

COLORADO OFFICE OF THE STATE AUDITOR



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DEPARTMENT OF THE TREASURY

STATEMENT OF FEDERAL LAND PAYMENTS FEDERAL FISCAL YEAR ENDED SEPTEMBER 30, 2020



MARCH 2021

FINANCIAL AUDIT

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OFFICE OF THE STATE AUDITOR



March 15, 2021

DIANNE E. RAY, CPA
—
STATE AUDITOR

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:

REPORT ON THE STATEMENT

We have audited the accompanying Statement of Federal Land Payments (Statement) of the State of Colorado as of, and for the Federal Fiscal Year Ended, September 30, 2020, and the related notes to the Statement.

MANAGEMENT'S RESPONSIBILITY FOR THE STATEMENT

The Colorado Office of the Governor and the Department of the Treasury's management is responsible for the preparation and fair presentation of the Statement in accordance with the financial reporting provisions of the United States Department of the Interior, to demonstrate compliance with the Department of the Interior's regulatory basis of accounting and budget laws [43 CFR 44] and in accordance with the provisions of the October 16, 1978, Comptroller General of the United States Decision [B-167553] and the Audit Guide for Payments in Lieu of Taxes issued by the Department of the Interior. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the Statement that is free from material misstatement, whether due to fraud or error.

AUDITOR'S RESPONSIBILITY

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 the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement is free from material misstatement.



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An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the Statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the Statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

OPINION

In our opinion, the Statement of Federal Land Payments referred to above presents fairly, in all material respects, the federal land payments of the State of Colorado, as of, and for the Federal Fiscal Year Ended September 30, 2020, on the basis of accounting described in Note E of the Statement.

BASIS OF ACCOUNTING

We draw attention to Note E of the Statement, which describes the basis of accounting. As discussed in Note E, the Colorado Department of the Treasury prepares this Statement on the basis of cash disbursements made by the State of Colorado to qualified local governmental subdivisions in accordance with 43 CFR 44, and B-167553. These practices differ from accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

OTHER REPORTING REQUIRED BY GOVERNMENT AUDITING STANDARDS

In accordance with *Government Auditing Standards*, we have also issued our report dated March 15, 2021, on our consideration of the Office of the Governor's and the Department of the Treasury's internal control over financial reporting and on our

tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Office of the Governor's and Department of Treasury's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Office of the Governor's and Department of Treasury's internal control over financial reporting and compliance.

RESTRICTION ON USE

This report is intended solely for the information and use of the Legislative Audit Committee, management, others within the entity, and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties. However, upon release by the Legislative Audit Committee this report is a public document.

A handwritten signature in black ink, appearing to read "D. F. King" or similar, written in a cursive style.

Denver, Colorado
March 15, 2021



STATEMENT OF FEDERAL LAND PAYMENTS
DURING THE PERIOD OCTOBER 1, 2019 THROUGH SEPTEMBER 30, 2020
FEDERAL AGENCY MAKING PAYMENT AND TYPE OF PAYMENT

