

SENATE BILL NO. 309

INTRODUCED BY

Forrest M. Lee *W. Ryan*
John H. Hansen HARP *Bill Wilson Beck*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO COUNTY ROADS; ALLOWING COUNTY COMMISSIONERS TO CREATE A RURAL IMPROVEMENT DISTRICT FOR BUILDING, MAINTAINING, OR REPAIRING COUNTY ROADS; CLARIFYING THE DUTIES OF COUNTY COMMISSIONERS CONCERNING ROADS; REVISING CERTAIN DEFINITIONS; DEFINING CITY STREET, PRIVATE ROAD, AND PUBLIC ROAD; ELIMINATING THE USE OF ROAD IMPROVEMENT DISTRICTS; AMENDING SECTIONS 7-12-2102, 7-14-2101, 7-14-2103, 7-14-2112, 60-1-103, 60-1-201, 61-1-201, 61-1-202, AND 61-1-205, MCA; AND REPEALING SECTIONS 7-14-2901, 7-14-2902, 7-14-2903, 7-14-2907, AND 7-14-2908, MCA."

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

Section 1. Section 7-12-2102, MCA, is amended to read:

"7-12-2102. Authorization to create rural improvement districts. (1) Whenever the public interest or convenience may require, the board of county commissioners is hereby authorized and empowered to:

(a) order and create special improvement districts outside of the limits of incorporated towns and cities for the purpose of:

(i) building, constructing, or acquiring by purchase one or more of the improvements of the kind described in 7-12-4102, in or for the benefit of the special improvement district; or

(ii) providing for the reconstruction, upgrade, repair, or maintenance of a proposed public road or a public road that does not meet the standards of 7-14-2111 or 7-14-2112; and

(b) assess the owners of parcels of land directly benefited by the public road.

(2) For purposes of this section, "land directly benefited" means land within the district that receives a direct benefit from the road for which a rural improvement district was created. A parcel of land is not land directly benefited if the parcel is within the district solely because the road passes over the property to provide access to the land directly benefited. A parcel of land within the district that is used solely for agricultural purposes is not considered land directly benefited.

(3) The board of county commissioners may order and create rural special improvement districts

1 covering projects abutting the city limits and include properties inside the city ~~where~~ when the rural special
 2 improvement district abuts and benefits that property. Property owners within the proposed district
 3 boundaries inside the city may not be included in the rural special improvement district if 40% of those
 4 property owners protest the creation of the rural special improvement district. The property inside the city
 5 must be treated in a similar manner as to improvements, notices, and assessments as the property outside
 6 the city limits. A joint resolution of the city and county must be passed agreeing to the terms of the rural
 7 special improvement district prior to passing the resolution of intention or resolution creating the rural
 8 special improvement district. A copy of the resolution of intention and the resolution creating the rural
 9 special improvement district must be provided to the city clerk upon the passage of the respective
 10 resolutions."

11

12 **Section 2.** Section 7-14-2101, MCA, is amended to read:

13 **"7-14-2101. General powers of county relating to roads and bridges.** (1) The board of county
 14 commissioners, under ~~such~~ the limitations and restrictions ~~as~~ that are prescribed by law, may:

15 (a) (i) lay out, maintain, control, and manage county roads and bridges within the county;

16 (ii) levy taxes ~~therefor~~ for county roads and bridges as provided by law;

17 (b) (i) in the exercise of sound discretion, jointly with other counties, lay out, maintain, control,
 18 manage, and improve county roads and bridges in adjacent counties, wholly or in ~~such~~ part as may be
 19 agreed upon between the boards of the counties concerned;

20 (ii) levy taxes ~~therefor~~ for county roads and bridges shared jointly with other counties as provided
 21 by law;

22 (c) (i) enter into agreements for adjusted annual contributions over not more than 6 years toward
 23 the cost of joint highway or bridge construction projects entered into in cooperation with other counties,
 24 the state, or the United States;

25 (ii) place ~~such~~ a joint project in the budget and levy taxes ~~therefor~~ for the joint project as provided
 26 by law.

