

1 SENATE BILL NO. 392

2 INTRODUCED BY G. VANCE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE GRANT OF RIGHT-OF-WAY BY THE
5 MONTANA DEPARTMENT OF TRANSPORTATION FOR CERTAIN ELIGIBLE PROJECTS ALONG
6 INTERSTATE HIGHWAYS; ESTABLISHING CRITERIA; SETTING TIMELINES FOR DEPARTMENT REVIEW;
7 REQUIRING AN APPLICANT TO PAY THE DEPARTMENT A PORTION OF CERTAIN FEES; PROVIDING
8 FOR A GOOD FAITH NEGOTIATION; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY; AND
9 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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13 NEW SECTION. **Section 1. Interstate easement -- department role.** (1) The department of
14 transportation may grant an easement for the use of longitudinal right-of-way along interstate highways in the
15 state for eligible projects that:

16 (a) provide evidence that construction and completion will result in an investment, documented
17 positive fiscal impact, or both, of at least \$100 million to the Montana economy within the first year of operation;
18 and

19 (b) provide a public benefit.

20 (2) To request an easement in accordance with this section, the owner of an eligible project must
21 submit an application to the department that demonstrates compliance with subsection (1). The department
22 shall approve or deny the application within 90 days of receipt.

23 (3) (a) An applicant shall agree in writing to pay the department a portion of the fees that the state
24 provides to the federal government to maintain the interstate highway.

25 (b) The department and the applicant shall negotiate the payment of costs provided for in this
26 subsection (3) in good faith prior to the easement being granted.

27 (4) The department may adopt rules necessary for the administration of this section, including
28 application fees to be paid by an applicant seeking an easement.

1 (5) For the purposes of this section:

2 (a) "Eligible project" means a pipeline designed to store or carry hydrogen and fiber optic or other
3 communications-type cables.

4 (b) "Public benefit" means a material, positive impact on society and the environment, taken as a
5 whole, as assessed against a third-party standard. It may include providing an opportunity for increased
6 broadband service infrastructure.

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8 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
9 integral part of Title 60, and the provisions of Title 60 apply to [section 1].

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11 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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