

SPECIAL ROAD FUND STUDY - BACKGROUND MEMORANDUM

House Concurrent Resolution No. 3032 (2011) (attached as an [appendix](#)) directs the Legislative Management to study the needs of, economic values of, and methods to improve access roadways to recreational, tourist, and historical sites in North Dakota. Presently, access roads are funded through the special road fund. The resolution recognizes that funding through the special road fund is inadequate to meet the needs of access roadways, and many of these roadways are in a significant state of disrepair or are in need of improvement. The resolution states that county and township funding is inadequate to meet the needs of access roadways. The resolution stresses that access roadways represent a value and provide an opportunity to increase income to local and state economies by increasing demand to visit the sites to which access roadways connect. The resolution recognizes that each access roadway varies in the condition, use, need, and value, and the appropriate manner in which to address the need of the access roadway depends on the facts surrounding each roadway. The resolution requires the study to focus on designated or named public or privately developed recreation areas, potential funding requirements through the special road fund or other appropriate funding method for the identified access roadway improvements, and the ability of the local governmental entities to operate and maintain these improvements when completed. In short, the study is of the funding of roads and road maintenance for roads that access tourist destinations, especially recreational areas.

LEGISLATIVE HISTORY

The minutes and testimony for House Concurrent Resolution No. 3032 reveal:

- Many of the proponents for the study have interests in and around Lake Sakakawea or Lake Oahe.
- The goal of proponents of the study is to expand the special road fund, perhaps by identifying new sources of revenues.
- Funding is inadequate to meet current and future needs.
- Roads through the Army Corps of Engineers' property create special needs for funding.
- The study should identify needs, prioritize the needs, and fund the prioritized needs. The first step of the study should be to identify and prioritize access roadways based on needs and values of the site connected with the roadway. Next, determine the reasonable level of access before the existing and projected use and needs of each site. Finally, determine if the improvement significantly increases the use of the site and justifies the investment.

In short, the study is of money and priorities based on a cost and benefit analysis.

There has not been any recent study or legislation, besides the 2009 legislation mentioned later in the **STATUTORY HISTORY** section of this memorandum, directly affecting the special road fund. Tangentially related, there are bills from time to time that ask for an appropriation for a particular road, and sometimes these roads would qualify for special road funding. As a general rule, these bills do not pass. For example, 2011 Senate Bill No. 2200 requested a \$2.1 million appropriation for the Cattail Bay road improvement project. This bill failed to pass the Senate. Also, tangentially related is a report from the Parks and Recreation Department to the Legislative Management's interim Natural Resources Committee during the 2009-10 interim on the mandated study of linking and improving public sites along the Sibley and Sully Historic Trails. Although the study had more to do with the purchase of battle site property, access to these battle sites through roads would be necessary.

STATUTORY HISTORY

The special road fund and related committee were originally created by the Legislative Assembly in 1989. Under the original legislation, the fund was created with 100 percent of the interest earned on the highway fund. The related committee was the Special Road Advisory Committee. As such, the highway commissioner, now named the director of the Department of Transportation, had sole discretion regarding funding projects.

In 1997 the Legislative Assembly provided that beginning July 1, 1997, the interest income earned on the highway fund would be retained in the highway fund and that after June 30, 1999, the statutory provisions relating to the special road fund and Special Road Advisory Committee would be repealed. However, in 1999 the Legislative Assembly reestablished the committee and the fund. The committee was no longer advisory and was named the Special Road Committee. The percentage of interest from the state highway fund to be placed in the special road fund was set at 40 percent. The Legislative Assembly amended the provisions relating to the special road fund in 2009 House Bill No. 1514. This bill made two major changes. The bill increased the percentage of income derived from the interest on the state highway fund from 40 percent to 80 percent. The bill allowed for holdover authority for unobligated funds for two bienniums. Previously, any money not obligated by the end of the biennium was required to revert to the state highway fund.