COLORADO COUNTIES	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
	FS TIMBER PAYMENT TITLE I	FS TIMBER PAYMENT TITLE III	FS TIMBER 25% PAYMENT	FS ONRR TIMBER PAYMENT	FS BANKHEAD JONES	ONRR MINERAL LEASING	BLM MINERAL LEASING	BLM SEC 3 TAYLOR GRAZING	BLM SEC 15 TAYLOR GRAZING	BLM BANKHEAD JONES	BLM SALE OF MATERIALS	FERC POWER SALES	FW REFUGE SHARING	TOTAL	REC AD**	ACCEPT REC FOR**
ADAMS	-	-	-	-	-	134,038	-	-	-	-	-	-	-	134,038	-	134,038
ALAMOSA	16,684	-	-	-	-	291	-	-	-	-	-	-	562	17,537	-	17,537
ARAPAHOE	-	-	-	-	-	21,867	-	-	-	-	-	-	-	21,867	-	21,867
ARCHULETA	-	-	-	-	-	11,914	-	-	-	-	-	-	-	11,914	-	11,914
BACA	-	-	-	-	7,396	614	-	-	-	-	-	-	-	8,010	-	8,010
BENT	-	-	-	-	-	487	-	-	-	-	-	-	-	487	-	487
BOULDER	17,529	-	-	-	-	20,221	-	-	-	-	-	1,537	-	39,287	-	39,287
BROOMFIELD	-	-	-	-	-	17,132	-	-	-	-	-	-	-	17,132	-	17,132
CHAFFEE	-	19,341	-	-	-	19,419	-	-	-	-	1,307	732	-	40,799	-	40,799
CHEYENNE	-	-	-	-	-	7,633	-	-	-	-	-	-	-	7,633	-	7,633
CLEAR CREEK	-	-	115,684	-	-	19,949	-	-	-	-	-	6,566	-	142,199	-	142,199
CONEJOS	13,318	-	-	-	-	473	-	-	-	-	-	-	-	13,791	-	13,791
COSTILLA	231	-	-	-	-	545	-	-	-	-	-	-	-	776	-	776
CROWLEY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
CUSTER	17,158	18,924	-	-	-	184	-	-	-	-	2	-	-	36,268	-	36,268
DELTA	75,971	26,813	-	-	-	68,579	-	-	-	-	5	-	-	171,368	-	171,368
DENVER	-	-	-	-	-	73,923	-	-	-	-	-	-	-	73,923	-	73,923
DOLORES	161,203	26,551	-	-	-	326,671	-	-	-	-	684	-	-	515,109	-	515,109
DOUGLAS	26,321	-	-	-	-	26,924	-	-	-	-	-	-	-	53,245	-	53,245
EAGLE	-	-	-	-	-	1,536	-	-	-	-	11	29	-	1,576	-	1,576
EL PASO	27,709	-	-	-	-	23,417	-	-	-	-	-	4,488	-	55,614	-	55,614
ELBERT	-	-	-	-	-	3,824	-	-	-	-	2	-	-	3,826	-	3,826
FREMONT	-	16,041	-	-	-	33,756	-	-	-	-	14,540	-	-	64,337	-	64,337
GARFIELD	-	17,063	-	-	-	FML DISTRICT	-	-	-	-	87	-	-	17,150	-	17,150
GILPIN	9,465	-	-	-	-	2,212	-	-	-	-	-	-	-	11,677	-	11,677
GRAND	-	-	-	-	-	23,314	-	-	-	-	1,113	-	-	24,427	-	24,427
GUNNISON	-	55,635	-	-	-	402,693	-	-	-	-	1,339	-	-	459,667	-	459,667
HINSDALE	129,568	15,243	-	-	-	-	-	-	-	-	220	-	-	145,031	-	145,031
HUERFANO	22,735	16,049	-	-	-	FML DISTRICT	-	-	-	-	108	-	-	38,892	-	38,892
