

**State of Colorado
Department of Treasury
Statement of Federal Land Payments**

For the Year Ended September 30, 2009



**OFFICE OF THE
STATE AUDITOR**

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The mission of the Office of the State Auditor is to improve the efficiency, effectiveness, and transparency of government for the people of Colorado by providing objective information, quality services, and solution-based recommendations.



STATE OF COLORADO

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March 29, 2010

Members of the Legislative Audit Committee:

This report contains the results of our audit of the Statement of Federal Land Payments. This audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of state agencies and programs. This report contains our findings and recommendations and responses from the Department of Treasury and the Department of Local Affairs.

Sally Symanski

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March 8, 2010, and
December 29, 2010 - see explanatory paragraph

Independent Auditor's Report

Members of the Legislative Audit Committee:

We have audited the accompanying Statement of Federal Land Payments of the State of Colorado for the Federal Fiscal Year ended September 30, 2009. This Statement is the responsibility of the Colorado Governor's Office, which has formally delegated the preparation of the Statement to the Colorado Department of Treasury. Our responsibility is to express an opinion on this Statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Governmental Auditing Standards*, issued by the Comptroller General of the United States. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement of Federal Land Payments is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Statement of Federal Land Payments. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall Statement presentation. We believe our audit provides a reasonable basis for our opinion.

The Statement was prepared on the basis of cash disbursements made by the State of Colorado to qualified local governmental subdivisions thereof (i.e., counties) during the period October 1, 2008, through September 30, 2009, under 31 U.S.C. 6901 et seq. This basis of reporting federal land payments is prescribed by the U.S. Department of the Interior Rules and Regulations (43 C.F.R. 1881.0-5), and is in accordance with the provisions of the October 16, 1978, Comptroller General of the United States Decision (B-167553), and as such, the Statement is not intended to be presented in conformity with generally accepted accounting principles.

The Office of the State Auditor received corrected information from Fremont County on October 26, 2010, subsequent to publication of the Department of Treasury Statement of Federal Land Payments report. As a result, we performed additional testing of the information between October 26, 2010 and December 29, 2010.

In our opinion, the Statement of Federal Land Payments referred to above presents fairly, in all material respects, the federal land payments for the State of Colorado, for the Federal Fiscal Year ended September 30, 2009, on the basis of accounting described above.

In accordance with *Government Auditing Standards*, we have also issued our report dated March 8, 2010, on our consideration of the Colorado Governor's Office internal control over compliance with certain provisions of laws, regulations, contracts and grants. That report is an

integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

This report is intended solely for filing with governmental agencies and should not be used for any other purpose. However, upon release by the Legislative Audit Committee it is a public document.

A handwritten signature in black ink, reading "Kelly Symanski". The signature is written in a cursive style with a horizontal line at the end.

STATEMENT OF FEDERAL LAND PAYMENTS
DURING THE PERIOD OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2009

FEDERAL AGENCY MAKING PAYMENT AND TYPE OF PAYMENT

1	2	3	4	5	6	7	8	9	0	11	12	13	14	15	
COLORADO COUNTIES	FS/MMS TIMBER & SEC SCHLS TITLE I #	Actual Distribution FS/MMS TIMBER & SEC SCHLS TITLE I	USFS SECURE SCHOOLS TITLE III ##	Actual Distribution USFS SECURE SCHOOLS TITLE III	FS BANKHD JONES	MMS/BLM MINERAL LEASING	BLM SEC 3 TAYLOR GRAZING	BLM SEC 15 TAYLOR GRAZING	BLM BANKHD JONES	BLM SALE OF MATLS	FERC PWR SALES	FW REF REVENUE SHARING	TOTAL	RECMDED ADJUSMNTS	RECOMDED FOR ACCEPTNCE
ADAMS	0	0	0	0		0				0			0		0
ALAMOSA	37,867	29,895	0	0		0				71			29,967		37,939
ARAPAHOE	0	0	0	0		0				0			0		0
ARCHULETA	638,258	91,944	55,570	51,124		0				20,112			163,180		713,939
BACA	0	0	0	0		0				0			0		0
BENT	0	0	0	0		0				0			0		0
BOULDER	60,848	60,848	0	0		0				982			61,829		61,829
BROOMFIELD	0	0	0	0		0				0			0		0
CHAFFEE	526,966	0	45,880	45,880		0				57			45,937		572,904
CHEYENNE	0	0	0	0		0				0			0		0
CLEAR CREEK	231,039	231,039	0	0		0				2			231,041		231,041
CONEJOS	773,335	41,148	67,330	61,944		0				25			103,117		840,690
COSTILLA	1,158	609	0	0		0				0			609		1,157
CROWLEY	0	0	0	0		0				0			0		0
CUSTER	183,608	28,287	34,426	34,426		0				214			62,928		218,248
DELTA	281,382	283,342	24,498	22,539		0				984			306,865		306,865
DENVER	0	0	0	0		0				2			2		2
DOLORES	488,691	420,055	42,548	39,144		0				15			459,213		531,253
DOUGLAS	62,514	62,514	0	0		0				0			62,514		62,514
EAGLE	456,439	24,023	0	0		0				37			24,060		456,475
EL PASO	91,910	91,910	0	0		0				0			91,910		91,910
ELBERT	0	0	0	0		0				1			1		1
FREMONT	183,753	0	34,454	34,454		0				3,314			37,768		221,521
GARFIELD	471,199	64,702	41,025	43,135		0				93			107,929		512,317
GILPIN	31,866	31,867	0	0		0				0			31,867		31,867
GRAND	777,997	491,366	0	0		0				838			492,204		778,835
GUNNISON	1,240,769	1,240,770	108,027	108,027		0				867			1,349,663		1,349,663
HINSDALE	621,862	657,441	54,142	18,573		0				340			676,355		676,345
HUERFANO	281,714	0	24,527	24,528		0				516			25,044		306,757
JACKSON	448,544	448,544	39,052	39,052		0				273			487,870		487,870
JEFFERSON	55,644	55,644	0	0		0				0			55,644		55,644
KIOWA	0	0	0	0		0				0			0		0
KIT CARSON	0	0	0	0		0				0			0		0
LA PLATA	284,567	17,697	24,776	24,776		0				10,880			53,353		320,223