27 (2) (a) ~~Unless the context requires otherwise, county road means any public highway opened,~~
 28 ~~established, constructed, maintained, abandoned, or discontinued by a county in accordance with this~~
 29 ~~chapter.~~ The term "county road" has the same meaning as provided in 60-1-103.

30 (b) Unless the context requires otherwise, ~~bridge~~ the term "bridge" includes rights-of-way or other

1 interest in land, abutments, superstructures, piers, and approaches except dirt fills."

2

3 **Section 3.** Section 7-14-2103, MCA, is amended to read:

4 **"7-14-2103. Duties of county commissioners concerning county roads.** (1) Each board of county
5 commissioners has general supervision over the county roads within the county.

6 (2) Each board may survey, view, lay out, record, open, work, and maintain county roads ~~that are~~
7 ~~petitioned for by freeholders. Guideposts must be erected.~~

8 (3) Each board may discontinue or abandon county roads when freeholders properly petition for
9 discontinuance or abandonment or when safety requires discontinuance or abandonment."

10

11 **Section 4.** Section 7-14-2112, MCA, is amended to read:

12 **"7-14-2112. Width of roads.** (1) The width of all county roads, except bridges, alleys, or lanes,
13 must be 60 feet unless a greater or smaller width is ordered by the board of county commissioners ~~on~~
14 ~~petition of an interested person.~~

15 (2) The width of all private highways and byroads, except bridges, must be at least 20 feet.

16 (3) ~~Nothing in this~~ This section shall may not be construed as increasing or decreasing the width
17 of either kind of highway or road established or used ~~as such~~ prior to December 31, 1966."

18

19 **Section 5.** Section 60-1-103, MCA, is amended to read:

20 **"60-1-103. General definitions.** Subject to additional definitions contained in this title ~~which that~~
21 are applicable to specific chapters or sections and unless the context otherwise requires, terms are defined
22 as follows:

23 (1) "Abandonment" means cessation of use of a right-of-way or an {easement} or cessation of
24 activity thereon on the right-of-way or easement with no intention to reclaim it or use it again.
25 {Abandonment is sometimes called vacation}.

26 (2) "Bridge" means ~~any~~ a bridge constructed by the department, together with all appurtenances,
27 additions, alterations, improvements, and replacements, and the approaches ~~thereto~~ to the bridge, lands
28 used ~~therefor~~ in connection with the bridge, and improvements ~~thereon~~ to the bridge.

29 (3) "City street" means a public road under the jurisdiction of a city or municipality.

30 ~~{3}~~(4) "Commission" means the highway commission provided for in 2-15-2502.

- 1 ~~(4)~~(5) "Condemnation" means taking by exercise of the right of eminent domain.
- 2 ~~(5)~~(6) "Construction" means supervising, inspecting, actual building, and all expenses incidental
3 to the construction or reconstruction of a highway, including locating, surveying, mapping, and costs of
4 right-of-way or other interests in land and elimination of hazards at railway grade crossings.
- 5 ~~(6)~~(7) "Control of access" means the condition in which the right of owners or occupants of
6 abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially
7 controlled by public authority.
- 8 ~~(7)~~(8) "County road" means ~~any public highway opened, established, constructed, maintained,~~
9 ~~abandoned, or discontinued by a county in accordance with Title 7, chapter 14~~ a public road that is not
10 classified as a federal-aid highway, a state highway, or a city street.
- 11 ~~(8)~~(9) "Department" means the department of transportation provided for in Title 2, chapter 15,
12 part 25.
- 13 ~~(9)~~(10) "Director" means the director of transportation, ~~a position~~ provided for in 2-15-2501.
- 14 ~~(10)~~(11) "Easement" means a right acquired by public authority to use or control property for a
15 designated purpose.
- 16 ~~(11)~~(12) "Eminent domain" means the right of the state to take private property for public use.
- 17 ~~(12)~~(13) "Federal-aid highway" means ~~any~~ a public highway ~~which~~ that is a portion of any of the
18 federal-aid highway systems.
- 19 ~~(13)~~(14) "Federal-aid highway systems" means all of the systems named ~~hereafter~~ in subsections
20 (15) through (17) and their urban extensions.
- 21 ~~(14)~~(15) "Federal-aid interstate system" means that system of public highways selected by the
22 commission in cooperation with adjoining states, subject to the approval of the secretary of commerce, as
23 provided in Title 23, U.S.C.
- 24 ~~(15)~~(16) "Federal-aid primary system" means that system of connected public highways designated
25 by the commission, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.
- 26 ~~(16)~~(17) "Federal-aid secondary system" means that system of public highways not in the
27 federal-aid primary or interstate systems selected by the commission in cooperation with the boards of
28 county commissioners, subject to the approval of the secretary of commerce, as provided in Title 23,
29 U.S.C.
- 30 ~~(17)~~(18) "Fee simple" means an absolute estate or ownership in property including unlimited power