JACKSON	90,270	14,868	-	-	-	125,870	-	-	-	-	168	-	-	231,176	-	231,176
JEFFERSON	26,167	-	-	-	-	64,993	-	-	-	-	-	-	-	91,160	-	91,160
KIOWA	-	-	-	-	-	3,545	-	-	-	-	-	-	-	3,545	-	3,545
KIT CARSON	-	-	-	-	-	789	-	-	-	-	-	-	-	789	-	789
LA PLATA	-	-	-	-	-	217,074	-	-	-	-	13,626	-	-	230,700	-	230,700
LAKE	-	-	-	-	-	59,472	-	-	-	-	35	-	-	59,507	-	59,507
LARIMER	128,340	21,138	-	-	-	109,530	-	-	-	-	6	-	-	259,014	-	259,014
LAS ANIMAS	-	-	-	-	2,347	44,828	-	-	-	-	-	-	-	47,175	-	47,175
LINCOLN	-	-	-	-	-	1,248	-	-	-	-	-	-	-	1,248	-	1,248
LOGAN	-	-	-	-	-	21,885	-	-	-	-	-	-	-	21,885	-	21,885
MESA	64,180	28,079	-	-	-	FML DISTRICT	-	-	-	-	703	-	-	92,962	-	92,962
MINERAL	51,830	21,900	-	-	-	167	-	-	-	-	-	-	-	73,897	-	73,897
MOFFAT	18,509	-	-	-	-	463,301	-	-	-	-	921	-	-	482,731	-	482,731
MONTEZUMA	41,292	-	-	-	-	1,901,405	-	-	-	-	-	-	-	1,942,697	-	1,942,697
MONTROSE	-	19,896	-	-	-	9,969	-	-	-	-	-	-	-	29,865	-	29,865
MORGAN	-	-	-	-	-	60,474	-	-	-	-	-	-	-	60,474	-	60,474
OTERO	-	-	-	-	6,209	1,424	-	-	-	-	-	-	-	7,633	-	7,633
OURAY	-	-	-	-	-	21	-	-	-	-	1	-	-	22	-	22
PARK	109,126	17,118	-	-	-	FML DISTRICT	-	-	-	-	54	-	-	126,298	-	126,298
PHILLIPS	-	-	-	-	-	496	-	-	-	-	-	-	-	496	-	496
PITKIN	-	-	-	-	-	2,059	-	-	-	-	-	-	-	2,059	-	2,059
PROWERS	-	-	-	-	-	3,532	-	-	-	-	-	-	-	3,532	-	3,532
PUEBLO	-	-	-	-	-	5,201	-	-	-	-	-	-	-	5,201	-	5,201
RIO BLANCO	95,781	-	-	-	-	599,735	-	-	-	-	458	984	-	696,958	-	696,958
RIO GRANDE	38,219	12,590	-	-	-	297	-	-	-	-	34	-	-	51,140	-	51,140
ROUTT	-	-	-	-	-	28,155	-	-	-	-	-	-	-	28,155	-	28,155
SAGUACHE	-	58,644	-	-	-	769	-	-	-	-	728	-	2,958	63,099	-	63,099
SAN JUAN	54,380	-	-	-	-	-	-	-	-	-	14	1,351	-	55,745	-	55,745
SAN MIGUEL	-	4,948	-	-	-	4,111	-	-	-	-	-	1,181	-	10,240	-	10,240
SEDGWICK	-	-	-	-	-	271	-	-	-	-	-	-	-	271	-	271
SUMMIT	-	-	445,554	-	-	16,845	-	-	-	-	-	-	-	462,399	-	462,399
TELLER	34,639	-	-	-	-	76,861	-	-	-	-	3	-	-	111,503	-	111,503
WASHINGTON	-	-	-	-	-	3,515	-	-	-	-	-	-	-	3,515	-	3,515
WELD	-	-	-	-	3,039,670	FML DISTRICT	-	-	-	-	-	-	-	3,039,670	-	3,039,670
YUMA	-	-	-	-	-	17,154	-	-	-	-	-	-	-	17,154	-	17,154
TOTAL	1,270,625	410,841	561,238	-	3,055,622	5,086,612	-	-	-	-	36,169	16,868	3,520	10,441,495	-	10,441,495

