



**REPORT OF
THE
STATE AUDITOR**

**STATE OF COLORADO
DEPARTMENT OF TREASURY
STATEMENT OF FEDERAL LAND PAYMENTS**

For the Year Ended September 30, 2002

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STATE OF COLORADO

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February 12, 2003

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.

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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, 2002. This statement is the responsibility of the Colorado Governor's Office. The preparation of the report has been formally delegated 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, 2001 through September 30, 2002, 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.

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, 2002, on the basis of accounting described above.

This report is intended solely for filing with governmental agencies and should not be used for any other purpose.

STATEMENT OF FEDERAL LAND PAYMENTS
DURING THE PERIOD OCTOBER 1, 2001 THROUGH SEPTEMBER 30, 2002

FEDERAL AGENCY MAKING PAYMENT AND TYPE OF PAYMENT

COLORADO COUNTIES	FS/MMS TIMBER & SEC SCHLS TITLE I	USFS SECURE SCHOOLS TITLE III	FS BANKHEAD 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 COUNTY	0	0		182				0			182		182
ALAMOSA COUNTY	7,462	0		0				9			7,471		7,471
ARAPAHOE COUNTY	0	0		36				0			36		36
ARCHULETA COUNTY	88,407	16,576		181,854				0			286,837		286,837
BACA COUNTY	0	0		4,648				0			4,648		4,648
BENT COUNTY	0	0		1,965				0			1,965		1,965
BOULDER COUNTY	13,061	0		0				1			13,062		13,062
BROOMFIELD COUNTY	0	0		0				0			0		0
CHAFFEE COUNTY	11,656	0		23				54			11,733		11,733
CHEYENNE COUNTY	0	0		2,491				0			2,491		2,491
CLEAR CREEK COUNTY	208,441	0		0				0			208,441		208,441
CONEJOS COUNTY	82,492	0		0				2			82,494		82,494
COSTILLA COUNTY	27	0		0				0			27		27
CROWLEY COUNTY	0	0		0				0			0		0
CUSTER COUNTY	26,412	0		0				106			26,518		26,518
DELTA COUNTY	55,671	0		490,829				185			546,685		546,685
DENVER COUNTY	0	0		0				0			0		0
DOLORES COUNTY	81,360	0		114,575				21			195,956		195,956
DOUGLAS COUNTY	15,007	0		2,237				0			17,244		17,244
EAGLE COUNTY	415,457	77,898		75				470			493,900		493,900
EL PASO COUNTY	10,623	0		2,406				0			13,029		13,029
ELBERT COUNTY	0	0		0				0			0		0
FREMONT COUNTY	9,029	0		0				5,944			14,973		14,973
GARFIELD COUNTY	316,609	0		321,178				80			637,867		637,867

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GILPIN COUNTY	19,795	0		0				0			19,795		19,795
GRAND COUNTY	453,607	0		0				629			454,236		454,236
GUNNISON COUNTY	290,470	0		373,401				760			664,631		664,631
HINSDALE COUNTY	114,176	21,408		0				8			135,592		135,592
HUERFANO COUNTY	22,719	0		85,903				13			108,635		108,635
JACKSON COUNTY	167,316	31,372		35,806				212			234,706		234,706
JEFFERSON COUNTY	13,563	0		0				0			13,563		13,563
KIOWA COUNTY	0	0		3,108				0			3,108		3,108
KIT CARSON COUNTY	0	0		0				0			0		0
LA PLATA COUNTY	82,587	15,485		0				13,094			111,166		111,166
LAKE COUNTY	26,251	0		0				1			26,252		26,252
LARIMER COUNTY	61,445	0		262				69			61,776		61,776
LAS ANIMAS COUNTY	3,541	0		31,939				0			35,480		35,480
LINCOLN COUNTY	0	0		0				0			0		0
LOGAN COUNTY	0	0		317				0			317		317
MESA COUNTY	156,099	0		256,836				1,061			413,996		413,996
MINERAL COUNTY	118,161	22,158		0				0			140,319		140,319
MOFFAT COUNTY	17,184	0		150,000				6,655			173,839		173,839
MONTEZUMA COUNTY	35,419	0		370,809				108			406,336		406,336
MONTROSE COUNTY	67,283	0		55,598				487			123,368		123,368
MORGAN COUNTY	0	0		294				0			294		294
OTERO COUNTY	0	0		0				0			0		0
OURAY COUNTY	18,196	0		0				1			18,197		18,197
PARK COUNTY	40,026	0		4,321				1			44,348		44,348
PHILLIPS COUNTY	0	0		0				0			0		0

