

## 1 HOUSE BILL NO. 787

2 INTRODUCED BY MAEDJE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN OPEN ROADS PROGRAM TO PROVIDE FOR  
5 REPAIR, MAINTENANCE, AND IMPROVEMENT OF ROADS ON FEDERALLY OWNED LAND; CREATING  
6 A COMMISSION TO ADMINISTER THE PROGRAM; CREATING AN OPEN ROADS ACCOUNT; PROVIDING  
7 FOR THE SALE OF DECALS BY FISH, WILDLIFE, AND PARKS LICENSE AGENTS ~~AND A VOLUNTARY~~  
8 ~~OPEN ROADS INCOME TAX CHECKOFF TO FUND THE PROGRAM~~; AND AMENDING SECTIONS 87-2-901  
9 AND 87-2-903, MCA."

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

12  
13 NEW SECTION. **Section 1. Open roads program -- commission -- use of funds.** (1) There is an  
14 open roads program designed to assist in the repair, maintenance, and improvement of roads on federally  
15 owned land within the state. The primary purpose of the program is to enable roads, which would otherwise be  
16 closed to public use because of lack of repair, maintenance, and improvement, to be kept open for public use.

17 (2) (a) There is an open roads commission. The commission shall administer the open roads program.

18 (b) The commission consists of nine members appointed as follows:

19 (i) four members of the public who live in legislative house districts that contain federally owned land,  
20 one appointed by the speaker of the house, one appointed by the house minority leader, one appointed by the  
21 president of the senate, and one appointed by the senate minority leader; and

22 (ii) five members appointed by the governor as follows:

23 (A) one member from a list of three nominees submitted by the Montana association of counties;

24 (B) two members from a list of four nominees submitted by the Montanans for multiple use;

25 (C) one member from a list of three nominees submitted by the Montana trail riders' association; and

26 (D) one member who is employed in, or has extensive professional experience in, road engineering or  
27 road maintenance.

28 (c) The governor shall appoint from the list of nominees that is submitted by each group under  
29 subsections (2)(b)(ii)(A) through (2)(b)(ii)(C) and shall make the appointment within 30 days after the list is  
30 submitted. If an appointment is not made within 30 days, the first person named on the list shall serve on the

1 commission.

2 (d) The commission is allocated to the department of transportation for administrative purposes only,  
3 as provided in 2-15-121.

4 (e) Members of the commission may not receive a salary for service on the commission but must be  
5 reimbursed for expenses, as provided in 2-18-501 through 2-18-503, while actually engaged in the discharge  
6 of official duties. Members shall serve terms concurrent with the person who appointed the member, as provided  
7 in this subsection (2).

8 (f) The commission shall elect a presiding officer from among its members and establish procedures  
9 for the conduct of its affairs, including procedures to accomplish the purpose of keeping roads on federally  
10 owned land open to the public that would otherwise be closed for lack of maintenance.

11 (g) A vacancy on the commission must be filled in the same manner as the original appointment and  
12 in a timely manner.

13 (3) (a) A county commissioner in whose district there exists federally owned land may apply to the  
14 commission for funds from the open roads account established in [section 2]. The commission may provide  
15 funds from the account if:

16 (i) there is federally owned land within the county and there are existing roads on the forest land,  
17 regardless of whether the roads are open for public use; and

18 (ii) the county or a county commissioner has a written memorandum of understanding or other similar  
19 arrangement with the federal agency that manages the federally owned land that provides for the county, either  
20 by county employees or under contract by the county, to repair, maintain, or improve roads located within the  
21 county on the federally owned land.

22 (b) If the commission approves a request for funds, the funds must be provided to the board of county  
23 commissioners and must be distributed among the county commissioner districts that have federally owned land  
24 within the districts based upon the miles of gravel and dirt roads in each individual county district located within  
25 the county on federally owned land. The funds must be used for repair, maintenance, or improvement of roads  
26 on federally owned land. The repair, maintenance, or improvement may be done by county employees or under  
27 a contract lawfully entered into by the board.

28 (4) For purposes of [sections 1 through 3], "federally owned land" means land within the state:

29 (a) that belongs to the United States and is managed by the federal bureau of land management or by  
30 the United States forest service; and

1 (b) upon which there are existing bureau of land management or forest service roads, regardless of  
2 whether or not those roads are open for public use.