	1	2	3	4	5	6	7	8	9	0	11	12	13	14	15
COLORADO COUNTIES	FS/MMS TIMBER & SEC SCHLS TITLE I #	Actual Distribution FS/MMS TIMBER & SEC SCHLS TITLE I	USFS SECURE SCHOOLS TITLE III ##	Actual Distribution USFS SECURE SCHOOLS TITLE III	FS BANKHD JONES	MMS/BLM MINERAL LEASING	BLM SEC 3 TAYLOR GRAZING	BLM SEC 15 TAYLOR GRAZING	BLM BANKHD JONES	BLM SALE OF MATLS	FERC PWR SALES	FW REF REVENUE SHARING	TOTAL	RECMEDED ADJUSMNTS	RECOMDEED FOR ACCEPTNCE
LAKE	247,176	0	46,345	399		0				25			425		293,547
LARIMER	474,590	477,896	41,320	38,014		0				37			515,947		515,947
LAS ANIMAS	37,120	1,954	0	35,166		0				19			37,139		37,139
LINCOLN	0	0	0	0		0				0			0		0
LOGAN	0	0	0	0		0				0			0		0
MESA	571,320	523,000	49,742	98,062		0				1,213			622,275		622,275
MINERAL	655,962	658,061	57,111	52,543		0				0			710,604		713,074
MOFFAT	50,999	50,999	0	0		0				1,226			52,224		52,224
MONTEZUMA	295,914	66,343	25,764	25,764		0				6			92,113		321,683
MONTROSE	357,441	360,553	31,121	28,008		0				348			388,910		388,910
MORGAN	0	0	0	0		0				0			0		0
OTERO	0	0	0	0		0				0			0		0
OURAY	91,908	29,023	0	0		0				1			29,024		91,908
PARK	605,884	112,828	30,087	30,087		0				5			142,920		635,976
PHILLIPS	0	0	0	0		0				0			0		0
PITKIN	378,394	378,394	0	0		0				0			378,394		378,394
PROWERS	0	0	0	0		0				0			0		0
PUEBLO	50,758	50,758	0	0		0				0			50,758		50,758
RIO BLANCO	262,591	209,252	49,236	49,236		0				4,125			262,613		315,951
RIO GRANDE	315,554	18,054	27,474	23,353		0				3			41,410		343,031
ROUTT	297,767	15,672	0	0		0				2			15,674		297,770
SAGUACHE	2,499,219	2,483,696	155,231	155,231		0				162			2,639,089		2,654,612
SAN JUAN	179,945	179,946	33,740	33,740		0				7			213,692		213,692
SAN MIGUEL	87,098	18,336	0	0		0				261			18,598		87,360
SEDGWICK	0	0	0	0		0				1			1		1
SUMMIT	448,137	448,137	0	0		0				0			448,137		448,137
TELLER	86,542	37,862	16,227	16,227		0				3			54,091		102,771
WASHINGTON	0	0	0	0		0				0			0		0
WELD	0	0	0	0		0				0			0		0
YUMA	0	0	0	0		0				0			0		0
TOTAL	16,226,250	10,494,409	1,159,656	1,133,432	0	6	0	0	0	47,067	0	0	11,674,908	0	17,432,973

Abbreviations:

FS - Forest Service

MMS - Minerals Management Service

USFS - United States Forest Service

BLM - Bureau of Land Management

FERC - Federal Energy Regulatory Commission

FW REF - Fish and Wildlife Refuge

This column represents Title I less the 5% of all forest receipts received per §30-29-101, C.R.S.

This column represents the Title III amounts based on the counties Forest Payment Election form.

Department of Treasury
Notes to the Statement of Federal Land Payments
For the Federal Fiscal Year Ended September 30, 2009

- A. Although 100 percent of the Forest Service Timber receipts are distributed to counties, Section 30-29-101, Colorado Revised Statutes (C.R.S.), requires the counties to distribute at least 5 percent of amounts received to public schools in the county (See Exhibit III for statute.) In accordance with the 1978 Comptroller General's Decision (B-167553), these amounts are not considered received by the counties and, therefore, are not included in the Statement.

A total of \$18,300,949 in Timber Payments was distributed to the counties during the Federal Fiscal Year ended September 30, 2009. Of this amount, \$6,627,162 was subsequently distributed by the counties to public schools. The Statement reflects the total amount received by the counties less the amounts paid to the public schools, or \$10,494,409 listed as actual distribution of Title I (column 2) plus \$1,133,432 listed as actual distribution of Title III (column 4), per *P.L.110-343, The Secure Rural Schools and Community Self-Determination Act of 2000*. Lake County is to return \$45,946 to the US Treasury of Title III monies received.

Under Section 30-29-101, C.R.S., the counties must distribute, at minimum, 5 percent of their National Forest Service Timber receipts to the local school districts. Calculating the minimum 5 percent of the timber receipts, the minimum school district distribution is \$915,047. Column 1 on the Statement reflects Title I less the 5 percent of all forest receipts, or \$16,226,250 and column 3 on the Statement reflects Title III amounts based on the counties Forest Payment Election form or \$1,159,656. Hinsdale County underfunded its local school districts in the current federal fiscal year by \$10.

Under P.L. 110-343, a county could elect to receive a “full” or “partial” payment. The “full” payment amount is based on the average of the three highest timber payments made between Federal Fiscal Years 1986 through 1999. By electing the “full” payment, the county must set aside at minimum 15 percent, but no more than 20 percent to fund projects under Title II or Title III of the Act or return an equal amount to the United States Treasury. The “partial” payment amount is based on revenue generated by timber sales, in which the county receives 25 percent of the seven year rolling average of the timber sales revenue generated within that county.

Department of Treasury
Notes to the Statement of Federal Land Payments
For the Federal Fiscal Year Ended September 30, 2009

The following counties underfunded Title III projects for a total of \$111,818:

Archuleta County	\$4,446
Conejos County	\$5,386
Delta County	\$1,960
Dolores County	\$3,404
Hinsdale County	\$35,569
Lake County	\$45,946
Larimer County	\$3,306
Mineral County	\$4,568
Montrose County	\$3,112
Rio Grande County	\$4,121
Total	\$111,818

Additionally, Mineral County underfunded its Title III projects in the previous two federal fiscal years (2007 through 2008); therefore, underfunding Title III projects for a three year total of \$9,975. The following breakdown shows the underfunded amounts per federal fiscal year.

2007	\$4,699
2008	\$708
2009	\$4,568

Mesa County exceeded the 20 percent cap and overfunded its Title III projects in the current federal fiscal year by \$12,791.

B. The State of Colorado did not distribute any money to counties for the following:

- FS Bankhead-Jones (distribution direct to counties by U.S.F.S.) (Column 5)
- BLM Bankhead-Jones (distribution direct to counties by BLM) (Column 9)
- Fish and Wildlife Refuge Revenue Sharing (distribution direct to counties by F&W) (Column 12)
- FERC Power Sales (general purpose funds not distributed to counties) (Column 11)

To the best of Treasury's knowledge, there is no state law specifying how FS Bankhead-Jones, BLM Bankhead-Jones, and Fish and Wildlife Refuge Revenue Sharing payments are to be spent by the counties.

Department of Treasury
Notes to the Statement of Federal Land Payments
For the Federal Fiscal Year Ended September 30, 2009

- C. Section 35-45-109, C.R.S., requires the counties to deposit money received under provisions of the Taylor Grazing Act "...in a special fund to be known as the Range Improvement Fund of district no. _____." Therefore, distributions from the Taylor Grazing Act are not considered received by the counties and are not included in this Statement. (See Exhibit II for statute.) (Column 7 and 8)
- D. Prior to the changes of Colorado Senate Bill 08-218, the Federal Mineral Lease (FML) payments directly provided to counties by the Department of Treasury were annually reported to the United States Department of the Interior in the "State of Colorado Department of Treasury Statement of Federal Land Payments." (Column 6)

With the passage of Senate Bill 08-218, the Department of Local Affairs now has the responsibility of the direct distribution of FML proceeds to counties and municipalities per Section 34-63-102(5.4)(c) C.R.S. The Department of Treasury no longer directly distributes FML payments to Colorado counties, municipalities, and school districts.