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PITKIN COUNTY	310,712	0		1,381				1			312,094		312,094
PROWERS COUNTY	0	0		639				0			639		639
PUEBLO COUNTY	2,959	0		0				1,126			4,085		4,085
RIO BLANCO COUNTY	181,074	42,606		150,000				4,823			378,503		378,503
RIO GRANDE COUNTY	76,886	0		924				1,019			78,829		78,829
ROUTT COUNTY	295,126	54,822		361,393				20			711,361		711,361
SAGUACHE COUNTY	201,421	37,766		299				325			239,811		239,811
SAN JUAN COUNTY	42,888	0		105				19			43,012		43,012
SAN MIGUEL COUNTY	24,626	0		87,302				229			112,157		112,157
SEDGWICK COUNTY	0	0		101				0			101		101
SUMMIT COUNTY	410,902	0		0				0			410,902		410,902
TELLER COUNTY	14,644	0		0				91			14,735		14,735
WASHINGTON COUNTY	0	0		2,778				0			2,778		2,778
WELD COUNTY	0	0		80,259				960			81,219		81,219
YUMA COUNTY	0	0		35,749				0			35,749		35,749
TOTAL	4,610,790	320,091	0	3,212,023	0	0	0	38,584	0	0	8,181,488	0	8,181,488

Colorado Department of Treasury

Notes to the Statement of Federal Land Payments For the Federal Fiscal Year Ended September 30, 2002

- 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 \$5,620,922 in Timber Payments that included \$26,142 of state interest was distributed to the counties during the federal fiscal year ended September 30, 2002. Of this amount, \$690,039 was subsequently distributed by the counties to public schools. The Statement reflects the total amount received by the counties, \$5,620,922, less the amounts paid to the public schools of \$690,039 and set aside for Title III projects of \$320,092, per P.L.106-393, The Secure Rural Schools and Community Self-Determination Act of 2000.

Under P.L. 106-393 a county could elect to receive a **Afull@** or **Apartial@** payment. The **Afull@** payment amount is based on the average of the three highest timber payments made between federal fiscal years 1986 through 1999. By electing the **Afull@** payment, the county must set aside 15 percent to fund projects under Title II or Title III of the Act. The **Apartial@** payment amount is based on the current federal fiscal year's timber sales, in which the county receives 25 percent of the generated revenue.

Gunnison County elected the **Afull@** payment method and Title III projects. However, the county did not place the required 15 percent aside. Therefore, 95 percent of the funds received are classified under the AFS/MMS Timber and Sec Schls Title I@ column of the statement.

- 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.)
BLM Bankhead-Jones
FERC Power Sales (general purpose funds not distributed to counties)
Fish and Wildlife Refuge Revenue Sharing

- 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.)
- D. The county portion of the Mineral Lease monies, totaling \$1,500,615, received from July through September 2001, was distributed to the counties in October 2001. This amount is

Colorado Department of Treasury

Notes to the Statement of Federal Land Payments For the Federal Fiscal Year Ended September 30, 2002

included in this statement as part of the \$3,212,022 shown as MMS/BLM Mineral Leasing payments.

The county portion of the Mineral Lease monies, totaling \$1,798,679, received from July through September 2002, was distributed to the counties in October 2002. This amount will be included in the Fiscal Year 2003 statement.

- E. A September 2001 Sale of Materials receipt, totaling \$35,621, was distributed in November 2001. This amount is included in this statement as part of the \$38,584 shown as Sale of Materials payments.
- F. The Colorado Department of Treasury does not produce a warrant for payments under \$5.00.

Audit Findings and Recommended Adjustments

There are no audit findings or recommended adjustments related to our audit of the Statement of Federal Land Payments for the fiscal year ended September 30, 2002.

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 34-63-103.

Section 34-63-102, C.R.S. **Creation of mineral leasing fund - distribution - advisory committee.** (1)(a) On or after January 1, 1977, 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.

(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) 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 educational 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) 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 payment to the several counties 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) Commencing January 1, 1983, one-half of any balance of said fifty percent in excess of ten million one hundred thousand dollars 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 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) 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) 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. The executive director of the department of local affairs shall distribute moneys from such 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. Notwithstanding any other provision of this paragraph (a) to the contrary, the executive director shall distribute moneys from such fund to the uranium mill tailings remedial action program fund in accordance with the provisions of section 39-29-116(3), C.R.S.

(II) On or 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.

(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 transportation, and five residents of areas impacted by energy conversion or mineral resource development. The five residents shall be appointed by the governor 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 chairman of the committee. Members of the committee shall serve without additional compensation; except that the five members 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 agency to serve on the committee in his absence. The chairman shall convene the advisory committee from time to time as he deems necessary. Such 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.

(II) Repealed.

(c) The executive director of the department of local affairs shall file with the general assembly annually before February 1 a detailed accounting of the distribution of funds for the previous year.

(6) Repealed.

(7) 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.

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.

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