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4 **NEW SECTION. Section 2. Open roads account -- use of funds.** (1) There is an account in the state  
5 special revenue fund to the credit of the department for repair, maintenance, and improvement of roads on  
6 federally owned land.

7 (2) Money from the sale of open roads decals provided for in [section 3], ~~from the tax checkoff provided~~  
8 ~~for in [section 4]~~, and from voluntary donations must be deposited into the account.

9 (3) (a) Except as provided in subsection (3)(b), money in the account may be used only for the repair,  
10 maintenance, or improvement of roads on federally owned land as provided for in [section 1].

11 (b) The department may retain up to 3% of the money received into the account in each fiscal year for  
12 costs of administering the open roads program.

13  
14 **NEW SECTION. Section 3. Sale of open roads decals -- disposition of funds.** (1) Each license  
15 agent appointed under 87-2-901 by the department of fish, wildlife, and parks shall make open roads decals  
16 available for purchase. The decals must be prepared and furnished by the department of transportation. The  
17 decals must be of a style and design prescribed by the department of transportation and indicate that the  
18 purchaser is a supporter of open roads. The decals must be at least 2 x 4 inches rectangular or 4 inches round.  
19 The decals must be available for purchase for \$5, \$25, or \$100. Each license agent shall make available a small  
20 brochure or pamphlet prepared and furnished by the department of transportation that explains the open roads  
21 program provided for in [section 1] and how the funds generated by the sale of open roads decals must be used.  
22 The brochure or pamphlet must include a provision explaining how a person may make voluntary donations to  
23 the open roads program without buying a decal or making a tax checkoff.

24 (2) At the time of the sale of a license or permit under Title 87, each license agent shall ask the person  
25 buying a license or permit if the person would like to purchase a decal to help fund the open roads program.

26 (3) Money from the sale of open roads decals must be deposited in the open roads account provided  
27 for in [section 2].

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29 ~~**NEW SECTION. Section 4. Voluntary checkoff for open roads.**~~ (1) Each individual taxpayer who  
30 ~~is required to file an income tax return under Title 15, chapter 30, may contribute to the funding of repair,~~

1 maintenance, and improvement of roads on federally owned land in Montana by marking the appropriate box  
2 on the state income tax return:

3 ~~———(2) The department shall include on each Montana state individual income tax return form a clear and~~  
4 ~~conspicuous provision by which the taxpayer may indicate a contribution to the open roads program. The~~  
5 ~~provision must be in substantially the following form:~~

6 ~~———Montana open roads funding. Check the appropriate blank if you wish to contribute, in addition to your~~  
7 ~~existing tax liability, \_\_\_\$5 or \_\_\_(specify an amount) to fund the open roads program in Montana. If a joint~~  
8 ~~return, check the appropriate blank if your spouse wishes to contribute, in addition to your existing tax liability,~~  
9 ~~\_\_\_\$5 or \_\_\_(specify an amount) for the same purpose.~~

10 ~~———(3) Money received under this section, after the department has deducted the administrative charge~~  
11 ~~provided for in 15-30-153, must be deposited in the open roads account established in [section 2].~~

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13 **Section 4.** Section 87-2-901, MCA, is amended to read:

14 **"87-2-901. Appointment of license agents.** The director may appoint license agents as needed to sell  
15 state hunting and fishing licenses and any permits or certificates prescribed by the department, according to  
16 rules adopted by the department, and open roads decals, as provided in [section 3]."

17

18 **Section 5.** Section 87-2-903, MCA, is amended to read:

19 **"87-2-903. Compensation, fees, and duties of agents -- penalty for late submission of license**  
20 **money.** (1) License agents, except salaried employees of the department, must receive for all services rendered  
21 a commission of 50 cents for each transaction.

22 (2) Each license agent shall submit to the department the money received from the sale of licenses and  
23 open roads decals, less the appropriate commission. The department shall transfer the money received from  
24 the sale of open roads decals to the open roads account provided for in [section 2].

25 (3) Each license agent shall submit to the department copies of each license sold.

26 (4) The department may charge license agents appointed after March 1, 1998, an electronic license  
27 system installation fee not to exceed actual costs.

28 (5) The department may designate classes of license agents and may establish a deadline for  
29 submission of license money by each class of agent. Each license agent shall keep the license account open  
30 at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