The Department of Local Affairs considers the direct distribution of these state FML proceeds to counties and municipalities to be a programmatic payment made by the State to compensate political subdivisions socially or economically impacted by the development, processing, or energy conversion of fuels and minerals and not a reportable federal lands payment for purposes of calculating the Federal Payment in Lieu of Taxes.

The new allocation and the metrics included in Senate Bill 08-218 for the distribution of FML proceeds confirm the department's position that these dollars are for state programmatic purposes.

Audit Finding

County Monitoring

The federal Secure Rural Schools and Community Self-Determination Act (Act) is intended to provide assistance to rural counties affected by the decline in revenue from timber harvests on federal lands. The Act specifically provides funding to counties for schools and roads as well as the creation of additional employment opportunities through projects that implement stewardship objectives to enhance forest ecosystems and improve land health and water quality. The Act was reauthorized for Federal Fiscal Year 2009 through the passage of Public Law 110-343 on October 3, 2008. The funding provided by the Act comes from the United States National Forest Reserve and is distributed by the United States Forest Service within the United States Department of the Interior.

Public Law 110-343 requires all counties that receive more than \$100,000 in National Forest Reserve funds to set aside an amount equal to no less than 15 percent but no more than 20 percent of the funds received into a reserve account for projects under Title II and Title III of the Act. Each county may elect to reserve a different percentage for Title II and Title III; however, each county's total reserved amount must be no less than 15 percent but no more than 20 percent of the total National Forest Reserve funds received. Counties that receive less than \$100,000 are not required by the Act to set aside any receipts for Title II or Title III. The funds set aside for Title II of the Act must be used for special projects on federal lands, and a resource advisory committee must approve any projects that utilize Title II reserved amounts. Title III reserves can only be used for carrying out the Firewise Communities program, reimbursement for emergency services paid for by the county and performed on federal land (e.g. search and rescue, and firefighting), and developing community wildfire protection plans. Annually, counties meeting the \$100,000 threshold must submit an election form to the United States Forest Service that specifies what percentage of their National Forest Reserve receipts they have determined should be reserved for projects under Title II and for Title III of the Act.

In Colorado, the Department of Local Affairs annually collects and submits all county election forms to the United States Forest Service. The Department of Treasury receives a lump sum transfer from the United States Forest Service and is required to distribute to each county an amount specified by the Forest Service. Based on the election form submitted by the counties, the United States Treasury automatically calculates and withholds the Title II portion that each county elected to reserve; therefore, the county is only responsible for calculating and reserving the Title III portion. If the county does not place the elected amount for Title III into reserve, Public Law 110-343 requires the county to return the unreserved portion of Title III funds to the United States Treasury. During Federal Fiscal Year 2009, 43 of the 64 Colorado counties were eligible for and received National Forest Reserve Funds totaling approximately \$19,618,000. Twenty-six of the 43 counties received more than \$100,000 each in National Forest Reserve funds and were, therefore, required to elect a percentage to set aside for Title II and Title III projects. Based on the elections made by these 26 counties, the counties were required to place approximately \$1,160,000 into reserve for Title III projects. We found that 10 of

these counties under-reserved funds for their Title III projects by a total of \$111,818, as shown below:

Archuleta County	\$4,446
Conejos County	\$5,386
Delta County	\$1,960
Dolores County	\$3,404
Hinsdale County	\$35,569
Lake County	\$45,946
Larimer County	\$3,306
Mineral County	\$4,568
Montrose County	\$3,112
Rio Grande County	\$4,121
Total	\$111,818

Prior to the completion of our audit, one county (Lake) returned \$45,946 to the United States Treasury in accordance with the Act.

Based on interviews with county personnel in these 10 counties, staff were unclear about the appropriate calculation method for the Title III reserve and the consequences for not placing the funds in reserve. In Colorado, the Department of Local Affairs has responsibility for coordinating reporting and providing guidance to counties regarding National Forest Reserve funds and the Department of Treasury is responsible for reporting to the Department of the Interior on the counties' use of National Forest Reserve funds. Department of Local Affairs staff indicated that they answered county staff questions on the appropriate calculation of the Title III reserve related to the receipt of National Forest Reserve funds during Federal Fiscal Year 2009 but did not provide formal guidance to counties. Our findings indicate that the Department of Local Affairs needs to provide more guidance and training to the counties.

Because both the Department of Treasury and the Department of Local Affairs share responsibility for National Forest Reserve funds, the two Departments should work together in order to ensure that Colorado counties are in compliance with Public Law 110-343 and that the State is not at risk of losing money for projects executed on federal forest lands within the State. This should include providing formal guidance and training to counties on the proper calculation methods and consequences of not reserving required amounts under Title III of the Act, adequately monitoring the counties for compliance with the Act, and ensuring that unreserved amounts are returned to the United States Treasury as required. The Departments should also consider centralizing calculation processes related to the Act.

Recommendation No. 1:

The Department of Treasury and the Department of Local Affairs should work together to ensure the State is in compliance with Public Law 110-343 by:

- a. Providing enhanced guidance and training to the counties to improve county awareness of proper calculation methods and the consequences of not reserving the required amount for projects under Title III of the Act.
- b. Developing and implementing monitoring procedures to verify that counties place required Title III amounts into reserve.
- c. Ensuring that all counties return unreserved Title III amounts to the United States Treasury as required by Public Law 110-343.
- d. Considering performing all necessary Title III reserve calculations at a central level and separately distributing funds to counties as appropriate based on county elections.

Department of Treasury Response:

Agree. Implementation date: July 2010.

The Treasurer's Office agrees with the recommendation to ensure that the State is in compliance with Public Law 110-343 and will work with the Department of Local Affairs and other governmental entities to determine how best to achieve this goal.

The Treasurer's Office addresses the recommendation as follows:

- Plans to continue discussions with the Department of Local Affairs and other governmental entities to determine the appropriate direction to address the recommendations (a) to provide formal guidance and training, (b) to develop and implement monitoring procedures, (c) to ensure return of unreserved amounts, and (d) to consider performing reserve calculations at a central level to monitor compliance. Implementation date: April 2010.
- The appropriate agency plans to implement procedures for monitoring compliance. Implementation date: July 2010.

Department of Local Affairs Response:

- a. Agree. Implementation date: October 2010.

The Department of Local Affairs (DOLA) will continue to improve outreach to counties through training. DOLA currently provides general documents and refers inquiries to federal sources of information in order to attempt to answer county officials' questions regarding National Forest Payments. In the provision of such general documents and assistance, DOLA will include reference to the proper calculation methods for Title III amounts as well as to any federal documentation regarding the allowable uses of such funds.

- b. Agree. Implementation date: October 2010.

The Department of Local Affairs (DOLA) will work with the Department of Treasury to develop and implement monitoring procedures to facilitate verification of county Title III reserve amounts.

- c. Agree. Implementation date: October 2010.

