

SB 298 INTRO

SB 298 would direct the Attorney General to pursue funds owed to Montana's permanent fund for schools per Section 13 of Montana's Statehood Enabling Act. The enabling act provides that 5% of the proceeds from public lands sold by the federal government must be paid to the state for support of our common schools.

BACKGROUND:

Section 13 of the Enabling Act: "That five per centum of the proceeds of the sales of public lands lying within said States which shall be sold by the United States subsequent to the admission of said States into the Union, after deducting all the expenses incident to the same, shall be paid to the said States, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said States, respectively." -- Montana, Washington, North Dakota, South Dakota Enabling Act of 1889 §13

During the legislature's interim study of federal lands, we learned that the federal government has only been adhering to Section 13 when they sell public lands administered by the Department of the Interior (DOI). They have not been paying

the 5% on other federal public lands sold in Montana, apparently under the presumption that other public lands are not public lands.

At the time the Enabling Act was ratified, all the federally held public lands in Montana were administered by the DOI. Years later, millions of acres of these public lands were placed under the administration of other federal agencies but still remained public. Presently 17 million of the 27 million acres of federal public lands in Montana are under the administration of the US Dept of Agriculture (USFS). The federal government has sold vast swaths of public lands since Montana became a state, but they have not paid the state 5% of the proceeds from all those sales.

I expect if those funds had been deposited into our permanent fund for schools and held as principal over the last 126 years since statehood (as required by section 13 of the Enabling Act), that principal would have generated notable revenues for our school fund. I am not sure how much money is owed to Montana from past sales, but since Congress has the power to continue selling any or all of the 27 million acres of public lands they own in Montana, the 5% proceeds from past and future sales could be significant.