1 of alienation.

2 ~~(18)~~(19) "Highway" includes rights-of-way or other interests in land, embankments, retaining walls,
3 culverts, sluices, drainage structures, bridges, railroad-highway crossings, tunnels, signs, guardrails, and
4 protective structures.

5 ~~(19)~~(20) "Highway", "road", and "street", whether ~~they~~ the terms appear together or separately
6 or are preceded by the adjective "public", are general terms denoting a public way for purposes of vehicular
7 travel and include:

8 (a) the entire area within the right-of-way; and

9 (b) the entire width between the boundary lines of a publicly maintained way when a part of the
10 publicly maintained way is open to the use of the public for the purpose of vehicular travel.

11 ~~(20)~~(21) "Highway authority" means the entity at any level of government authorized by law to
12 construct and maintain highways.

13 ~~(21)~~(22) "Maintenance" means the preservation of the entire highway, including surface, shoulders,
14 roadsides, structures, and ~~such~~ traffic-control devices ~~as that~~ are necessary for its the safe and efficient
15 utilization use of the highway.

16 (23) "Private road" means a way or place in private ownership that is used for vehicular travel by
17 the owner and by those who have expressed or implied permission from the owner and that is not used by
18 other persons.

19 ~~(22)~~(24) "Public ~~highways~~ highway" means ~~all streets, roads, highways, bridges, and related~~
20 ~~structures which have~~ a public road, including a highway as defined in subsections (19) and (20), that has
21 been or shall be:

22 (a) built and maintained with appropriated funds of the United States or the state or any political
23 subdivision ~~thereof~~ of the state;

24 (b) dedicated to public use;

25 (c) acquired by eminent domain; or

26 (d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or
27 ~~any a~~ political subdivision thereof of the state.

28 (25) "Public road" means a road, highway, bridge, avenue, street, alley, easement, right-of-way,
29 place, or way that is:

30 (a) adopted and fitted for public vehicular travel and that is not a private road;

1 (b) built and maintained with appropriated funds of the United States, the state, or a political
 2 subdivision of the state;

3 (c) dedicated to public use;

4 (d) acquired by eminent domain; or

5 (e) acquired by adverse use of the public, with jurisdiction having been assumed by the state or
 6 a political subdivision of the state.

7 ~~(23)~~(26) "Right-of-way" is a general term denoting land, property, or any interest ~~therein~~ in land
 8 or property, usually in a strip, acquired for or devoted to highway purposes.

9 ~~(24)~~(27) "State highway" means any public highway planned, laid out, altered, constructed,
 10 reconstructed, improved, repaired, maintained, or abandoned by the department."

11

12 **Section 6.** Section 60-1-201, MCA, is amended to read:

13 "**60-1-201. Classification -- highways and roads.** (1) Public ~~highways~~ roads of this state are
 14 classified as follows:

15 (a) federal-aid highways;

16 (b) state highways;

17 (c) county roads;

18 (d) city streets.