DOLA agrees counties must return unreserved Title III amounts to the United States Treasury as required by Public Law 110-343. DOLA will work with the Department of Treasury to facilitate this process and will provide to counties enhanced guidance describing the process by which such return may be transacted.

- d. Agree. Implementation date: October 2010.

The Department of Local Affairs (DOLA) will work with Treasury to consider reporting at a central level and will include such reports if developed on DOLA's Forest Payments information webpage.

Exhibit I

Colorado Revised Statutes Title 34, Article 63 Royalties Under Federal Leasing

Section 34-63-101, C.R.S. State treasurer to receive and distribute mineral leasing payments. In accordance with the provisions of section 35 of the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended, the state treasurer is directed to deposit and distribute any moneys now held or to be received by the state of Colorado from the United States as the state's share of sales, bonuses, royalties, and rentals of public lands within this state, for the benefit of the public schools and political subdivisions of this state and for other purposes in accordance with the provisions of sections 34-63-102 and 34-63-10.

Section 34-63-102, C.R.S. Creation of mineral leasing fund - distribution - advisory committee. (1) (a) (I) On or after January 1, 1977, but before July 1, 2008, all moneys, including any interest earned therefrom, now held or to be received by the state treasurer pursuant to the provisions of the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended, except those moneys described in section 34-63-104, shall be deposited by the state treasurer into a special fund to be known as the mineral leasing fund, which is hereby created, for use by state agencies, public schools, and political subdivisions of the state as described in this section for planning, construction, and maintenance of public facilities and for public services.

(II) On and after July 1, 2008, all moneys, including any interest and income derived therefrom, received by the state treasurer pursuant to the provisions of the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended, except those moneys described in section 34-63-104, shall be deposited by the state treasurer into the mineral leasing fund for use by state agencies, public schools, and political subdivisions of the state as described in subsections (5.3) and (5.4) of this section and for transfer to the higher education federal mineral lease revenues fund created in section 23-19.9-102 (1) (a), C.R.S., the higher education maintenance and reserve fund created in section 23-19.9-102 (2) (a), C.R.S., and the local government permanent fund created in sub-subparagraph (A) of subparagraph (I) of paragraph (a) of subsection (5.3) of this section, as required by this section and section 23-19.9-102, C.R.S.

(b) In the appropriation and use of such moneys, priority shall be given to those public schools and political subdivisions socially or economically impacted by the development, processing, or energy conversion of fuels and minerals leased under said federal mineral lands leasing act.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), before July 1, 2008, twenty-five percent of all moneys described in paragraph (a) of subsection (1) of this section together with any funds for public schools derived from the application of paragraph (b) of subsection (3) of this section shall, upon receipt, be paid into the state public school fund to be used for the support of the public schools of this state.

(b) For the purpose of repaying an additional expenditure of moneys from the state education fund created in section 17 (4) (a) of article IX of the state constitution for the state's share of total program pursuant to article 54 of title 22, C.R.S., made for the 2001-02 fiscal year due to a projected shortfall in the amount of moneys described in paragraph (a) of subsection (1) of this section received by the state treasurer in said fiscal year, notwithstanding any provision of law to the contrary, upon receipt by the state treasurer of any moneys described in paragraph (a) of subsection (1) of this section during the 2002-03 fiscal year, of the portion of said moneys that would otherwise be paid to the state public school fund pursuant to paragraph (a) of this subsection (2), the state treasurer shall first transfer an amount of said moneys equal to six million dollars to the state education fund created pursuant to section 17 (4) of article IX of the state constitution prior to paying said portion of moneys to the state public school fund in accordance with paragraph (a) of this subsection (2).

(3) (a) Before July 1, 2008, fifty percent of all moneys described in paragraph (a) of subsection (1) of this section shall be distributed ten working days after receipt of the last monthly payment in each quarter among those respective counties of this state from which the federal leasing money is derived in proportion to the amount of said federal leasing money derived from each of the respective counties for use by said counties for the purposes described in subsection (1) of this section and for use by municipalities and school districts within said counties as provided in paragraph (c) of this subsection (3); except that no distribution under this paragraph (a) to any single county, including the amounts distributed under paragraph (c) of this subsection (3) to municipalities and school districts located therein, shall exceed one million two hundred thousand dollars in any calendar year. Unless the balance paid to the state public school fund pursuant to subparagraph (I) of paragraph (b) of this subsection (3) exceeds ten million seven hundred thousand dollars in a calendar year, distribution above two hundred thousand dollars to any single county pursuant to this paragraph (a) shall not take effect during that calendar year.

(b) (I) Any balance of said fifty percent remaining after payments as provided in paragraph (a) of this subsection (3) shall be paid by the state treasurer, on or before the last day of December of each year, into the state public school fund and used for the support of the public schools.

(II) One-half of any balance of said fifty percent remaining after payments provided in paragraph (a) of this subsection (3) shall be paid by the state treasurer, on or before the last day of December of each year, into the local government mineral impact fund and used in accordance with the purposes described in subsection (1) of this section.

(III) An amount equal to twenty-five percent of the balance paid to the local government mineral impact fund pursuant to subparagraph (II) of this paragraph (b) shall be distributed annually to each county, in whose unincorporated area employees of a mine or related facility from which such money is derived reside, in the same proportion that the number of such employees bears to the total number of employees of such mines and related facilities who reside in the state and to each municipality, in which employees of such facilities reside, in the same proportion that the number thereof bears to the total number of employees of such mines and related facilities who reside in the state.

(IV) Repealed.

(c) (I) Except as provided in subparagraph (II) of this paragraph (c), in each calendar year, each county shall notify the state treasurer to have at least twenty-five percent of the moneys described in paragraph (a) of this subsection (3) distributed to any school district within the county specified by the board of county commissioners for use in accordance with the purposes described in subsection (1) of this section. Except as provided in subparagraph (II) of this paragraph (c), in each calendar year, each county shall also notify the state treasurer to have at least thirty-seven and one-half percent of that part of the moneys described in paragraph (a) of this subsection (3) that exceeds two hundred fifty thousand dollars distributed among the municipalities within the county according to the percentage that the population within each municipality bears to the total population of all municipalities located within the county. The state treasurer shall not disburse funds to a county under this subsection (3) until such notification is received. For the purposes of this paragraph (c), "population" means the most recent population estimate at the time of the distribution of the mineral leasing fund as prepared by the demographic section of the division of local government.

(II) (A) Any county may elect to have its distributions of the moneys described in paragraph (a) of this subsection (3) from the mineral leasing fund made pursuant to this subparagraph (II) by notifying the state treasurer, in writing, of such election. Any election for distribution pursuant to this subparagraph (II) shall be effective until withdrawn by the county but shall be for a minimum of two full calendar years following receipt by the state treasurer of the notice of election from the county. After two full calendar years, a county may withdraw the election for distribution pursuant to this subparagraph (II) and return to distribution pursuant to subparagraph (I) of this paragraph (c) by giving the state treasurer written notice of such withdrawal in addition to any notice required to be given under subparagraph (I) of this paragraph (c). However, during the first calendar year after receiving such notice of withdrawal, the state treasurer shall distribute twenty-five percent of the moneys the county would otherwise receive to the cities within the county, twenty-five percent to the school districts within the county, and transfer the remaining fifty percent to the local government mineral impact fund.

