

Office of the Attorney General
State of North Dakota

Opinion No. 82-65

Date Issued: August 20, 1982

Requested by: R. E. Lommen
State Land Commissioner

--QUESTION PRESENTED--

Whether oil and gas bonus payments from the leasing of common school trust lands received prior to the passage of Measure No. 3, but that have not yet been distributed to the school districts, should be deposited in the permanent school trust fund or distributed to the school districts.

--ATTORNEY GENERAL'S OPINION--

It is my opinion that fifty percent of the oil and gas bonus payments received prior to the passage of Measure No. 3, but not yet distributed to the school districts, should be distributed among the school districts.

--ANALYSIS--

Measure No. 3 as approved by the people of North Dakota at the primary election on June 8, 1982, amends Section 1 of Article IX of the Constitution of the State of North Dakota to provide that all bonus payments received from the leasing of minerals on common school grant lands be deposited in the permanent trust fund. Prior to the enactment of Measure No. 3, fifty percent of the bonus money was deposited in the permanent trust fund and fifty percent was distributed to the school districts. The question presented here is whether the passage of Measure No. 3 requires bonus monies received before the effective date of Measure No. 3, but not yet distributed to the school districts, to be placed in the permanent trust fund.

Two sections of the North Dakota Century Code address the disposition of oil and gas bonuses from school lands. Section 15-08-01.1, N.D.C.C., provides:

15-08-01.1. OIL AND GAS BONUS PAYMENTS--APPORTIONMENT AND DISTRIBUTION. Fifty percent of the oil and gas bonus payments on common school lands received by the board of university and school lands shall be apportioned and distributed among the common schools for their maintenance and support based upon the student population.

Section 15-44-01, N.D.C.C., states that:

15-44-01. STATE TUITION FUND--SOURCE. The net proceeds arising from all fines for violation of state laws, from leasing the school lands, and the interest and income from the state permanent school fund shall be paid into the state treasury and shall constitute the state tuition fund.

Read together, these two sections require fifty percent of the bonus money from oil and gas leasing on school lands to be deposited in the state tuition fund. The money in the state tuition fund is distributed to the school districts as provided in Section 15-44-03, N.D.C.C.

The passage of Measure No. 3 requiring all bonuses to be placed in the permanent trust fund does not affect those bonuses collected prior to the enactment of Measure No. 3. Immediately upon receipt, fifty percent of those bonus monies were required to be paid into the state tuition fund. The subsequent enactment of Measure No. 3 cannot divert those bonuses already a part of the state tuition fund, even though the bonuses had not yet been distributed to the school districts.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

Robert O. Wefald

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