

HOUSE BILL NO. 352

INTRODUCED BY M. BRAINARD, L. GRINDE, P. SLITER, B. STORY

A BILL FOR AN ACT ENTITLED: "AN ACT ENSURING CONTINUED ACCESS ACROSS PUBLIC LAND TO PRIVATE AND PUBLIC LAND; AMENDING SECTIONS 7-14-2615 AND 60-2-107, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purchase of historic easement ~~or right-of-way~~ across state land for benefit of private land. If a historic easement or right-of-way for access to private land exists across state land, the person owning the private land may purchase the NONEXCLUSIVE easement ~~or right-of-way~~ as a permanent, NONEXCLUSIVE easement ~~or right-of-way~~. Upon receipt of the fair market value of the easement ~~or right-of-way~~ and proof of the existence; OF THE EASEMENT OR RIGHT-OF-WAY AND THE purpose; and proposed purchaser's use of the NONEXCLUSIVE easement ~~or right-of-way~~, the board may sell a permanent NONEXCLUSIVE easement ~~or right-of-way~~ if it is across school land or other land granted to the state for the support and benefit of a state institution and shall sell a permanent NONEXCLUSIVE easement ~~or right-of-way~~ if it is across other state land.

NEW SECTION. Section 2. Purchase of historic easement ~~or right-of-way~~ across county land for benefit of private land. If a historic easement or right-of-way for access to private land exists across county land, the person owning the private land may purchase the NONEXCLUSIVE easement ~~or right-of-way~~ as a permanent, NONEXCLUSIVE easement ~~or right-of-way~~. The board of county commissioners shall sell a permanent, NONEXCLUSIVE easement ~~or right-of-way~~ upon receipt of the fair market value of the easement ~~or right-of-way~~ and proof of the existence; OF THE EASEMENT OR RIGHT-OF-WAY AND THE purpose; and proposed purchaser's use of the NONEXCLUSIVE easement ~~or right-of-way~~.

Section 3. Section 7-14-2615, MCA, is amended to read:

"7-14-2615. Abandonment or vacation of county roads. (1) All county roads once established must continue to be county roads until abandoned or vacated by:

(a) operation of law;

1 (b) judgment of a court of competent jurisdiction; or

2 (c) the order of the board.

3 (2) ~~No~~ An order to abandon ~~any a~~ county road ~~shall be~~ is not valid unless preceded by notice and public
4 hearing.

5 (3) The board may not abandon a county road or right-of-way used to access public land unless another
6 public road or right-of-way provides substantially the same access.

7 (4) The board may not abandon a county road or right-of-way used to access private land if the access
8 benefits two or more landowners UNLESS ALL OF THE LANDOWNERS AGREE TO THE ABANDONMENT."

9
10 **Section 4.** Section 60-2-107, MCA, is amended to read:

11 **"60-2-107. Abandonment of highways -- exchange of roadways.** (1) The commission may abandon
12 highways on the federal-aid systems and state highways.

13 (2) The commission may enter into an agreement with a unit of local government, on mutually beneficial
14 terms, to exchange property interests or responsibilities, including maintenance, on any portion of a federal-aid
15 or state highway and on any portion of a county road or city street.

16 (3) The commission may not abandon a highway, road, or right-of-way used to access public land unless
17 another highway, road, or right-of-way provides substantially the same access.

18 (4) The commission may not abandon a highway, road, or right-of-way used to access private land if the
19 access benefits two or more landowners UNLESS ALL THE LANDOWNERS AGREE TO THE ABANDONMENT."

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21 **NEW SECTION. Section 5. Codification instruction.** (1) [Section 1] is intended to be codified as an
22 integral part of Title 77, chapter 1, part 1, and the provisions of Title 77 apply to [section 1].

23 (2) [Section 2] is intended to be codified as an integral part of Title 7, chapter 14, and the provisions of
24 Title 7, chapter 14, apply to [section 2].

25
26 **NEW SECTION. Section 6. Effective date -- contingent effective date.** (1) [Sections 2 through 5 and
27 this section] are effective on passage and approval.

28 (2) If the Montana Supreme Court invalidates subsection (4)(a) of 77-1-130, [section 1] is effective on
29 the date of the decision. If the Montana Supreme Court does not invalidate subsection (4)(a) of 77-1-130, then
30 [section 1] is void.