(B) For the first full calendar year following receipt by the state treasurer of notification of the county's election pursuant to sub-subparagraph (A) of this subparagraph (II), the state treasurer shall transfer the moneys each county would otherwise receive pursuant to subparagraph (I) of this paragraph (c) to the local government mineral impact fund created in subsection (5) of this section.

(C) For the second full calendar year following receipt by the state treasurer of notification of the county's election pursuant to sub-subparagraph (A) of this subparagraph (II) and for each calendar year thereafter, unless a county has withdrawn its election for distribution pursuant to this subparagraph (II), the state treasurer shall distribute to each county making such election the moneys attributable to such county as described in paragraph (a) of this subsection (3) as follows: Fifty percent to school districts within the county and fifty percent to municipalities within the county. Where more than one school district exists within a county, the distribution to each school district shall be the percentage that the most recent funded pupil count, as determined pursuant to the "Public School Finance Act of 1994", article 54 of title 22, C.R.S., for

pupils enrolled in the county attributable to that school district bears to the most recent total funded pupil count for all pupils attributable to the county. Where more than one municipality exists within a county, the distribution to each municipality shall be based on population as set forth in subparagraph (I) of this paragraph (c).

(4) Before July 1, 2008, ten percent of all moneys described in paragraph (a) of subsection (1) of this section shall, upon receipt, be paid into the Colorado water conservation board construction fund created by section 37-60-121, C.R.S., for appropriation by the general assembly pursuant to the provisions of section 37-60-122, C.R.S., and for use in accordance with the purposes and priorities described in subsection (1) of this section.

(5) (a) (I) Except as provided in subparagraph (IV) of this paragraph (a), before July 1, 2008, the remaining fifteen percent of all moneys described in paragraph (a) of subsection (1) of this section, any moneys received pursuant to subparagraph (II) of paragraph (b) of subsection (3) of this section, and any moneys received pursuant to subparagraph (II) of paragraph (c) of subsection (3) of this section shall, upon receipt, be paid into the local government mineral impact fund, which is hereby created. Before July 1, 2008, the executive director of the department of local affairs shall distribute said moneys from the fund pursuant to subsection (3) of this section; except that the remainder provided for in this paragraph (a) shall be distributed in accordance with the purposes and priorities described in subsection (1) of this section. On and after July 1, 2008, moneys shall be paid into the fund as specified in paragraph (b) of subsection (5.4) of this section and distributed as specified in paragraphs (b) and (c) of said subsection. Notwithstanding any other provision of this paragraph (a) or subsection (5.5) of this section, in the fiscal years commencing July 1, 2006, July 1, 2007, July 1, 2008, July 1, 2009, and July 1, 2010, the executive director of the department of local affairs shall transfer three million two hundred fifty thousand dollars of the moneys in the fund to the state treasurer, who shall credit the moneys to the wildfire preparedness fund created in section 23-31-309 (4), C.R.S.

(II) On and after July 1, 2001, all income derived from the deposit and investment of the moneys in the local government mineral impact fund shall be credited to the fund.

(III) For the fiscal year commencing July 1, 2007, of the moneys transferred pursuant to subparagraph (I) of this paragraph (a) to the wildfire preparedness fund created in section 23-31-309 (4), C.R.S., two hundred fifty thousand dollars shall be transferred to the wildfire emergency response fund created in section 23-31-309 (1), C.R.S.

(IV) One hundred percent of the moneys credited to the local government mineral impact fund created in subparagraph (I) of this paragraph (a) by operation of sub-subparagraph (C) of subparagraph (I) of paragraph (a) of subsection (5.3) of this section shall be distributed by the executive director of the department of local affairs in accordance with the purposes and priorities described in subsection (1) of this section, and in distributing such moneys the executive director shall give priority to those communities most directly and substantially impacted by production of energy resources on federal mineral lands and to grant applications that:

(A) Are submitted jointly by multiple local governments; or

(B) Seek funding for a project that is a multi-jurisdictional project or that requires a substantial amount of funding.

(V) Notwithstanding any provision of this paragraph (a) to the contrary, on June 1, 2009, the state treasurer shall deduct one million dollars from the local government mineral impact fund and transfer such sum to the general fund.

(b) (I) There is hereby created within the department of local affairs an energy impact assistance advisory committee. The committee shall be composed of the executive director of the department of local affairs, the executive director of the department of natural resources, the commissioner of education, the executive director of the department of public health and environment, the executive director of the department of transportation, and seven residents of areas impacted by energy conversion or mineral resource development. The seven residents shall be appointed by the governor, with the consent of the senate, for terms not exceeding four years to serve at the pleasure of the governor. The executive director of the department of local affairs shall act as chairperson of the committee. Members of the committee shall serve without additional compensation; except that the seven members appointed from energy impact areas shall be entitled to reimbursement for actual and necessary expenses. Any member of the committee who is a state official may designate representatives of his or her agency to serve on the committee in his or her absence. The chairperson shall convene the advisory committee from time to time as he or she deems necessary. The advisory committee shall continuously review the existing and potential impact of the development, processing, or energy conversion of mineral and fuel resources on various areas of the state, including those areas indirectly affected, and shall make continuing recommendations to the department of local affairs, including, but not limited to, those actions deemed reasonably necessary and practicable to assist impacted areas with the problems occasioned by such development, processing, or energy conversion, the immediate and projected problems which the local governments are experiencing in providing governmental services, the extent of local tax resources available to each unit of local government, the extent of local tax effort in solving energy impacted problems, and other problems which the areas have experienced, such as housing and environmental considerations, which have developed as a direct result of energy impact. In furtherance thereof, the committee shall make continuing specific recommendations regarding any discretionary distributions by the executive director of the department of local affairs authorized pursuant to this section and section 39-29-110, C.R.S. With respect to recommendations for the distribution of moneys made pursuant to this section, the committee shall give priority and preference to those public schools and political subdivisions socially or economically impacted by the development, processing, or energy conversion of fuels and minerals leased under the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended. With respect to recommendations for the distribution of moneys made pursuant to section 39-29-110, C.R.S., the committee shall recommend distributions to those political subdivisions socially or economically impacted by the development, processing, or energy conversion of minerals and mineral fuels subject to taxation under article 29 of title 39, C.R.S.

(II) Repealed.

(c) The executive director of the department of local affairs shall deliver to the state auditor and file with the general assembly annually before February 1 a detailed report accounting for the distribution of all funds for the previous year. The energy impact assistance advisory committee shall review the report prior to it being delivered and filed.

(5.3) (a) Bonus payments credited to the mineral leasing fund created in subparagraph (I) of paragraph (a) of subsection (1) of this section shall be distributed on a quarterly basis for each quarter commencing on July 1, October 1, January 1, or April 1 of any state fiscal year as follows:

(I) (A) Fifty percent of the bonus payments shall be transferred to the local government permanent fund, which is hereby created in the state treasury. Interest and income derived from the deposit and investment of moneys in the local government permanent fund shall be credited to the permanent fund and shall not be transferred to the general fund or any other fund at the end of any fiscal year. Except as otherwise provided in sub-subparagraphs (B) and (C) of this subparagraph (I), moneys in the permanent fund shall not be expended for any purpose. The state treasurer may invest moneys in the local government permanent fund in any investment in which the board of trustees of the public employees' retirement association may invest the funds of the association pursuant to section 24-51-206, C.R.S.

