

June 24, 2020

State-Tribal Relations Committee
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FORT BELKNAP HIGHWAY FUNDING

Documents provided by John Healy, director of the Fort Belknap Indian Community Transportation-Transit Department, show that going back to the early 1990s, there's been interest in whether the portion of fuel tax monies distributed to Blaine and Phillips Counties for road miles within the boundaries of the Fort Belknap Reservation could instead be transferred to the Fort Belknap Indian Community for construction, reconstruction, maintenance, and repair of rural roads. In 2003, the tribal government estimated that could amount to \$28,000 from Blaine County and \$4,754 from Phillips County, annually.

Distributions to the counties are made pursuant to 15-70-101, MCA, and generally are based on a formula that accounts for the rural road mileage in each county, the county population outside of incorporated cities and towns, and the county's land base.

An internal Montana Department of Transportation (MDT) memo dated June 24, 1994, said the agency received a letter from the Blaine County Commissioners indicating their desire to "give up future monies received as gas tax funds on reservation roads." However, it appears the county didn't believe it could transfer the money to the tribal government without a change in legislation, and the state must be convinced to transfer the money to the tribes directly.

In the memo, an MDT attorney disagreed that the state could transfer the money to the tribes because 15-70-101, MCA, requires the money to be paid to the counties unlike other fuel tax revenues that statute allows to be distributed directly to tribes via cooperative agreement with the state. MDT asserted that it was up to Blaine County to decide how to spend its portion of the money in relation to roads within reservation boundaries.

Another MDT memo dated January 23, 1995, says Blaine County took the position that it cannot enter into an agreement to disburse funds to the Fort Belknap tribal government absent new legislation authorizing the transfer. Again, MDT disagreed, saying it didn't believe there is any constitutional or statutory prohibition precluding the county from entering into an agreement with the tribe as authorized by the State-Tribal Cooperative Agreements Act (Title 18, chapter 11, part 1). The Act allows public agencies, including counties, to enter into agreements with tribal governments to "perform any administrative service, activity, or undertaking that a public agency or a tribal government entering into the contract is authorized by law to perform."

The Fort Belknap Indian Community Council wishes to discuss the issue with the State-Tribal Relations Committee during the joint meeting on June 24, 2020.