19 (2) All highways ~~which~~ that are not designated, selected, or established by the commission or
 20 constructed or maintained by the department are county roads or city streets.

21 ~~(3) County roads are those opened, established, constructed, maintained, changed, abandoned,~~
 22 ~~or discontinued by a county in accordance with Title 7, chapter 14~~ All public roads not under the
 23 jurisdiction of the United States, the state, or a municipality are under the jurisdiction of the county.

24 ~~(4) City streets are those public highways under the jurisdiction of municipal officials."~~

25

26 **Section 7.** Section 61-1-201, MCA, is amended to read:

27 "**61-1-201. Highway.** "Highway" means ~~the entire width between the boundary lines of every~~
 28 ~~publicly maintained way when any part thereof is open to the use of the public for purposes of vehicular~~
 29 ~~travel, except that for the purpose of chapter 8 the term also includes ways which have been or shall be~~
 30 ~~dedicated to public use~~ has the same meaning as provided in 60-1-103(20)."

1 **Section 8.** Section 61-1-202, MCA, is amended to read:

2 "**61-1-202. Public highway.** "Public highway" means ~~"highway" as defined in 61-1-201~~ has the
3 same meaning as provided in 60-1-103."

4

5 **Section 9.** Section 61-1-205, MCA, is amended to read:

6 "**61-1-205. Private road or driveway.** "Private road" or "driveway" ~~means every way or place in~~
7 ~~private ownership and used for vehicular travel by the owner and those having express or implied~~
8 ~~permission from the owner, but not by other persons~~ means a private road as defined in 60-1-103."

9

10 NEW SECTION. **Section 10. Repealer.** Sections 7-14-2901, 7-14-2902, 7-14-2903, 7-14-2907,
11 and 7-14-2908, MCA, are repealed.

12

-END-

APPROVED BY COM ON
LOCAL GOVERNMENT

SENATE BILL NO. 309

INTRODUCED BY FORRESTER, MCGEE, RYAN, COLE, JACOBSON, SOFT, H. HANSON, HARP,
WILSON, BECK, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO COUNTY
ROADS; ALLOWING COUNTY COMMISSIONERS TO CREATE A RURAL IMPROVEMENT DISTRICT FOR
BUILDING, MAINTAINING, OR REPAIRING COUNTY ROADS; CLARIFYING THE DUTIES OF COUNTY
COMMISSIONERS CONCERNING ROADS; REVISING CERTAIN DEFINITIONS; DEFINING CITY STREET,
PRIVATE ROAD, AND PUBLIC ROAD; ELIMINATING THE USE OF ROAD IMPROVEMENT DISTRICTS;
AMENDING SECTIONS 7-12-2102, 7-14-2101, 7-14-2103, 7-14-2112, 60-1-103, 60-1-201, 61-1-201,
61-1-202, AND 61-1-205, MCA; AND REPEALING SECTIONS 7-14-2901, 7-14-2902, 7-14-2903,
7-14-2907, AND 7-14-2908, MCA."

WHEREAS, THIS LEGISLATION SEEKS TO CLARIFY THE DUTIES OF COUNTY COMMISSIONERS
AND IS NOT INTENDED TO MAKE SUBSTANTIVE CHANGES WITH REGARD TO THE CURRENT STATUS
OF COUNTY ROADS;

WHEREAS, ASSUMPTIONS AS TO OWNERSHIP OR LIABILITIES WILL REMAIN UNCHANGED AND
NO ACTION WILL BE REQUIRED BY COUNTY COMMISSIONERS WITH REGARD TO COUNTY ROADS IN
EXISTENCE PRIOR TO THE ADOPTION OF [THIS ACT];