(B) Except as provided in sub-subparagraph (C) of this subparagraph (I), if, based on the revenue estimate prepared by the staff of the legislative council in March of any fiscal year, it is anticipated that the total amount of moneys that will be deposited into the mineral leasing fund pursuant to subparagraph (II) of paragraph (a) of subsection (1) of this section during the fiscal year will be at least ten percent less than the amount of moneys so deposited during the immediately preceding fiscal year, the general assembly may appropriate moneys from the local government permanent fund to the department of local affairs for the current fiscal year. The maximum amount that the general assembly may appropriate for the current fiscal year pursuant to this sub-subparagraph (B) is an amount equal to the difference between the total amount of moneys credited to the local government mineral impact fund and directly distributed by the executive director of the department pursuant to paragraph (c) of subsection (5.4) of this section during the immediately preceding fiscal year and the estimated total amount of moneys to be so credited and distributed for the current fiscal year. The executive director of the department shall distribute all moneys appropriated pursuant to this sub-subparagraph (B) directly to counties and municipalities in combination with and using the methodology set forth in subparagraphs (I) to (IV) of paragraph (c) of subsection (5.4) of this section.

(C) Notwithstanding any other provision of law, seventeen million dollars shall be transferred from the local government permanent fund to the local government mineral impact fund created in subparagraph (I) of paragraph (a) of subsection (5) of this section to be distributed as specified in subparagraph (IV) of paragraph (a) of subsection (5) of this section.

(II) Fifty percent of the bonus payments shall be transferred to the higher education maintenance and reserve fund created in section 23-19.9-102 (2) (a), C.R.S.

(b) For purposes of this subsection (5.3), "bonus payments" means the portion of the compensation paid to the federal government as consideration for the granting of a federal mineral lease that is payable regardless of the extent of use of the mineral interest and is fixed and certain in amount, whether or not payable in one or more periodic increments over a fixed period, that is subsequently received by the state treasurer pursuant to the provisions of the federal "Mineral Lands Leasing Act" of February 20, 1920, as amended, and that is not comprised of moneys described in section 34-63-104. "Bonus payments" do not include any compensation paid to the federal government that varies in amount based on the amount of mineral production of the payer.

(5.4) Except as otherwise provided in subsection (5.5) of this section, on and after July 1, 2008, all moneys other than bonus payments, as defined in paragraph (b) of subsection (5.3) of this section, credited to the mineral leasing fund created in subparagraph (I) of paragraph (a) of subsection (1) of this section shall be distributed on a quarterly basis for quarters beginning on July 1, October 1, January 1, and April 1 of each state fiscal year as follows:

(a) (I) For each quarter commencing during the 2008-09, 2009-10, and 2010-11 fiscal years, forty-eight and three-tenths percent of the moneys shall be transferred to the state public school fund to be used for the support of the public schools of the state; except that the total amount of moneys transferred during each of said fiscal years shall not exceed sixty-five million dollars.

(II) For each quarter commencing during the 2011-12 fiscal year or during any succeeding fiscal year, forty-eight and three-tenths percent of the moneys shall be paid into the state public school fund to be used for the support of the public schools of the state; except that the maximum amount of moneys transferred during any fiscal year shall not exceed the maximum amount of moneys allowed to be transferred during the 2010-11 fiscal year multiplied by one hundred four percent per year for each succeeding fiscal year.

(b) For each quarter commencing during the 2008-09 fiscal year or during any succeeding fiscal year, forty percent of the moneys shall be credited to the local government mineral impact fund. Fifty percent of the moneys so credited shall be distributed by the executive director of the department of local affairs in accordance with the purposes and priorities described in subsection (1) of this section, and in distributing such moneys the executive director shall give priority to those communities most directly and substantially impacted by production of energy resources on federal mineral lands and to grant applications that:

(I) Are submitted jointly by multiple local governments; or

(II) Seek funding for a project that is a multi-jurisdictional project or that requires a substantial amount of funding.

(b.5) Notwithstanding any provision of paragraph (b) of this subsection (5.4) to the contrary, for each quarter commencing during the 2009-10 fiscal year, as soon as practicable after moneys are credited to the local government mineral impact fund pursuant to paragraph (b) of this subsection

(5.4), the state treasurer shall transfer from the local government mineral impact fund to the general fund an amount equal to fifty percent of the amount so credited to the fund for such quarter; except that the aggregate amount of moneys so transferred pursuant to this paragraph (b.5) shall not exceed twenty-two million six hundred thousand dollars.

(c) The executive director of the department of local affairs shall annually directly distribute the remaining fifty percent of the moneys credited to the local government mineral impact fund pursuant to paragraph (b) of this subsection (5.4) and any moneys appropriated by the general assembly from the local government permanent fund to the department pursuant to subparagraph (B) of subparagraph (I) of paragraph (a) of subsection (5.3) of this section to counties and municipalities as follows:

(I) Except as otherwise provided in subparagraph (III) of this paragraph (c), moneys shall be allocated to counties for each fiscal year by August 31 of the following fiscal year among those respective counties of the state from which the moneys are derived based upon the following factors:

(A) The proportion of the total amount of moneys credited to the mineral leasing fund that is derived from each of the respective counties; and

(B) On the basis of the report required by section 39-29-110 (1) (d), C.R.S., the proportion of employees of mines or related facilities or crude oil, natural gas, or oil and gas operations who reside in a county to the total number of employees of mines and related facilities or crude oil, natural gas, or oil and gas operations who reside in the state.

(II) Except as otherwise specified in subparagraph (IV) of this paragraph (c), the moneys allocated to each county pursuant to subparagraph (I) of this paragraph (c) shall be further distributed to the county and to each municipality within the county based upon the following factors:

(A) The proportion of employees reported as residents pursuant to section 39-29-110 (1) (d), C.R.S., in the county's unincorporated area or in any municipality within the county to the total number of employees reported as residents in the county as a whole pursuant to said section;

(B) The proportion of the population in any such county's unincorporated area or in any such municipality within the county to the total population in the county, as such population is reported in the most recently published population estimate from the state demographer appointed by the executive director of the department of local affairs; and

(C) The proportion of road miles in any such county's unincorporated area or in any such municipality within the county to the total road miles in the county, as such miles are certified by the department of transportation to the state treasurer pursuant to sections 43-4-207 (2) (d) and 43-4-208 (3), C.R.S.

(III) With respect to the distribution made pursuant to subparagraph (I) of this paragraph (c), the executive director of the department of local affairs shall establish guidelines that set forth the

weight that each of the factors in sub-subparagraphs (A) and (B) of subparagraph (I) of this paragraph (c) shall be given, subject to the limitation that the factor described in said sub-subparagraph (B) shall not be weighted more than thirty-five percent. In establishing the guidelines, the executive director shall weigh the factors in a manner that most accurately estimates the absolute and relative impacts of production of energy resources on federal mineral lands for each impacted county so that the counties most substantially and directly impacted by such production each receive a sufficient allocation and no county receives an excessive allocation.