Abbreviations:	*The noted counties below have created Federal Mineral Lease Districts in accordance with Section 30-20-1302(2), C.R.S. Amounts listed in the table above for these counties do not include any distributions directly made to a Federal Mineral Lease District. See table below for distributions made directly to Federal Mineral Lease Districts.
FS - Forest Service	FEDERAL MINERAL LEASE DISTRICT REVENUE BY COUNTY - FEDERAL FISCAL YEAR 2020
BLM - Bureau of Land Management	GARFIELD \$ 656,798
ONRR - Office of Natural Resources Revenue	HUERFANO \$ 9,648
FERC - Federal Energy Regulatory Commission	MESA \$ 495,556
FW REF - Fish and Wildlife Refuge	PARK \$ 14,603
REC - Recommended	WELD \$ 849,741
AD - Adjustment	TOTAL \$ 2,026,346

**Column 15 notes any audit adjustments to the distributions made to the counties and Column 16 notes the net amount that is recommended for acceptance. As shown in Column 15, there were no audit adjustments to the distributions made to the counties during Federal Fiscal Year 2020.



NOTES TO THE STATEMENT OF FEDERAL LAND PAYMENTS FOR THE
FEDERAL FISCAL YEAR ENDED SEPTEMBER 30, 2020

- 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 25 percent of amounts received to public school districts in the county (See EXHIBIT IV 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 \$11,687,765 in Timber Payments was distributed to the counties during the federal Fiscal Year Ended September 30, 2020. The Statement reflects Title I and Title III payments received by the counties less the amounts paid to the public schools, which equals to \$1,270,625 listed as Title I and \$410,841 listed as Title III, per P.L.110-343, The Secure Rural Schools and Community Self-Determination Act of 2000. The Statement reflects the total amount of FS Timber 25% payments received by the counties less the amounts paid to the public schools, which equals to \$561,238.

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, of the payment 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.

- B United States Department of the Interior guidance for the preparation of this Statement requires that the Statement include monies distributed directly by the State to the counties, as well as monies distributed directly by the United States Department of the Interior to the counties as long as there are no state statutes governing the distribution or use of the funds.

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

- FS Bankhead-Jones (distributed directly to counties by U.S.F.S.) (Column 5)

- BLM Bankhead-Jones (distributed directly to counties by BLM) (Column 10)
- FERC Power Sales (general purpose funds not distributed to counties) (Column 12)
- Fish and Wildlife Refuge Revenue Sharing (distributed directly to counties by F&W) (Column 13)

These monies were distributed directly to the counties by the Federal Department of the Interior. The Colorado Department of the Treasury performed a statute search for Federal Fiscal Year Ended September 30, 2019, and found that there is no state law specifying how FS Bankhead-Jones, BLM Bankhead-Jones, FERC Power Sales, and Fish and Wildlife Refuge Revenue Sharing payments are to be spent by the counties. Per the request for this Statement by the Department of the Interior, if there are no state statutes governing the distribution or use of these funds then they are to be included on the Statement.

- 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 III for statute.)
- D Federal Mineral Lease (FML) payments are distributed directly to counties and local governments by the Department of Local Affairs. (Column 6) The Statutes outlined in Exhibit I of this report establish the State’s required distribution of Mineral Leasing monies received from the Department of the Interior. These statutes contain no requirements for how counties and local governments spend or distribute these monies.
- E The Statement of Federal Land Payments was prepared on the basis of cash disbursements made by the State of Colorado to qualified local governmental subdivisions, and in accordance with the financial reporting provisions of the United States Department of the Interior.

EXHIBIT I

COLORADO REVISED STATUTES

TITLE 34, ARTICLE 63, SECTIONS 101-104

ROYALTIES UNDER FEDERAL LEASING

(MINERAL LEASING FUND)

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—LOCAL GOVERNMENT PERMANENT FUND CREATED—DEFINITIONS—TRANSFER OF MONEY.

(1)(a)(I) (Deleted by amendment, L. 2011, (SB 11-238), ch. 300, p. 1441, § 1, effective June 8, 2011.)

(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, which fund is hereby created, 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., 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.

(c) Repealed.

(2) to (4) (Deleted by amendment, L. 2011, (SB 11-238), ch. 300, p. 1441, § 1, effective June 8, 2011.)

(5)(a)(I) On and after July 1, 2008, moneys shall be paid into the local government mineral impact fund, which is hereby created, as specified in paragraph (b) of subsection (5.4) of this section and distributed as specified in paragraphs (b) and (c) of said subsection.

(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) to (V) (Deleted by amendment, L. 2011, (SB 11-238), ch. 300, p. 1441, § 1, effective June 8, 2011.)

(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) Notwithstanding section 24-1-136 (11)(a)(I), 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 subsection (1)(a)(II) 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-subparagraph (B) 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) If, based on the revenue estimate prepared by the staff of the legislative council in December 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 or next fiscal year. The maximum amount that the general assembly may appropriate for the current or next 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) and (D) (Deleted by amendment, L. 2011, (SB 11-238), ch. 300, p. 1441, § 1, effective June 8, 2011.)

(E) Notwithstanding any provision of this subsection (5.3) to the contrary, on June 30, 2011, the state treasurer shall deduct four million eight hundred thousand dollars from the local government permanent fund and transfer such sum to the general fund.

(F) Notwithstanding any other provision of this section, on June 30, 2020, the state treasurer shall transfer two million three hundred thousand dollars from the local government permanent fund to the general fund.

