

The following is a brief response to your questions regarding the management of federal land payments in North Dakota. The State Treasurer's website provides current (and some historical data) about allocations that pass through the State.

Forest Reserve Receipts: This revenue is paid to the State for total distribution to the counties. Although this revenue is to be used for schools and local roads, only one county (McHenry) receives revenue and the amount is so small (\$315 in FFY2016), it has been reported that they deposit it into the county general fund.

Taylor-Grazing Act Receipts: This revenue is paid to the State for total distribution based on the number of acres of Taylor Grazing Act land in each county in relation to the total number of acres of such land in the State. Although, state law (NDCC 15.1-27-24) requires the State Treasurer to distribute all of the revenue to the school districts within the county "*on the basis of average daily membership of all students residing in the county*" the funds are actually distributed to the counties and the counties then distribute all of the funds to the various school districts as required by law. Fourteen ND counties received revenue under this program in FFY16 for a statewide total of \$6,900. This section of law was moved (but unchanged) in the 2001 Session by HB1045.

Bankhead - Jones Receipts: This revenue is paid by the federal agency directly to the counties. Counties are required to use this revenue for schools and local roads – some counties dedicate the amount to local roads, others have a formula split with the schools. CY2016 receipts totaled \$22.2 million for the 9 ND counties involved, although only 4 counties received more than \$1 million. (This revenue is derived from 25% of the net revenue the federal agency receives from royalties and tenants on the land, after investments for conservation [dams, stock ponds, etc.]

PILT (Sec. 6902 "Entitlement Land") Payments: This revenue is paid by the federal agency directly to the counties. Counties are allowed to expend this revenue at their own discretion. Most place it in their general fund. The amount disbursed to each county is calculated two different ways, one of which is decreased by "prior year payments" from other public land revenues. (42 Counties received payments totaling \$1.5 million in CY2016)

Refuge Revenue Sharing Receipts: This revenue is paid by the federal agency directly to the counties. Counties however are required to further distribute all of the revenue to other political subdivisions. State Law (NDCC 11-27-09.1) requires that 25% of the revenue "*be apportioned among the townships*" and 75% "*shall be apportioned among the school districts in which the land taken is located*". As several of the counties receiving this revenue have no organized townships, they are allowed to retain the revenue to be used for road purposes within the unorganized townships containing the

federal land. (43 ND counties received \$470,000 of this revenue in FFY2016)

Mineral Royalty Payments: All of this revenue is paid directly to the State and deposited into the State General Fund. It was formerly governed by State Law (NDCC 15-40.1-13), which stated, "*Such moneys must be deemed the first moneys withdrawn or expended from the general fund for state school aid purposes*". This was amended by SB2202 in 1999 to gradually shift a portion of the funds to counties. 50% of the total revenue was distributed to counties in 2004 and that percentage has thereafter remained fixed. In CY2016, \$13.4 million was distributed to 16, primarily western, counties – although only 3 received in excess of \$1 million and about a third of the revenue accrued to McKenzie Co. A major rewrite of the education title of the century code moved the statute governing this distribution to NDCC 15.1-27-25. According to statutes, the "*counties may use any money received under this section only for the planning, construction, and maintenance of public facilities and the provision of public services.*"

Federal Flood Control Payments: Flood control revenue is paid to the State for distribution to the counties in proportion to the area of land acquired by the United States under 33 USC 701(c)(3). This statute requires 75% of the revenue "on account of the leasing of lands acquired by the U.S. for flood control...shall be paid... to the State... to be expended as the state legislature may prescribe..."

This revenue is therefore largely distributed to counties that border the major Missouri River Reservoirs. These moneys are derived from income on federal land holdings in the county. State Law (NDCC 21-6-10) controls the further distribution of this revenue. It directs that 50% go to the school districts "*which have lost land subject to taxation*" because of federal acquisition. It further directs that 25% "must be paid to the county for road purposes to be expended as the county commissioners shall determine" and the "*final quarter must be allocated among the organized townships, if any, which have lost land subject to taxation*". (With the advent of Bakken Formation oil development, these payments increased and then decreased quite dramatically – State Treasurer's website contains county level details.) In CY2016 a total of \$1.4 million was distributed to 13 counties, although Mountrail County received almost a million of that.

As you are well aware, our continued concern at the national level is that federal payments are significantly less than the property tax that would otherwise be paid on this land, and this impacts counties, schools, townships, and the State as a whole.

If I can be of additional assistance, please let me know.

Sincerely,
Terry Traynor, NDACo Assistant Director