(IV) With respect to the distribution made pursuant to subparagraph (II) of this paragraph (c), the executive director of the department of local affairs, in consultation with the energy impact assistance advisory committee established pursuant to subparagraph (I) of paragraph (b) of subsection (5) of this section, shall establish guidelines that set forth the weight that each of the factors in sub-subparagraphs (A) to (C) of subparagraph (II) of this paragraph (c) shall be given. In establishing the guidelines, the executive director and the committee shall weigh the factors in a manner that most accurately estimates the absolute and relative impacts of production of energy resources on federal mineral lands for each impacted county and municipality so that the counties and municipalities most substantially and directly impacted by such production each receive a sufficient allocation and no county or municipality receives an excessive allocation. These guidelines shall apply uniformly across the state; except that the executive director may:

(A) Accept a memorandum of understanding from a county and all municipalities contained therein that establishes an alternative distribution that shall be effective within the county; and

(B) After consultation with the energy impact assistance advisory committee, vary the weight that each of the factors in sub-subparagraphs (A) to (C) of subparagraph (II) of this paragraph (c) receives in an individual county in order to more fairly distribute the gross receipts among the county and all municipalities contained therein.

(d) (I) For each quarter commencing during the 2008-09 fiscal year, ten percent of the moneys shall be paid into the Colorado water conservation board construction fund created in section 37-60-121 (1), C.R.S., for appropriation by the general assembly pursuant to the provisions of section 37-60-122, C.R.S., and for use in accordance with the purposes and priorities described in subsection (1) of this section; except that the maximum amount of moneys transferred during the 2008-09 fiscal year shall not exceed fourteen million dollars.

(II) For each quarter commencing during the 2009-10 fiscal year or during any succeeding fiscal year, an amount equal to ten percent of the moneys shall be paid into the Colorado water conservation board construction fund created in section 37-60-121 (1), C.R.S., for appropriation by the general assembly pursuant to the provisions of section 37-60-122, C.R.S., and for use in accordance with the purposes and priorities described in subsection (1) of this section; except that the maximum amount of moneys transferred during a single fiscal year shall not exceed the maximum amount of moneys allowed to be transferred during the 2008-09 fiscal year multiplied by one hundred four percent per year for each succeeding fiscal year.

(e) (I) In addition to the moneys credited to the local government mineral impact fund pursuant to paragraph (b) of this subsection (5.4), for the 2008-09 fiscal year, one and seven-tenths percent of the moneys shall be credited to the local government mineral impact fund and distributed to school districts within the counties that receive distributions pursuant to paragraph (c) of this subsection (5.4); except that the maximum amount of moneys credited and distributed shall not exceed three million three hundred thousand dollars. The executive director of the department of local affairs shall distribute the moneys to the school districts as specified in subparagraph (III) of this paragraph (e).

(II) In addition to the moneys credited to the local government mineral impact fund pursuant to paragraph (b) of this subsection (5.4), for the 2009-10 fiscal year and for each succeeding fiscal year, one and seven-tenths percent of the moneys shall be credited to the local government mineral impact fund and distributed to school districts within the counties that receive distributions pursuant to paragraph (c) of this subsection (5.4); except that the maximum amount of moneys credited and distributed for a fiscal year shall not exceed the maximum amount of moneys allowed to be credited and distributed for the 2008-09 fiscal year multiplied by one hundred four percent for each succeeding fiscal year. The executive director of the department of local affairs shall distribute the moneys to the school districts as specified in subparagraph (III) of this paragraph (e).

(III) The executive director of the department of local affairs shall make the distributions required by subparagraphs (I) and (II) of this paragraph (e) at the same time as the executive director makes distributions to counties pursuant to paragraph (c) of this subsection (5.4), and the total amount of the distributions made to all school districts within a single county shall be in proportion to the amount of the moneys distributed directly to the county pursuant to said paragraph (c). Where more than one school district exists within a county, the distribution to each school district shall be the percentage that the most recent funded pupil count, as determined pursuant to the "Public School Finance Act of 1994", article 54 of title 22, C.R.S., for pupils enrolled in the county attributable to that school district bears to the most recent total funded pupil count for all pupils attributable to the county.

(5.5) (a) On and after July 1, 2008, all moneys other than bonus payments, as defined in paragraph (b) of subsection (5.3) of this section, credited to the mineral leasing fund in excess of the amounts distributed pursuant to subsection (5.4) of this section shall be transferred on a quarterly basis for each quarter commencing on July 1, October 1, January 1, or April 1 of any state fiscal year to the higher education federal mineral lease revenues fund created in section 23-19.9-102 (1) (a), C.R.S., and the higher education maintenance and reserve fund created in section 23-19.9-102 (2) (a), C.R.S., as specified in said section.

(b) Notwithstanding the provisions of paragraph (a) of subsection (5.4) of this section, if the amount of moneys in the higher education federal mineral lease revenues fund, established pursuant to section 23-19.9-102 (1), C.R.S., including any transfers pursuant to section 23-19.9-102 (2) (b), C.R.S., is insufficient to cover the full amount of the payments due to be made under lease-purchase agreements authorized pursuant to section 23-1-106.3 (3), C.R.S., the general assembly may reduce the transfer to the state public school fund by the amount needed to cover

the full amount of payments and transfer that amount to the higher education federal mineral lease revenues fund.

(6) Repealed.

(7) (a) No state agency or office shall expend any moneys received from the local government mineral impact fund unless such expenditure is authorized by legislative appropriation separate from the provisions of this section; except that, if the executive director of the department of local affairs with the concurrence of the governor determines that a local government emergency exists, the state agency or office may expend any moneys received from the local government mineral impact fund without further appropriation. In the event moneys are expended based on a determination that a local government emergency exists, the department of local affairs shall notify the legislative council of the expenditure.

(b) The provisions of paragraph (a) of this subsection (7) shall not apply to any moneys received by a state-supported institution of higher education that provides job training or facilities related to energy development for counties or communities with energy impacts. Such a state-supported institution of higher education may accept and expend moneys from the local government impact fund.

34-63-103. Method of payment. Warrants in payment of the amounts due the several counties shall be issued and paid pursuant to the provisions of law.

34-63-104. Special funds relating to oil shale lands. (1) All moneys from sales, bonuses, royalties, leases, and rentals related to oil shale production on oil shale lands received by the state pursuant to section 35 of the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended, shall be deposited by the state treasurer into a special fund for appropriation by the general assembly to state agencies, school districts, and political subdivisions of the state affected by the development and production of energy resources from oil shale lands primarily for use by such entities in planning for and providing facilities and services necessitated by such development and production and secondarily for other state purposes.

(2) All moneys earned from the investment of the oil shale special fund established by subsection (1) of this section shall be deposited by the state treasurer into a separate special fund and shall be appropriated by the general assembly primarily to state agencies, school districts, and political subdivisions of the state affected by the development and production of energy resources from oil shale lands for planning and, in the form of grants and loans, for providing facilities and services necessitated by such development and production and secondarily for other state purposes.

