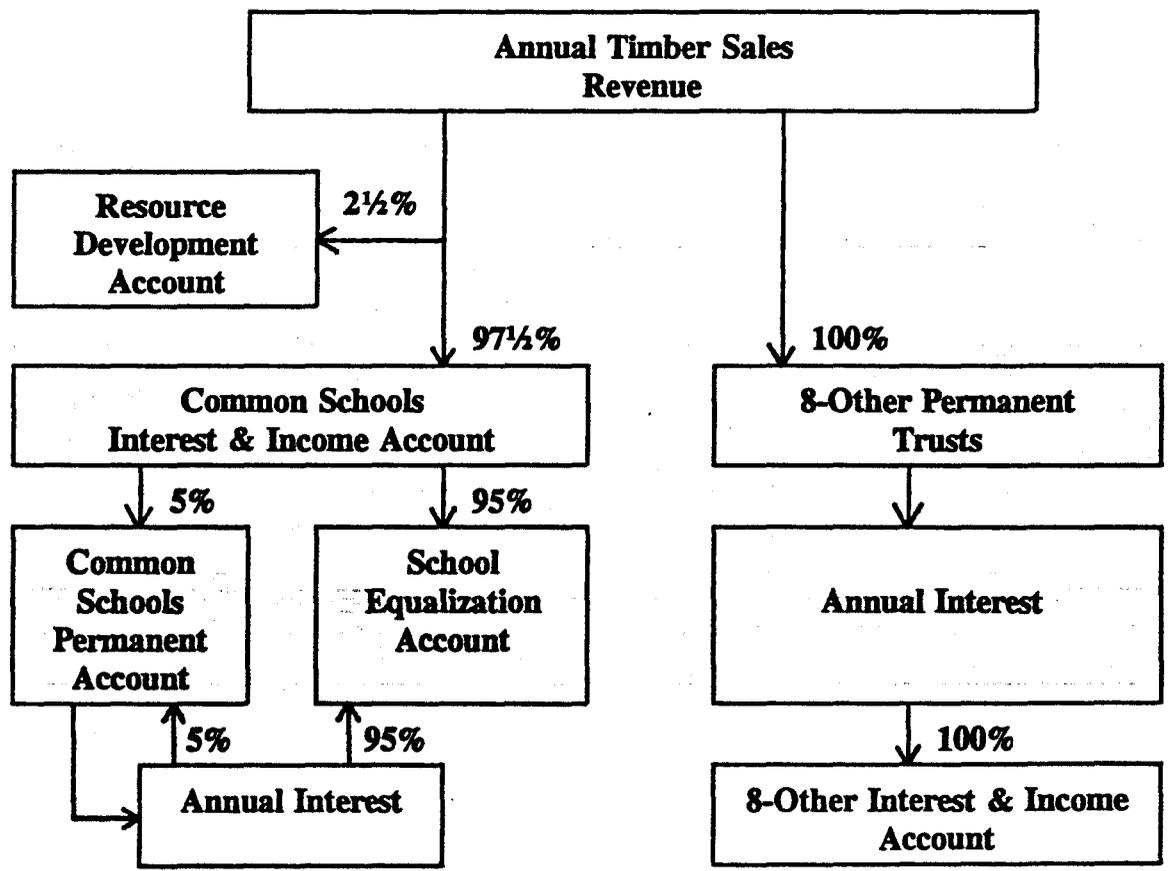
Resource Development Account	125,000
Common Schools Permanent Trust	240,000
School Equalization Account	4.5 million

### CURRENT PROCEDURE FOR TIMBER SALES REVENUE<sup>1</sup>



<sup>1</sup>The chart is not applicable to the public building trust because the public building trust has no permanent fund.

### PROPOSED PROCEDURE FOR TIMBER SALES REVENUE



ROLL CALL VOTE

SENATE COMMITTEE FINANCE & CLAIMS

Date 1/13/92 House Bill No. 3 Time \_\_\_\_\_

NAME	YES	NO
SENATOR JACOBSON		✓
SENATOR JERGESON		✓
SENATOR AKLESTAD	✓	
SENATOR BECK		
SENATOR BENGTON		✓
SENATOR BIANCHI		✓
SENATOR DEVELIN	✓	
SENATOR FRANKLIN		✓
SENATOR FRITZ		✓
SENATOR HAMMOND	✓	
SENATOR HARDING	✓	
SENATOR HOCKETT		✓

Lynn Stealey  
Secretary

\_\_\_\_\_  
Chairman

Motion: Senator Weeding amendment to HB 3.  
Senator Weeding's motion to strike  
termination date.  
Motion Failed

ROLL CALL VOTE (Cont'd)

SENATE COMMITTEE FINANCE AND CLAIMS

Date \_\_\_\_\_ Bill No. \_\_\_\_\_ Time \_\_\_\_\_

NAME	YES	NO
SENATOR KEATING	✓	
SENATOR NATHE	✓	
SENATOR STIMATZ		
SENATOR TVEIT	✓	
SENATOR VAUGHN		✓
SENATOR WATERMAN		✓
SENATOR WEEDING	✓	

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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