

OFFICIAL OPINION NO. 71-5, Monies received and distributed under the Mineral Leasing Act.

STATE OF SOUTH DAKOTA
OFFICE OF
THE ATTORNEY GENERAL

February 11, 1971

Eldon Stoehr
Auditor General
Pierre, South Dakota 57501

OFFICIAL OPINION NO. 71-5

Monies received and distributed under the Mineral Leasing Act.

Dear Mr. Stoehr:

I have received a request for an official opinion relative to the following factual situation:

The Mineral Leasing Act of February 25, 1920, now 30 USCA 191, provides that 37 1/2 percent of sales, bonuses, royalties and rentals of public lands owned by the Federal Government be distributed to states in which such land is located. These monies are to be used by the states or subdivisions of the states for construction and maintenance of public roads or for the support of public schools or other public educational institutions as the legislature of the state may direct.

The monies received under this act have been credited to the school principal and interest fund as are monies received from mineral leases of state-owned lands. The statute specifically provides for the disposition of monies received from mineral leases of state-owned land but does not specifically provide for the distribution of monies received from mineral leases on land owned by the Federal Government.

The monies received and distributed under the Mineral Leasing Act might be subject to the provisions of SDCL 4-3-17 and 4-3-18 as are monies received under the Taylor Grazing Act.

The questions you have asked are:

1. Are monies received under the Mineral Leasing Act to be distributed according to the provisions of SDCL 4-3-17 and 4-3-18?

2. If question (1) is answered negatively, how should the funds be distributed?

In my opinion, the answer to your first question is, YES.

SDCL 4-3-17 provides:

Receipt by treasurer of federal payments for rent or in lieu of taxes.- The state treasurer is authorized and directed to receive from the federal government or any agency thereof any federal funds which may be available to any of the taxing subdivisions of this state as rentals upon or income from any lands acquired in this state by the federal government or any of its agencies, or any funds which may be paid in lieu of taxes on said land.

The above section directs the treasurer to receive the type of funds which the Mineral Leasing Act is concerned with.

SDCL 4-3-18 provides:

Remittance of federal payments to counties-Distribution to taxing subdivisions.-Upon receipt of any of the funds referred to in Sec. 4-3-17 the state treasurer shall remit the same to the county treasurer of the county wherein is situated the land on behalf of which such payment is made, and the county treasurer shall then distribute such funds to the credit of the taxing subdivision or subdivisions of the county in the same proportion as the tax upon such lands would be distributed under the laws of this state for the current year in which such payment or payments are made.

The above sections provide for the distribution of these funds as is also required by the Federal Mineral Leasing Act.

As your question No.1 is answered in the affirmative, your question No.2 is irrelevant.

Respectfully submitted,

Gordon Mydland
Attorney General