Exhibit II

Colorado Revised Statutes Title 35, Article 45 Public Domain Range

Section 35-45-108, C.R.S. Distribution of receipts. (1) All moneys received by the state treasurer as the state's share of the amounts collected by the federal government under the provisions of sections 3 and 15 of the "Taylor Grazing Act", and any act amendatory thereof, and under the provisions of Public Law 136, 82nd congress, approved August 31, 1951, shall be credited to a clearing account.

(2) Moneys received under the provisions of section 3 of the "Taylor Grazing Act" which are derived from each grazing district in the state shall be paid over to the counties in which such grazing districts are located, in the proportion that the acreage of each county lying within a particular grazing district bears to the total acreage of such grazing district, as such acreages are certified by the federal agency administering such provisions.

(3) Moneys received under the provisions of section 15 of the "Taylor Grazing Act" and under the provisions of Public Law 136, 82nd congress, shall be paid over to the several counties of the state from which such moneys were derived, as certified in reports furnished by the federal agency administering said provisions.

(4) All such payments shall be calculated by the state treasurer and shall be made to the respective county treasurers during the month of September of each year.

Section 35-45-109, C.R.S. Range improvement fund - board of district advisers. (1) All moneys paid to the counties shall be deposited with the county treasurer in a special fund to be known as the range improvement fund of district no. __. The county treasurer of any county in which a district is located shall be the ex officio district treasurer and custodian of moneys received and shall be liable upon his official bond for all moneys deposited in said range improvement fund. The county treasurer, as ex officio district treasurer, shall pay out such money in said range improvement fund upon the warrant of the chairman or vice-chairman of the district grazing advisory board or a board of district advisers established pursuant to subsection (2) of this section and after consultation with the district manager of the grazing district in which county the moneys were deposited. Said district grazing advisory boards are established pursuant to Public Law 94-579 (43 U.S.C. 1753) or its successor, as may be established by the secretary of the interior pursuant to the "Federal Advisory Committee Act", Public Law 92-463 (86 Stat. 770; Title 5, App.).

(2) (a) In the event that the grazing advisory boards cease to exist, the commissioner of agriculture shall establish and maintain a board of district advisers for each grazing district upon the petition of a simple majority of the livestock lessees and permittees within the jurisdiction of the district. The function of the board of district advisers shall be to determine the use of the range improvement fund in accordance with section 35-45-110.

(b) The number of advisers on each board and the number of years an adviser may serve shall be determined by the commissioner. Each board shall consist of livestock representatives who shall be lessees or permittees in the district under the board's jurisdiction and shall be chosen by the lessees and permittees in the district through an election prescribed by the commissioner. Each board of district advisers shall meet at least once annually.

Exhibit III

Colorado Revised Statutes Title 30, Article 29 Apportionment of Federal Moneys from Public Lands

Section 30-29-101, C.R.S. **Receipts from national forests.** (1) All moneys received by the state treasurer from federal government under provisions of the act of congress of May 23, 1908, as amended, relating to receipts from national forests, shall be credited to a clearing account.

(2) During the month of September of each year, the state treasurer shall pay over the moneys specified in subsection (1) of this section to the treasurers of the several counties of the state in which national forests are located, on the basis of the acreage of national forest land located in each county and in accordance with information provided by the appropriate agency of the federal government as to source and amount.

(3) The boards of county commissioners of the counties receiving the payments specified in subsection (2) of this section shall allocate the amount thereof between the county road and bridge fund and the public schools in the county, but not less than five percent of the amount received annually shall ever be allocated for either purpose. If there is more than one school district in the county, the amount allocated to each district shall be in the proportion which its pupil enrollment during the preceding school year bears to the aggregate pupil enrollment in all districts in the county during said preceding school year.



STATE OF COLORADO

OFFICE OF THE STATE AUDITOR

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March 8, 2010, and
December 29, 2010 - see explanatory paragraph

Independent Auditor's Report on Compliance and Other Matters on Internal Control Over Financial Reporting Based on an Audit of the Statement of Federal Land Payments Performed in Accordance With *Government Auditing Standards*

Members of the Legislative Audit Committee:

We have audited the Statement of Federal Land Payments of the State of Colorado, as of and for the Federal Fiscal Year ended September 30, 2009, and have issued our report thereon dated March 8, 2010. This Statement is the responsibility of the Colorado Governor's Office, which has formally delegated the preparation of the Statement to the Colorado Department of Treasury. We conducted our audit in accordance with generally accepted auditing standards applicable to financial audits contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States.

The Office of the State Auditor received corrected information from Fremont County on October 26, 2010, subsequent to publication of the Department of Treasury Statement of Federal Land Payments report. As a result, we performed additional testing of the information between October 26, 2010 and December 29, 2010.

Compliance

As part of obtaining reasonable assurance about whether the State of Colorado's Statement of Federal Land Payments is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Governmental Auditing Standards*.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Colorado Governor's Office and the Colorado Department of Treasury's internal controls over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the Statement of Federal Land Payments and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that

misstatements in amounts that would be material in relation to the Statement of Federal Land Payments being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.

A handwritten signature in black ink, reading "Kelly J. Manski". The signature is written in a cursive style with a horizontal line extending to the right from the end of the name.



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March 8, 2010

Independent Auditor's Report on Compliance with Requirements Applicable to Major Programs and Internal Control Over Compliance in Accordance with OMB Circular A-133

Members of the Legislative Audit Committee:

Compliance

We have audited the compliance of the State of Colorado with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) *Circular A-133 Compliance Supplement* that are applicable to the major federal programs related to the Statement of Federal Land Payments for the Federal Fiscal Year ended September 30, 2009. The State of Colorado's major federal programs are identified in the summary of auditor's results section of the *State of Colorado Statewide Single Audit* for the year ended June 30, 2009. Compliance with the requirements of laws, regulations, contracts and grants applicable to the major federal programs related to the Statement is the responsibility of the Colorado Governor's Office, which has formally delegated the preparation of the Statement to the Colorado Department of Treasury. Our responsibility is to express an opinion on the State of Colorado's compliance based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Governmental Auditing Standards*, issued by the Comptroller General of the United States; and OMB *Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB *Circular A-133* require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the State of Colorado's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination on the State of Colorado's compliance with those requirements.

In our opinion, the State of Colorado complied, in all material respects, with the requirements referred to above that are applicable to the major federal programs related to the Statement of Federal Land Payments for the Federal Fiscal Year ended September 30, 2009.

Internal Control Over Compliance

The management of the Colorado Governor's Office and the Colorado Department of Treasury are responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to major federal programs related to the Statement of Federal Land Payments. In planning and performing our audit, we considered the Colorado Governor's Office and the Colorado Department of Treasury's internal controls over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on the internal control over compliance in accordance with OMB *Circular A-133*.

Our consideration of the internal control over compliance would not necessarily disclose all matters in the internal control that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with applicable requirements of laws, regulations, contracts and grants that would be material in relation to a major federal program being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over compliance and its operation that we consider to be material weaknesses.



The electronic version of this report is available on the website of the
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Report Control Number 2096

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