

**NATIONAL FOREST RESERVE FUNDS:** It is the opinion of this office  
**SCHOOL AND ROAD MAINTENANCE:** that the county court of any county  
**DISTRIBUTED BY COUNTY COURT:** receiving funds from the United  
 States under the National Forest  
 Reserve Act shall distribute such funds to aid in maintaining the  
 schools and roads of school districts that lie or are situated  
 partly or wholly within or adjacent to the national forest in the  
 county upon any basis which, in its discretion, the court deter-  
 mines to be proper.

Opinion No. 77

February 4, 1969



Honorable Urban C. Bergbauer, Jr.  
 Prosecuting Attorney  
 Iron County  
 Ironton, Missouri 63650

Dear Mr. Bergbauer:

This office is in receipt of your request for a legal opinion in regard to the distribution of National Forest Reserve Funds to various school districts within a county. Your letter reads in part as follows:

"The point has recently been raised by one of the school districts in Iron County that the distribution to the school districts should be made in accordance with the formula suggested in Section 12.100, Vernon's Annotated Missouri Statutes, that is, the amount should be based upon the respective levies equal to that which would ordinarily be allowed to them out of taxes from property owned by the United States if the property were privately owned. This point has been raised by one of the school districts because they believe that certain properties lying within their district should have a higher valuation placed thereon because of certain mining activities going on, thereby giving them a greater portion of the available fund."

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Your first inquiry reads as follows:

"1. If the National Forest Funds received by the county from the state are expended solely for the benefit of the public roads and public schools of the county should the distribution to the various school districts of the county be based on strictly an acreage formula similar to that in Section 12.070, Vernon's Annotated Missouri Statutes, which is used to determine the distributable amounts from the state to the counties?"

Section 12.070, RSMo 1959, provides the manner in which funds received by the State of Missouri from the National Forest Reserve Funds should be distributed to the counties and reads as follows:

"All sums of money received from the United States under an act of congress, approved May 23, 1908, being an act providing for the payment to the states of twenty-five per cent of all money received from the national forest reserves in the states to be expended as the legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated (16 U.S.C.A. § 500) shall be expended as follows: Seventy-five per cent for the public schools and twenty-five per cent for roads in the counties in which national forests are situated. The funds shall be used to aid in maintaining the schools and roads of those school districts that lie or are situated partly or wholly within or adjacent to the national forest in the county. The distribution to each county from the proceeds received on account of a national forest within its boundaries shall be in the proportion that the area of the national forest in the county bears to the total area of the forest in the state, as of June thirtieth of the fiscal year for which the money is received."

Such section provides that seventy-five per cent of the funds received by the state under the National Forest Reserve Act shall be expended for schools and twenty-five per cent for roads in those school districts that lie or are situated partly or wholly within or adjacent to a national forest in the county. It should be noted that this section does not authorize any of the money so

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received to be expended for county government. It should also be noted that Section 12.070 has no provision that funds received by the county from the national forest reserves shall be apportioned upon an acreage basis; therefore, the county court is not required by Section 12.070 to distribute the money on this basis.

Section 12.080, RSMo 1959, provides the county court shall direct the expenditure of money received from the United States under the Flood Control Act for the benefit of the schools and roads of the county in which the government land is located or for defraying the expense of county government of such county. Said section refers to funds received under the Flood Control Act only and the purposes for which such funds can be spent and is inapplicable to the receipt and expenditure of funds under the National Forest Reserve Act.

Section 12.100, RSMo 1959, provides how funds received from the United States under provisions of the foregoing sections shall be used. Said section reads as follows:

"The county court of each county receiving any such moneys shall use the funds to aid in maintaining the schools and roads and for defraying any of the expense of the county in accordance with the provisions set forth in Sections 12.070 and 12.080. The county court shall allow to the school districts and for roads an amount based upon their respective levies equal to that which would ordinarily be allowed to them out of taxes from property owned by the United States if the property were privately owned before using any of the moneys for defraying other expenses of the county." (Underscoring ours)

Although Section 12.100, supra, provides that upon receipt of the money the county court of any such county shall use the funds in maintaining schools and roads and for defraying any county government expense, in accordance with the provisions of Sections 12.070 and 12.080, the second sentence of Section 12.100 is inapplicable to Section 12.070. Section 12.070 authorizes the use of funds received from the National Forest Reserves for maintaining schools and roads of those school districts partly, wholly within or adjacent to a national forest of the county receiving the funds, and no part of the funds can be used for county government expense. However, this is not true with reference to funds received under the Flood Control Act, as Section 12.080 authorizes the county court of the county where the government land is situated to use the funds in maintaining schools and roads of the county, as well

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as for the expenses of county government. The second sentence of Section 12.100 is applicable only to Section 12.080 and not to Section 12.070.

In this connection, we note that neither Section 12.070 nor Section 12.080 contains a formula by which the county court shall distribute funds.

Section 12.100 requires the county court to allow an amount to the school districts and for roads based upon their respective levies and equal to that ordinarily allowed them out of taxes upon United States owned property, if privately owned, before using any of the funds received under the Flood Control Act for county expenses but does not require the county court to apportion forest reserve funds in any specific way.

Therefore, our answer to your first inquiry is that the distribution of funds received under the Forest Reserve Act is not required to be based on an acreage formula.

Your second inquiry reads as follows:

"2. If the answer to question No. 1 above is in the negative, then should the formula used in Section 12.100, Vernon's Annotated Missouri statutes be used?"

Our answer to the second inquiry is that the provisions of Section 12.100 relating to allowance of funds do not apply to funds received under the National Forest Reserve Act for the reasons given in our discussion of the first inquiry, which are believed to be unnecessary to repeat here. There is no formula in Section 12.100 for distribution of funds received under the National Forest Reserve Act.

Your third inquiry reads as follows:

"3. If the formula in Section 12.100, Vernon's Annotated Missouri Statutes is used, what method of valuation should be used to determine the value of government owned property within a school district when certain of that property, if used for private purposes, would have a much higher valuation than other."

Again, we point out that Section 12.100, supra, contains no formula to be followed by the county court in distributing the funds received from the National Forest Reserves. The county court is authorized to make distribution of National Forest

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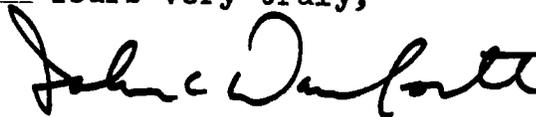
Reserve Funds upon any basis, which in its discretion, the court determines to be proper.

CONCLUSION

It is the opinion of this office that the county court of any county receiving funds from the United States under the National Forest Reserve Act shall distribute such funds to aid in maintaining the schools and roads of school districts that lie or are situated partly or wholly within or adjacent to the national forest in the county upon any basis which, in its discretion, the court determines to be proper.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Paul N. Chitwood.

Yours very truly,

A handwritten signature in cursive script, reading "John C. Danforth".

JOHN C. DANFORTH  
Attorney General