WHEREAS, THE ENACTMENT OF THIS LEGISLATION WILL REQUIRE COUNTIES TO ADOPT A
RESOLUTION WHEN ACCEPTING NEWLY PETITIONED ROADS UNDER TITLE 7, CHAPTER 14, PART 26;

WHEREAS, CURRENT PUBLIC ROADS THAT HAVE NEVER BEEN LEGALLY ADOPTED BY THE
COUNTY MAY BE ACCEPTED FOLLOWING PUBLIC NOTICE, A PUBLIC HEARING, AND ADOPTION OF A
RESOLUTION;

WHEREAS, DECISIONS TO DISCONTINUE OR ABANDON COUNTY ROADS FOR SAFETY REASONS
WILL REQUIRE PUBLIC NOTICE AND A PUBLIC HEARING PRIOR TO THE ADOPTION OF A RESOLUTION
TO ABANDON COUNTY ROADS BY A BOARD OF COUNTY COMMISSIONERS.

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

1 **Section 1.** Section 7-12-2102, MCA, is amended to read:

2 **"7-12-2102. Authorization to create rural improvement districts.** (1) Whenever the public interest
3 or convenience may require, the board of county commissioners is ~~hereby~~ authorized ~~and empowered~~ to:

4 (a) order and create special improvement districts outside of the limits of incorporated towns and
5 cities for the purpose of:

6 (i) building, constructing, or acquiring by purchase one or more of the improvements of the kind
7 described in 7-12-4102, in or for the benefit of the special improvement district; or

8 (ii) providing for the CONSTRUCTION, reconstruction, upgrade, repair, or maintenance of a
9 proposed public road or a public road that does not meet the standards of 7-14-2111 or 7-14-2112; and

10 (b) assess the owners of parcels of land directly benefited by the AN IMPROVEMENT, A
11 PROPOSED PUBLIC ROAD, OR A public road.

12 (2) For purposes of this section, "land directly benefited" means land within the district that
13 receives a direct benefit from the road for which a rural improvement district was created. A parcel of land
14 is not land directly benefited if the parcel is within the district solely because the road passes over the
15 property to provide access to the land directly benefited. A parcel of land within the district that is used
16 solely for agricultural purposes is not considered land directly benefited.

17 ~~(2)(3)~~ (3) The board of county commissioners may order and create rural special improvement districts
18 covering projects abutting the city limits and include properties inside the city ~~where~~ when the rural special
19 improvement district abuts and benefits that property. Property owners within the proposed district
20 boundaries inside the city may not be included in the rural special improvement district if 40% of those
21 property owners protest the creation of the rural special improvement district. The property inside the city
22 must be treated in a similar manner as to improvements, notices, and assessments as the property outside
23 the city limits. A joint resolution of the city and county must be passed agreeing to the terms of the rural
24 special improvement district prior to passing the resolution of intention or resolution creating the rural
25 special improvement district. A copy of the resolution of intention and the resolution creating the rural
26 special improvement district must be provided to the city clerk upon the passage of the respective
27 resolutions."
28

29 **Section 2.** Section 7-14-2101, MCA, is amended to read:

30 **"7-14-2101. General powers of county relating to roads and bridges.** (1) The board of county

1 commissioners, under ~~such~~ the limitations and restrictions ~~as that~~ are prescribed by law, may:

2 (a) (i) lay out, maintain, control, and manage county roads and bridges within the county;

3 (ii) levy taxes ~~therefor~~ for county roads and bridges as provided by law;

4 (b) (i) in the exercise of sound discretion, jointly with other counties, lay out, maintain, control,
5 manage, and improve county roads and bridges in adjacent counties, wholly or in ~~such~~ part as may be
6 agreed upon between the boards of the counties concerned;

7 (ii) levy taxes ~~therefor~~ for county roads and bridges shared jointly with other counties as provided
8 by law;

9 (c) (i) enter into agreements for adjusted annual contributions over not more than 6 years toward
10 the cost of joint highway or bridge construction projects entered into in cooperation with other counties,
11 the state, or the United States;

12 (ii) place ~~such~~ a joint project in the budget and levy taxes ~~therefor~~ for the joint project as provided
13 by law.

