



State-Tribal Relations Interim Committee

66th Montana Legislature

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August 21, 2020

TO: State-Tribal Relations Committee Members
FROM: Toni Henneman, LSD Research Analyst

RE: Maintenance of county roads within reservation boundaries

State-Tribal Relations Committee Members:

At its June 24th meeting, the committee requested information regarding the funding of county road departments in counties with land within reservation boundaries. Specifically, the committee requested data illustrating the amount a county spends to maintain roads under county jurisdiction that are not on tribal lands compared to those county roads, if any, a county maintains that lie within reservation boundaries.

The answer to the question regarding road maintenance funding is complicated for two reasons:

1. Counties fund their road departments as one unit and spend annually according to need. Counties can provide a total road budget but do not break down spending into individual road miles or road sections, making the calculation of how much a county spends on individual roads within reservation boundaries difficult to calculate.
2. The number and type of road miles in the 16 counties with reservation lands vary widely. Most counties reported that the roads in question are gravel and often primitive, requiring a variety of maintenance levels which also vary year-to-year based on weather patterns and other environmental factors.

County Road Budgets

To further illustrate how a county funds road maintenance, below is an overview of Yellowstone County's road department revenues.

Current Yellowstone County Dedicated Revenues for Road Maintenance:

Real Property Tax	\$6,514,466.00
Personal Property Tax	\$75,000.00
Mobile Home Tax	\$28,000.00
Gas Tax including HB 473	\$435,000.00
State Entitlement	\$2,416,357.00
Total	\$9,935,862.00

Yellowstone County uses its road fund to maintain all roads under county jurisdiction including a few roads within the boundaries of the Crow Reservation. Like many counties, the roads within reservation boundaries under county jurisdiction are maintained using county funds, and Yellowstone County does not have a cooperative agreement with or receive any reimbursement from the Crow Tribe.

Other counties reported similar funding structures, with many counties also utilizing additional Payment in Lieu of Tax (PILT) funds to maintain a fully functional roads budget. Once a county sets a roads budget, the expenditures from the roads account often vary year to year. Most roads are maintained on a regular schedule, especially gravel roads which are often graded in a similar order each year unless an unforeseen weather event or other environmental factor creates a need for improvements such as the replacement of culverts or other drainage measures.

Since the actual maintenance requirements of each road mile can vary from year to year, counties are unable to supply a "snapshot" of how much of their road budget is spent on specific areas, regardless of whether a road lies inside or outside reservation boundaries.

Individual Examples of Maintenance and Projects

Some counties reported larger, county-funded improvement projects that have occurred on county roads within reservation boundaries. Yellowstone County maintains a 7-mile length of paved roadway wholly within reservation boundaries the county says was in need of leveling and repaving. The county began the job in 2011, tackling roughly two miles a year for three years. The total cost of the project to the county was approximately \$2 million.

Big Horn County stated that roughly 23 out of 30 miles of paved roadway within reservation boundaries are under county jurisdiction, and that the county budgets regular resealing and patching on these roads. The county is currently receiving additional funding through the Federal Lands Access Program to fully resurface 5.4 miles of paved road and has many miles of gravel to maintain as well.

Lake County reported multiple large culvert replacement projects on county roads within the Flathead Reservation. To complete these projects, the county often supplied equipment and materials and both the county and tribe supplied personnel and gravel resources.

Sanders County reported that most of their county roads are graveled, and that the most common improvement project is also replacing culverts. Culverts are replaced as they deteriorate or become inoperable, so determining a regular maintenance schedule of culverts is not possible.

Roosevelt County reported that much of the county is a "checker-board" of fee and trust land, which creates another layer of complexity. The county and the tribe both have jurisdiction over their own roadways, but the funding structure of each often changes based on the type of land a roadway runs through. Roosevelt County commissioners also stated that the percentage of fee and trust lands continues to change due to the Land Buy-Back Program for Tribal Nations established in 2012 as part of the *Cobell v Salazar* Settlement Agreement. This example is given solely to illustrate that the landscape of road funding is far from static in many areas, and both counties and tribes have experienced varying degrees of change over the past decade.

All entities contacted, both county and tribal, reported that snow plowing is done on a regular schedule, with main arterial roadways such as school bus routes given priority. Counties and tribes also stated that when possible, communication between entities was encouraged and "hand-shake" agreements are common.

Relationships & Road Maintenance

Relationships between government entities is another factor to consider when determining the success of road maintenance. Each of Montana's tribes with reservation lands have at least two counties with which to build and maintain relationships. The following map illustrates the multiple entities involved in road

maintenance at the county and tribal level.



Figure 1 sourced from the Governor's Office of Indian Affairs website.

In total, 16 counties have lands within reservation boundaries. Each county has its own road department, organizational structure, and leadership, with who, in addition to the state road department, each tribe must develop and maintain effective working relationships. After speaking with county and tribal representatives across the state, it is fair to say that the level of success of those working relationships varies widely.

Developing an overall picture of county and tribal road maintenance is difficult since much depends on individual county and tribal governments, the demands of different types of roadways (gravel vs. paved), and lastly, the unpredictable nature of the weather and landscape of Montana.