

FEDERAL FLOOD CONTROL MINERAL LEASE REVENUE ALLOCATION

Federal construction of the Garrison Dam and the resulting creation of Lake Sakakawea required the federal government to acquire rights to thousands of acres of land presently lying along and under Lake Sakakawea. Recent rapid development of oil exploration, drilling, and production in the area and the feasibility of horizontal drilling beneath the lake have made leasing of the mineral rights to those lands from the federal government desirable and valuable. The federal government has leased mineral rights on those lands and collected substantial lease and bonus revenues.

Federal law, contained in 33 U.S.C. 701c-3 ([Appendix A](#)) provides that 75 percent of revenue collected during a fiscal year from leasing of lands acquired by the United States for flood control is to be paid out at the end of the year to the state in which the property is situated. The amount received by the state is to be expended as the state legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is located, or for any of the expenses of county government. It is significant to note that the language of the federal provision includes bonuses, royalties, and rentals paid to the United States from a mineral lease.

North Dakota has provided for an allocation of flood control revenues by enactment of North Dakota Century Code Section 21-06-10 ([Appendix B](#)). The

statutory provision provides that one-half of the county allocation goes to school districts in the county, one-quarter goes to the county for road purposes, and one-quarter is to be allocated among organized townships that have lost land because of federal land acquisitions and to the county for lands not within an organized township. This allocation method has existed since 1979, so it is likely the Legislative Assembly did not anticipate the amounts of revenue currently being distributed.

Beginning in calendar year 2009, counties along the lake in areas of leasing activity began to receive very substantial payments. Attached as [Appendix C](#) is a printout from the website of the State Treasurer showing flood control payments to counties since September 2007.

Attached as [Appendix D](#) are spreadsheets showing for 2009 and 2010 how the funds received by Mountrail County are allocated within the county according to the statutory formula. During the 17 months of allocations, three townships have each received more than \$1 million, including Liberty Township, which has received more than \$4 million. For those 17 months, the Mountrail County road and bridge fund has received almost \$12.8 million and the New Town School District has received almost \$22.5 million.

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