14 (2) (a) ~~Unless the context requires otherwise, county road means any public highway opened,~~
15 ~~established, constructed, maintained, abandoned, or discontinued by a county in accordance with this~~
16 ~~chapter~~ The term "county road" has the same meaning as provided in 60-1-103.

17 (b) Unless the context requires otherwise, bridge the term "bridge" includes rights-of-way or other
18 interest in land, abutments, superstructures, piers, and approaches except dirt fills."

19

20 **Section 3.** Section 7-14-2103, MCA, is amended to read:

21 **"7-14-2103. Duties of county commissioners concerning county roads.** (1) Each board of county
22 commissioners has general supervision over the county roads within the county.

23 (2) Each board may survey, view, lay out, record, open, work, and maintain county roads ~~that are~~
24 ~~petitioned for by freeholders. Guidoposts must be erected.~~

25 (3) Each board may discontinue or abandon county roads when freeholders properly petition for
26 discontinuance or abandonment or when safety requires discontinuance or abandonment.

27 (4) AN ORDER TO ABANDON OR DISCONTINUE A COUNTY ROAD IS NOT VALID UNLESS
28 PRECEDED BY PUBLIC NOTICE AND A PUBLIC HEARING."

29

30 **Section 4.** Section 7-14-2112, MCA, is amended to read:

1 **"7-14-2112. Width of roads.** (1) The width of all county roads, except bridges, alleys, or lanes,
2 must be 60 feet unless a greater or smaller width is ordered by the board of county commissioners ~~on~~
3 ~~petition of an interested person.~~

4 (2) The width of all private highways and byroads, except bridges, must be at least 20 feet.

5 (3) ~~Nothing in this~~ This section shall may not be construed as increasing or decreasing the width
6 of either kind of highway or road established or used ~~as such~~ prior to December 31, 1966."

7
8 **Section 5.** Section 60-1-103, MCA, is amended to read:

9 **"60-1-103. General definitions.** Subject to additional definitions contained in this title ~~which that~~
10 are applicable to specific chapters or sections and unless the context otherwise requires, terms are defined
11 as follows:

12 (1) "Abandonment" means cessation of use of a right-of-way or an {easement} or cessation of
13 activity thereon on the right-of-way or easement with no intention to reclaim it or use it again.
14 ~~{Abandonment is sometimes called vacation}.~~

15 (2) "Bridge" means ~~any~~ a bridge constructed by the department, together with all appurtenances,
16 additions, alterations, improvements, and replacements, and the approaches ~~thereto~~ to the bridge, lands
17 used ~~therefor~~ in connection with the bridge, and improvements ~~thereon~~ to the bridge.

18 {3} (3) "City street" means a public road under the jurisdiction of a city or municipality.

19 ~~{3}~~(4) "Commission" means the highway commission provided for in 2-15-2502.

20 ~~{4}~~(5) "Condemnation" means taking by exercise of the right of eminent domain.

21 ~~{5}~~(6) "Construction" means supervising, inspecting, actual building, and all expenses incidental
22 to the construction or reconstruction of a highway, including locating, surveying, mapping, and costs of
23 right-of-way or other interests in land and elimination of hazards at railway grade crossings.

24 ~~{6}~~(7) "Control of access" means the condition in which the right of owners or occupants of
25 abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially
26 controlled by public authority.

27 ~~{7}~~(8) "County road" means ~~any public highway opened, established, constructed, maintained,~~
28 ~~abandoned, or discontinued by a county in accordance with Title 7, chapter 14~~ a public road THE
29 JURISDICTION OF WHICH HAS BEEN ACCEPTED BY RESOLUTION OF THE BOARD OF COUNTY
30 COMMISSIONERS AND that is not classified as a federal-aid highway, a state highway, or a city street.