Pursuant to North Dakota Century Code Section 24-02-37.2, the Special Road Committee consists of a member of the Senate (currently Senator Gary A. Lee) and a member of the House (currently Representative

Dan Ruby)--appointed by the chairman of the Legislative Management, the director of the Game and Fish Department, the director of the Parks and Recreation Department, and the director of the Department of Transportation who is chairman. The Special Road Committee may use the money in the fund, within the limits of legislative appropriations, for constructing and maintaining access roads to, and roads within, recreational, tourist, and historical areas. The committee may require a political subdivision or state agency receiving funds for a project to contribute to the cost of the project. Any obligated money in the fund at the end of each biennium must be held for an additional two years after which the funds revert to the highway fund.

DEPARTMENT OF TRANSPORTATION GUIDELINES

In addition to the statutory provisions, the Department of Transportation has promulgated special road fund project guidelines. These guidelines provide that the participation by the department is limited to 60 percent of the construction cost, except within state-owned recreational, tourist, and historical areas, up to 100 percent of the construction costs may be available at the discretion of the Special Road Committee. The maximum financial participation is limited to \$250,000. The participant is responsible for all engineering costs, acquisition of right of way, and 40 percent of the construction costs, except for up to 100 percent if state-owned. The routine maintenance of the improvement is the responsibility of the participant. The participant is a city or county government or state agency. Projects are selected on a competitive basis. The application requires the following information:

1. Description of the project and why the improvement is needed.

2. Estimate of the traffic volume.
3. Type of improvement that is planned.
4. Estimate of cost.
5. Who is providing the local match.
6. Map showing the location of the project.

One additional requirement in the past was, depending upon the proposed project's location, the application must be sponsored by either a county, a city with a population of more than 5,000, or a state agency.

FUND ADMINISTRATION

The special road fund program is a yearly program. The following is a general timeline of the program:

- September - Solicitation of applications begin.
- Mid-December - Applications are due.
- March or April - The Special Road Committee meets and selects projects.
- April - Applicants are notified of the results.

The amount funded for the year is determined by projections as to interest for that year. The amount is based on a projection of the income derived from the special road fund, of which 80 percent is used by the fund. For example, 80 percent of the highway fund's interest income is projected to be \$15,000 per month for 2011. This is based on an interest rate of 2 percent. The amount available in the fund before 2011 interest income is \$154,956.69. The total amount that is available for award in 2011 is \$334,956.69.

Because of the low interest rate, projects were not awarded from 2004 to 2006. The funds earned in those years were used to fund previously awarded projects and to build a balance of funds for future awards. In 2007 awarding of funds from the special road fund recommenced. The following is information on awards to entities for projects. The first table is of all projects funded since the re-inception of the special road fund in 1999:

Entity	Project	Year Awarded	Amount Awarded	Amount Reimbursed	Amount To Be Reimbursed	Projects Withdrawn	Project Status
Barnes County and Barnes County Park District	Clausen Springs - Access road 2.5 miles asphalt patching seven chip seal	2000	\$14,400	\$14,400.00			Complete
Dunn County	Mel's Marina - Access road	2000	76,200	58,029.43			Complete
Emmons County	Lawrence Welk birthplace - Access road 2.5 miles grading and gravel	2000	77,000	67,771.50			Complete
Grafton	Heritage Village - Access road	2000	6,900	6,900.00			Complete
LaMoure County	Lake LaMoure recreation area - Asphalt surfacing	2000	45,500	45,500.00			Complete
McIntosh County	Doyle Memorial State Park and Lake Hoskins - 6.8 miles seal coat	2000	33,900	33,542.53			Complete
McLean County/ Lewis and Clark Fort Mandan Foundation	Fort Mandan - Access road reconstruction	2000	7,500	7,500.00			Complete
Mountrail County	White Earth Bay - Access road grading	2000	43,700			\$43,700.00	

