

SENATE JOINT RESOLUTION NO. 20

INTRODUCED BY B. TUTVEDT

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A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF COUNTY ROAD RIGHTS-OF-WAY ON STATE TRUST LAND.

WHEREAS, the Omnibus Enabling Act of 1889 and the Montana Constitution impose fiduciary responsibilities on the state with regard to state trust lands; and

WHEREAS, the Enabling Act granted sections of each township to the state "for the support of common schools" and Article X, section 11, of the Montana Constitution prohibits state trust land from being disposed of until the full market value of the land has been secured by the state; and

WHEREAS, county roads have existed on state trust land for years; and

WHEREAS, in some instances, counties have been granted easements by the Board of Land Commissioners for roads on state trust land, but in other instances, county roads were created on state trust land and are being used by the public without an easement having been obtained; and

WHEREAS, absence of a legal easement to cross state trust land is becoming a significant problem for some counties and for private property owners who rely on these roads for access to their property; and

WHEREAS, absence of a legal easement makes private property difficult to sell, and many claims made against title insurance companies deal with legal access; and

WHEREAS, in 1997, the Legislature enacted section 77-1-130, MCA, which was intended to allow individuals and counties to apply for and purchase easements on state trust land for a fraction of the fair market value; and

WHEREAS, in 1999, in a case cited as Montrust, Montanans for Responsible Use of the School Trust sued the state, claiming that full market value was not being obtained for easements on state trust land and the Montana Supreme Court agreed, declaring section 77-1-130, MCA, to be unconstitutional; and

WHEREAS, since the decision, section 77-1-130, MCA, has been amended and the Department of Natural Resources and Conservation is obligated to require payment of full market value of the land when granting easements; and

WHEREAS, many counties have neither the resources to identify all of the roads for which legal

1 easements are required nor the money to pay for the easements; and

2 WHEREAS, despite efforts to identify state funding sources, fund transfer mechanisms, or other
3 strategies to offset counties' obligations while remaining in compliance with the Montrust decision, an acceptable
4 solution has not materialized.

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6 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
7 STATE OF MONTANA:

8 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
9 section 5-5-217, MCA, or direct sufficient staff resources to review challenges counties encounter in identifying
10 roads on state trust land, determining the legal status of the roads, and paying full market value for road
11 rights-of-way on state trust land.

12 BE IT FURTHER RESOLVED, that the study examine the extent of the problem statewide as it relates
13 to land valuation, county tax base, county budgets, and miles of county roads and identify options that may be
14 pursued by counties or by the Legislature to resolve the legal status of roads on state trust land.

15 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
16 presented to and reviewed by an appropriate committee designated by the Legislative Council.

17 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
18 requirements, be concluded prior to September 15, 2016.

19 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
20 comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

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