1 ~~(8)~~(9) "Department" means the department of transportation provided for in Title 2, chapter 15,
2 part 25.

3 ~~(9)~~(10) "Director" means the director of transportation, ~~a position~~ provided for in 2-15-2501.

4 ~~(10)~~(11) "Easement" means a right acquired by public authority to use or control property for a
5 designated purpose.

6 ~~(11)~~(12) "Eminent domain" means the right of the state to take private property for public use.

7 ~~(12)~~(13) "Federal-aid highway" means ~~any a~~ public highway ~~which~~ that is a portion of any of the
8 federal-aid highway systems.

9 ~~(13)~~(14) "Federal-aid highway systems" means all of the systems named ~~hereafter~~ in subsections
10 (15) through (17) and their urban extensions.

11 ~~(14)~~(15) "Federal-aid interstate system" means that system of public highways selected by the
12 commission in cooperation with adjoining states, subject to the approval of the secretary of commerce, as
13 provided in Title 23, U.S.C.

14 ~~(15)~~(16) "Federal-aid primary system" means that system of connected public highways designated
15 by the commission, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.

16 ~~(16)~~(17) "Federal-aid secondary system" means that system of public highways not in the
17 federal-aid primary or interstate systems selected by the commission in cooperation with the boards of
18 county commissioners, subject to the approval of the secretary of commerce, as provided in Title 23,
19 U.S.C.

20 ~~(17)~~(18) "Fee simple" means an absolute estate or ownership in property including unlimited power
21 of alienation.

22 ~~(18)~~(19) "Highway" includes rights-of-way or other interests in land, embankments, retaining walls,
23 culverts, sluices, drainage structures, bridges, railroad-highway crossings, tunnels, signs, guardrails, and
24 protective structures.

25 ~~(19)~~(20) "Highway", "road", and "street", whether ~~they~~ the terms appear together or separately
26 or are preceded by the adjective "public", are general terms denoting a public way for purposes of vehicular
27 travel and include:

28 (a) the entire area within the right-of-way; and

29 (b) the entire width between the boundary lines of a publicly maintained way when a part of the
30 publicly maintained way is open to the use of the public for the purpose of vehicular travel.

1 ~~(20)~~(21) "Highway authority" means the entity at any level of government authorized by law to
2 construct and maintain highways.

3 ~~(21)~~(22) "Maintenance" means the preservation of the entire highway, including surface, shoulders,
4 roadsides, structures, and ~~such~~ traffic-control devices ~~as~~ that are necessary for ~~its~~ the safe and efficient
5 ~~utilization~~ use of the highway.

6 (23) "Private road" means a way or place in private ownership that is used for vehicular travel by
7 the owner and by those who have expressed or implied permission from the owner and that is not used by
8 other persons.

9 ~~(22)~~(24) "Public ~~highways~~ highway" means ~~all streets, roads, highways, bridges, and related~~
10 ~~structures which have~~ a public road, including a highway as defined in subsections (19) and (20), that has
11 ~~been or shall be:~~

12 (a) built and maintained with appropriated funds of the United States or the state or any political
13 subdivision ~~thereof~~ of the state;

14 (b) dedicated to public use;

15 (c) acquired by eminent domain; or

16 (d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or
17 ~~any a~~ a political subdivision ~~thereof~~ of the state.

18 (25) "Public road" means a road, highway, bridge, avenue, street, alley, easement, right-of-way,
19 place, or way that is:

20 (a) ~~adopted~~ ADAPTED and fitted for public vehicular travel and that is not a private road;

21 (b) built and maintained with appropriated funds of the Unites States, the state, or a political
22 subdivision of the state;

23 (c) dedicated to public use;

24 (d) acquired by eminent domain; or

25 (e) acquired by adverse use of the public, with jurisdiction having been assumed by the state or
26 a political subdivision of the state.

27 ~~(23)~~(26) "Right-of-way" is a general term denoting land, property, or any interest ~~therein~~ in land
28 or property, usually in a strip, acquired for or devoted to highway purposes.