Entity	Project	Year Awarded	Amount Awarded	Amount Reimbursed	Amount To Be Reimbursed	Projects Withdrawn	Project Status
Stutsman County	Jamestown Reservoir and Pipestem Lake - Access roads	2000	32,300	27,609.46			Complete
Barnes County - Valley City	Public golf course - Access road from the Kathryn Road interchange	2001	78,900	77,090.76			Complete
Dunn County	Mel's Marina - Access road	2001	100,000	90,614.92			Complete
Foster County	Tri-county recreation project in Carrington - Access road	2001	30,000	28,008.26			Complete
McIntosh County	Dry Lake and Coldwater Lake - Access roads	2001	28,000	8,405.40			Complete
Parks and Recreation Department	Turtle River State Park - Bridge on access road	2001	200,000	200,000.00			Complete
Ward County	County Road 22 - Access road to Nelson Lake and Carlson Lake	2001	60,000			60,000.00	
Williams County	Trenton Indian Service Area - Access road to Trenton Lake	2001	60,000	60,000.00			Complete
Williams County	Little Beaver Bay - Access road to new boat ramp	2001	82,000	82,000.00			Complete
Williams County	Williston frontage road to museum, park, campground, and golf course	2001	45,000	36,264.86			Complete
Emmons County	Langeliers Bay Road - Asphalt surfacing	2002	95,700	95,700.00			Complete
LaMoure County	LaMoure County Memorial Park	2002	17,300	7,105.79			Complete
McKenzie County	Tobacco Garden Bay recreation area	2002	39,900	39,900.00			Complete
McLean County/ Game and Fish Department	Lake Audubon Wildlife Management Area	2002	60,000	60,000.00			Complete
Mercer County/State Historical Society	Fort Clark Historic Site - Access road	2002	75,000	66,197.39			Complete
Ward County	Old Settlers Park	2002	21,000	15,049.31			Complete
Williams County	Spring Lake Park - Park road repair	2002	20,400	9,871.00			Complete
Bottineau County	Butte St. Paul - Access road reshaping and gravel	2003	16,800	15,053.56			Complete
Burleigh County	Double Ditch recreation area - Access road paving	2003	15,000	15,000.00			Complete
Foster County	Lake Juanita Park - Access road paving	2003	21,000	21,000.00			Complete
Hettinger County/ Game and Fish Department	Indian Creek Wildlife Management Area - Access road	2003	30,000	30,000.00			Complete
LaMoure County	Lake LaMoure recreation area - Seal coat	2003	7,800	7,800.00			Complete
Ransom County	Sheyenne River National Scenic Byway - Asphalt pullouts	2003	13,500	12,510.06			Complete
Ransom County	Fort Ransom - Community park access road	2003	24,000			24,000.00	
Stark County	Enchanted Highway - Geese in flight access road	2003	6,000	6,000.00			Complete
Bottineau County	Mystical Horizons - Access road paving	2007	47,000	30,061.77			Complete
Bowman County	Bowman-Haley Dam - Access road gravel and chip seal	2007	22,000	22,000.00			Complete
Grafton	Leistikow Park - Asphalt overlay of park road	2007	28,000	28,000.00			Complete
International Peace Garden	Parking lots seal coat	2007	30,000	72,343.40			Complete

