



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill #	SB0298
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Title:	Enforce provisions of the enabling act regarding sale of public lands
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Primary Sponsor:	Fielder, Jennifer
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Status:	As Introduced
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| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
Expenditures:				
General Fund	\$220,506	\$213,110	\$216,306	\$219,551
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u><u>(\$220,506)</u></u>	<u><u>(\$213,110)</u></u>	<u><u>(\$216,306)</u></u>	<u><u>(\$219,551)</u></u>

Description of fiscal impact: SB 298 will require the Attorney General's Office to pursue reimbursement of money owed to Montana related to common schools funding.

FISCAL ANALYSIS

Assumptions:

Department of Justice (DOJ)

- To implement SB 298, the Department of Justice would require an additional 1.00 FTE attorney and an additional 1.00 FTE paralegal.
- One-time startup costs for the FTE would be \$6,396 in FY 2016 only.
- Rent is estimated to cost \$9,600 in FY 2016 and FY 2017. Other operating costs are estimated to be \$12,839 in FY 2016 and FY 2017.
- All costs are inflated at 1.5% per year in FY 2018 and FY 2019.

Department of Justice

	<u>FY 2016</u> <u>Difference</u>	<u>FY 2017</u> <u>Difference</u>	<u>FY 2018</u> <u>Difference</u>	<u>FY 2019</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	2.00	2.00	2.00	2.00
<u>Expenditures:</u>				
Personal Services	\$190,671	\$190,671	\$193,531	\$196,434
Operating Expenses	\$29,835	\$22,439	\$22,775	\$23,117
TOTAL Expenditures	\$220,506	\$213,110	\$216,306	\$219,551
<u>Funding of Expenditures:</u>				
General Fund (01)	\$220,506	\$213,110	\$216,306	\$219,551
TOTAL Funding of Exp.	\$220,506	\$213,110	\$216,306	\$219,551
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$220,506)	(\$213,110)	(\$216,306)	(\$219,551)
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Long-Term Impacts:

1. Should the litigation be successful, any funds recovered would be deposited in the common schools permanent fund. It is not possible to determine if, or when, those funds could be recovered; or in what amount.

Technical Notes:

1. Section 1, subsection 2 specifies that “The attorney general shall pursue payment of the funds owed to Montana pursuant to subsection (1)”. This fiscal note assumes that the Department of Justice will pursue litigation on its own. The common schools trust beneficiary is managed by the Department of Natural Resources (DNRC) – Trust Land Management Division (TLMD). Involvement of the DNRC would result in additional expenditures. The expenses at the DNRC could be as much as \$300,000 annually.
2. No prior case law could be found where a state had pursued contract claims against the federal government for improper payments under similar Enabling Acts. It is presumed that such litigation would be filed in the U.S. Court of Claims under 28 USC Section 1491(a)(1), which grants the Court “. . . jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort”.

Sponsor’s Initials

Date

Budget Director’s Initials

Date