29 ~~(24)~~(27) "State highway" means any public highway planned, laid out, altered, constructed,
30 reconstructed, improved, repaired, OR maintained, ~~or~~ BY THE DEPARTMENT OR BY AND WITH

1 APPROPRIATED FUNDS OF THE STATE. THE TERM INCLUDES A PUBLIC HIGHWAY abandoned by the
2 department."

3

4 **Section 6.** Section 60-1-201, MCA, is amended to read:

5 "60-1-201. **Classification -- highways and roads.** (1) Public ~~highways~~ roads of this state are
6 classified as follows:

7 (a) federal-aid highways;

8 (b) state highways;

9 (c) county roads;

10 (d) city streets.

11 (2) All highways ~~which~~ that are not designated, selected, or established by the commission or
12 constructed or maintained by the department OR BY AND WITH APPROPRIATED FUNDS OF THE STATE
13 are county roads or city streets.

14 (3) ~~County roads are those opened, established, constructed, maintained, changed, abandoned,~~
15 ~~or discontinued by a county in accordance with Title 7, chapter 14~~ All public roads not under the
16 jurisdiction of the United States, the state, or a municipality are under the jurisdiction of the county IF
17 JURISDICTION HAS BEEN ACCEPTED BY RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS.

18 ~~(4) City streets are those public highways under the jurisdiction of municipal officials."~~

19

20 **Section 7.** Section 61-1-201, MCA, is amended to read:

21 "61-1-201. **Highway.** "Highway" ~~means the entire width between the boundary lines of every~~
22 ~~publicly maintained way when any part thereof is open to the use of the public for purposes of vehicular~~
23 ~~travel, except that for the purpose of chapter 8 the term also includes ways which have been or shall be~~
24 ~~dedicated to public use~~ has the same meaning as provided in 60-1-103(20)."

25

26 **Section 8.** Section 61-1-202, MCA, is amended to read:

27 "61-1-202. **Public highway.** "Public highway" ~~means "highway" as defined in 61-1-201~~ has the
28 same meaning as provided in 60-1-103."

29

30 **Section 9.** Section 61-1-205, MCA, is amended to read:

1 **"61-1-205. Private road or driveway.** "Private road" or "driveway" ~~means every way or place in~~
2 ~~private ownership and used for vehicular travel by the owner and those having express or implied~~
3 ~~permission from the owner, but not by other persons~~ means a private road as defined in 60-1-103."

4

5 NEW SECTION. **Section 10. Repealer.** Sections 7-14-2901, 7-14-2902, 7-14-2903, 7-14-2907,
6 and 7-14-2908, MCA, are repealed.

7

-END-

1 SENATE BILL NO. 309

2 INTRODUCED BY FORRESTER, MCGEE, RYAN, COLE, JACOBSON, SOFT, H. HANSON, HARP,

3 WILSON, BECK, KEATING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO COUNTY
6 ROADS; ALLOWING COUNTY COMMISSIONERS TO CREATE A RURAL IMPROVEMENT DISTRICT FOR
7 BUILDING, MAINTAINING, OR REPAIRING COUNTY ROADS; CLARIFYING THE DUTIES OF COUNTY
8 COMMISSIONERS CONCERNING ROADS; REVISING CERTAIN DEFINITIONS; DEFINING CITY STREET,
9 PRIVATE ROAD, AND PUBLIC ROAD; ELIMINATING THE USE OF ROAD IMPROVEMENT DISTRICTS;
10 AMENDING SECTIONS 7-12-2102, 7-14-2101, 7-14-2103, 7-14-2112, 60-1-103, 60-1-201, 61-1-201,
11 61-1-202, AND 61-1-205, MCA; AND REPEALING SECTIONS 7-14-2901, 7-14-2902, 7-14-2903,
12 7-14-2907, AND 7-14-2908, MCA."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.