Entity	Project	Year Awarded	Amount Awarded	Amount Reimbursed	Amount To Be Reimbursed	Projects Withdrawn	Project Status
LaMoure County	Lake LaMoure - Access roads	2007	111,513	52,255.68			Complete
Mercer County	Hazen Bay - Walleye Road reconstruction	2007	138,000	138,000.00			Complete
Mountrail County	Van Hook - Access road paving	2007	195,000	195,000.00			Complete
Parks and Recreation Department	Beaver Lake State Park - Access road seal coat	2007	67,221	57,653.23			Complete
Parks and Recreation Department	Lake Sakakawea State Park - Access road seal coat	2007	200,000	179,370.50			Complete
Ransom County	Dead Colt Creek recreation area - Paving roads	2007	107,580	107,580.00			Complete
Rolette County	Lake Upsilon - Access road reconstruction	2007	250,000	250,000.00			Complete
Williams County	Little Beaver Bay - Access road from ND 1804 Phase 1 reconstruction	2007	136,000	136,000.00			
Bottineau County	Mystical Horizons - Seal coat of access road	2008	13,616	8,915.84			Complete
Bowman County	Gascoyne Lake - Reshape and gravel access road	2008	7,200	5,043.45			Complete
Dunn County	McKenzie Bay - Regrade access road	2008	182,141	182,141.00			Complete
Fargo	Red River Zoo - Access road reconstruction	2008	70,000			70,000.00	
Harvey	Schroeder Park - Resurfacing of park road	2008	134,700			134,700.00	
Parks and Recreation Department	Grahams Island State Park - Seal coat of park roads	2008	117,000	117,000.00			Complete
Renville County	Mouse River Park - Pave access road from ND 5	2008	250,000	197,291.90	10,000.00		
Stutsman County	Jamestown Reservoir and Pipestem Lake - Access roads overlay and seal coat	2008	250,000	192,690.53			
Williams County	Little Beaver Bay - Access road from ND 1804 Phase 2 reconstruction	2008	93,000		93,000.00		
Grand Forks County	Larimore Dam - Asphalt overlay of park road	2009	120,000	120,000.00			Complete
Langdon	15 th Avenue - Reconstruction of road to recreation area	2009	250,000		250,000.00		
Williams County	Williston Railroad Park - Road construction	2009	185,000	177,801.02	8,634.86		
Emmons County	Cattail Bay - Access road reconstruction	2010 and 2011	200,000		200,000.00		
Kidder County	Lake Isabel Park - Access road gravel	2010	11,850	7,229.96			
McIntosh County	Doyle Memorial State Park - Overlay access road	2010	170,550		170,550.00		
Dunn County	McKenzie Bay - Seal coat of access road	2011	50,000		50,000.00		
LaMoure County	Lake LaMoure - Seal coat of access road	2011	8,610		8,610.00		
Mercer County	Beulah Bay - Asphalt overlay of bay area roads	2011	200,000		200,000.00		
Total			\$5,130,681	\$3,521,202.51	\$990,794.86	\$332,400.00	
Special road fund balance as of June 30, 2011			\$921,196.04				
Less amount to be reimbursed			(990,794.86)				
Projected earnings through December 31, 2011 (estimated at \$15,000 per month)			90,000				
Amount available for award			\$20,401.18				

In addition, the following is the scoring of the projects for 2010-11 and the amount requested and awarded. The projects that were not awarded funds and scores are also included.

Special Road Fund - Year 2011-12 Projects								
Project	Game and Fish Department	Parks and Recreation Department	Senate	House	Department of Transportation	Total	Requested ¹	Awarded
Beulah Bay - Asphalt overlay of bay area roads	8	6	9	9	10	42	\$250,000	\$200,000
Lake LaMoure - Seal coat of access road	6	10	7	10	7	40	8,610	8,610
Cattail Bay - Grading, graveling, and paving access road from ND 1804	9	6	8	4	8	35	150,000	100,000
McKenzie Bay Marina - Seal coat of access road	10	8	0	8	9	35	77,245	50,000
Harmon Lake - Paving access road	6	1	10	3	5	25	250,000	
Missouri-Yellowstone Confluence - Access roads hot bituminous overlay	6	7	1	5	6	25	150,000	
Lake Metigoshe - Seal coat of some lake area roads	3	3	5	7	3	21	68,400	
Dunn Center to Little Missouri Bay - Access road asphalt overlay	4	4	3	6	2	19	250,000	
Roosevelt Park - Repair of park roadways	2	2	6	1	4	15	83,593	
Minnewaukan - Access road to school and athletic fields	1	8	2	0	1	12	219,000	
Lavergne Avenue - Access road to school and athletic fields	0	0	4	2	0	6	73,410	
Total	55	55	55	55	55	275	\$1,580,258	\$358,610

¹The maximum award per project is \$250,000.

