

1

2

INTRODUCED BY

*Anderson* House BILL NO. 362

3

BY REQUEST OF THE HOUSE COMMITTEE ON TRANSPORTATION

4

5

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF TRANSPORTATION AND A  
 6 LOCAL GOVERNING BODY OR A TRIBAL GOVERNMENT TO EXCHANGE MAINTENANCE  
 7 RESPONSIBILITIES ON ROADS AND PUBLIC HIGHWAYS WITHIN THEIR RESPECTIVE JURISDICTIONS;  
 8 AND AMENDING SECTION 60-2-204, MCA."

9

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

11

12

Section 1. Section 60-2-204, MCA, is amended to read:

13

"60-2-204. **Maintenance agreements with local or tribal governments.** (1) Except as provided in  
 14 subsection (2), the ~~The~~ department may enter into an agreement with a local governing body to maintain  
 15 portions of public highways within its boundaries upon terms and conditions as may be agreed upon,  
 16 provided that, in the case of highways in the state maintenance system as referred to in 60-2-128 and  
 17 60-2-203:

18

~~(1)(a)~~ the department shall bear the entire cost of maintenance, operation, and construction work  
 19 performed by the local governing body pursuant to these agreements; and

20

~~(2)(b)~~ the department is responsible for the entire cost of placement and maintenance of all traffic  
 21 control devices involved in these agreements required by 61-8-203.

22

(2) The department and a local governing body or a tribal government may enter into a mutually  
 23 beneficial agreement to exchange the maintenance duties on portions of any roads or public highways  
 24 within their respective jurisdictions. The entire cost of maintenance must be borne by the entity performing  
 25 the maintenance.

26

(3) As used in this section, "tribal government" means a federally recognized Indian tribe located  
 27 within the boundaries of the state of Montana."

28

29

NEW SECTION. Section 2. Notification to tribal governments. The secretary of state shall send  
 30 a copy of [this act] to each tribal government located on the seven Montana reservations.

-END-

## 1 HOUSE BILL NO. 362

2 INTRODUCED BY ANDERSON

3 BY REQUEST OF THE HOUSE COMMITTEE ON TRANSPORTATION

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF TRANSPORTATION AND A  
6 LOCAL GOVERNING BODY OR A TRIBAL GOVERNMENT TO EXCHANGE MAINTENANCE  
7 RESPONSIBILITIES ON ROADS AND PUBLIC HIGHWAYS ~~WITHIN THEIR RESPECTIVE JURISDICTIONS;~~  
8 PLACING ADDITIONAL CONDITIONS ON AGREEMENTS WITH TRIBAL GOVERNMENTS; AND AMENDING  
9 SECTION 60-2-204, MCA."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12  
13 Section 1. Section 60-2-204, MCA, is amended to read:

14 "60-2-204. Maintenance agreements with local or tribal governments. (1) Except as provided in  
15 subsection (2), the ~~The~~ department may enter into an agreement with a local governing body to maintain  
16 portions of public highways within its boundaries upon terms and conditions as may be agreed upon,  
17 provided that, in the case of highways in the state maintenance system as referred to in 60-2-128 and  
18 60-2-203:

19 ~~(1)(a)~~ the department shall bear the entire cost of maintenance, operation, and construction work  
20 performed by the local governing body pursuant to these agreements; and

21 ~~(2)(b)~~ the department is responsible for the entire cost of placement and maintenance of all traffic  
22 control devices involved in these agreements required by 61-8-203.

23 (2) The department and a local governing body or a tribal government may enter into a mutually  
24 beneficial agreement to exchange the maintenance duties on portions of any roads or public highways  
25 within their respective jurisdictions. The entire cost of maintenance must be borne by the entity performing  
26 the maintenance. AGREEMENTS WITH TRIBAL GOVERNMENTS TO EXCHANGE MAINTENANCE DUTIES  
27 ON PORTIONS OF ROADS OR PUBLIC HIGHWAYS MUST CONTAIN, IN ADDITION TO OTHER  
28 APPROPRIATE TERMS AND CONDITIONS, THE FOLLOWING CONDITIONS:

29 (A) A REQUIREMENT THAT IN THE EVENT A DISPUTE ARISES UNDER THE AGREEMENT, STATE  
30 LAW WILL GOVERN AS TO THE INTERPRETATION AND PERFORMANCE OF THE AGREEMENT AND THAT

1 ANY JUDICIAL PROCEEDING CONCERNING THE TERMS OF THE AGREEMENT MUST BE BROUGHT IN THE  
2 DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF MONTANA;

3 (B) AN EXPRESS WAIVER OF SOVEREIGN IMMUNITY SIGNED BY THE TRIBAL GOVERNMENT;

4 AND

5 (C) AN EXPRESS WAIVER OF ANY RIGHT TO EXHAUST TRIBAL REMEDIES SIGNED BY THE  
6 TRIBAL GOVERNMENT.

7 (3) As used in this section, "tribal government" means a federally recognized Indian tribe located  
8 within the boundaries of the state of Montana.

9 (4) THE AGREEMENTS AUTHORIZED IN THIS SECTION MUST COMPLY WITH TITLE 7, CHAPTER  
10 11, PART 1, THE INTERLOCAL COOPERATION ACT, OR WITH TITLE 18, CHAPTER 11, THE  
11 STATE-TRIBAL COOPERATIVE AGREEMENTS ACT."

12

13 NEW SECTION. Section 2. Notification to tribal governments. The secretary of state shall send  
14 a copy of [this act] to each tribal government located on the seven Montana reservations.

15

-END-