The following is a list by year of projects not funded:

2007-08	
Entity	Project
Grand Forks	Lincoln Park - Lincoln Drive Loop road - Asphalt overlay
Valley City	Rosebud Interpretive Center - Parking lot asphalt overlay
Williams County	Lund's Landing - Access road and parking lots asphalt overlay
Minot	Park district - Baseball complex/regional park - New construction - Seventh Avenue SW - Five parking lots and one turnaround

2008-09	
Entity	Project
Grand Forks County	Larimore Dam - Asphalt overlay of park roads
Washburn	Riverside Park - Paving of park roads
Mercer County	Mercer County - Hazen Bay
Williston	Railroad Park

2009-10	
Entity	Project
Williams County	Paradise Point - Paving of access road to golf course
Grafton	Lavergne Avenue - Construction of access road to recreational facilities and high school

2010-11	
Entity	Project
Kidder County	Lake Isabel access road - Reshape and gravel
Emmons County	Cattail Bay - Reconstruction and paving of access road
McIntosh County	Doyle Memorial State Park - Asphalt overlay
Parks and Recreation Department	Turtle River State Park - Asphalt overlay on entrance road and seal coat
Barnes County	Sibley - Repair asphalt roadway and seal coat
Bottineau County	Lake Metigoshe - Seal coat of access roads to cabin sites
Mountrail County	Parshall Bay road - Microsurfacing (repair of roadway surface)
Morton County	Harmon Lake - Asphalt paving of access road
McLean County	Brush Lake Pavilion road - Microsurfacing (repair of roadway surface)
State Historical Society	Standing Rock Historic Site - Repair access road from ND 46
Williams County	Fort Buford - Asphalt overlay of access road
Grafton	Lavergne Avenue - Construction of curb and gutter street

SUGGESTED STUDY APPROACH

The suggested study approach is to follow the expectations of the proponents of the study. The committee may desire to receive testimony from these proponents to focus the study. Proponents included members from the Friends of Lake Sakakawea, resort and club owners on Lake Sakakawea, members of Voices of Lake Oahe, the publisher of *Dakota Country* magazine, and the Parks and Recreation Department with letters of support from the city of Walhalla, Valley City Visitors Bureau, and the Sheyenne River Valley National Scenic Byway Association.

The legislative history does not reveal any opponents. However, if funding is being used for access roads through unique funding, other roads are not receiving that funding or are not being considered in the prioritization. The state, cities, and townships may fund access roads if there were not a special road fund, but those access roads would compete with other roads in the prioritization process. Certain political subdivisions without access roads may not want the money spent on access roads, and certain political subdivisions with access roads may desire the funding for all roads with the local discretion to spend on access roads.

ATTACH:1

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

**HOUSE CONCURRENT RESOLUTION NO. 3032
(Representatives Weiler, Weisz, Onstad)
(Senators Freborg, Lyson, Warner)**

A concurrent resolution directing the Legislative Management to study the needs of, economic values of, and methods to improve access roadways to recreational, tourist, and historical sites in North Dakota.

WHEREAS, the income and available funding through the special road fund created under North Dakota Century Code Section 24-02-37 is inadequate to meet the local and statewide needs to improve access roadways to recreational, tourist, and historical sites; and

WHEREAS, many existing access roadways are in a significant state of disrepair and are in need of improvement—the condition typically relating to limited maintenance, inadequate base materials and surfacing, narrow widths, and noncompliance with safety standards; and

WHEREAS, county and township funding is inadequate and severely stressed due to other priority projects and needs, limiting local governments' ability to make the necessary investment to improve these access roadways; and

WHEREAS, access roadways to recreational, tourist, and historical sites represent a local and statewide value, as well as a substantial opportunity, as improvements will lead to increased use resulting in added value and income to the local and state economies; and

WHEREAS, the projected population increases in this state, related to the expanding energy industry and overall economic growth, will result in an increasing demand for recreational opportunities; and

WHEREAS, the condition, use, need, and value of each access roadway varies; therefore, alternatives related to roadway surfacing, construction methodologies, and lifecycle costs should be evaluated to determine which are most applicable to the various locations;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the needs of, economic values of, and methods to improve access roadways to recreational, tourist, and historical sites in North Dakota; and

BE IT FURTHER RESOLVED, that this study focus on designated or named public or privately developed recreational areas, potential funding requirements through the special road fund or other appropriate funding method for the identified access roadway improvements, and the ability of the local governmental entities to operate and maintain these improvements when completed; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-third Legislative Assembly.