(II) Fifty percent of the bonus payments shall be transferred to the higher education federal mineral lease revenues fund created in section 23-19.9-102 (1)(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 (II) 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)(I) 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 for planning, analyses, public engagement, and coordination and collaboration with federal land managers and stakeholders, or for similar or related local government processes needed by local governments for engagement in federal land management decision-making. In distributing the 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.

(II) Repealed.

(b.5) (Deleted by amendment, L. 2011, (SB 11-238), ch. 300, p. 1441, § 1, effective June 8,

2011.)

(b.7) and (b.8) Repealed.

(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 sub-subparagraph (B) of subparagraph (I) of paragraph (a) of subsection (5.3) of this section to counties, federal mineral lease districts, 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 or the federal mineral lease district 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)(I) On and after July 1, 2008, but before April 14, 2016, 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 as that section existed prior to its repeal.

(II) On and after April 14, 2016, 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., 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., 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 mineral impact fund.

SECTION 34-63-103. METHOD OF PAYMENT. Warrants in payment of the amounts due the several counties of the state shall be issued and paid pursuant to the provisions of law.

SECTION 34-63-104. SPECIAL FUNDS RELATING TO OIL SHALE LANDS – NAVAL OIL SHALE RESERVES – DISTRIBUTION TO LOCAL GOVERNMENTS – LEGISLATIVE DECLARATION. (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.

(3)(a) The general assembly hereby finds and declares that:

(I) Colorado is the location of two federal naval oil shale reserves (NOSR), numbers 1 and 3;

(II) Congress passed the federal transfer act, codified at 10 U.S.C. sec. 7439, as amended, which transferred administrative jurisdiction over NOSR 1 and 3 from the United States secretary of energy to the United States secretary of the interior and requires the secretary of the interior to manage the transferred lands through the federal bureau of land management;

(III) The federal transfer act further specified that royalties collected from NOSR 1 and 3 would be placed in the United States treasury and not distributed to the state until there was enough money in the treasury to reimburse the United States for previous costs incurred relating to the transferred lands and to provide for cleanup of the anvil points site at NOSR 3;

(IV) As a result, more than one hundred thirteen million dollars was withheld from distribution to the state from 1997 to 2008, and this amount far exceeded the amount needed for the reimbursement and the cleanup;

(V) Approximately eighty million dollars of these funds has been spent;

(VI) It is anticipated that a portion of the withheld money may soon be disbursed to the state;

(VII) Garfield, Rio Blanco, Mesa, and Moffat counties made significant expenditures to address the impacts of the operation of the anvil points site and the mineral extraction from which the withheld money was derived, but have not received any state or federal money as reimbursement; and

(VIII) The counties have been instrumental in the release of the withheld money.

(b) If the state receives any money in accordance with the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended, that was set aside prior to January 1, 2009, and withheld by the federal government in accordance with 10 U.S.C. sec. 7439, as amended, then the state treasurer shall distribute the money to the following counties or related federal mineral lease districts, if applicable:

(I) Forty percent to Garfield county;

(II) Forty percent to Rio Blanco county;

(III) Ten percent to Mesa county; and

(IV) Ten percent to Moffat county.

(c) The state treasurer shall consult with the department of local affairs to determine

whether a county identified in subsection (3)(b) of this section has created a federal mineral lease district in accordance with the "Federal Mineral Lease District Act", part 13 of article 20 of title 30. If a county has created a district, the state treasurer shall distribute any money in accordance with subsection (3)(b) of this section directly to the district.

EXHIBIT II

COLORADO REVISED STATUTES

TITLE 30, ARTICLE 20, PART 13

FEDERAL MINERAL LEASE DISTRICTS

SECTION 30-20-1301, C.R.S. SHORT TITLE. This part 13 shall be known and may be cited as the “Federal Mineral Lease District Act”.

SECTION 30-20-1302, C.R.S. LEGISLATIVE DECLARATION. (1) The general assembly hereby finds, determines, and declares that it is committed to making sure that all available funding received from federal mineral leasing and distributed as specified in section 34-63-102 (5.4) (c), C.R.S., is used to alleviate social, economic, and public finance impacts resulting from the development of natural resources in this state, subject to the limitations provided for in the federal act.

(2) The general assembly further finds and declares that the purpose of this legislation is to maximize the long-term benefit of funding derived from federal mineral leasing by authorizing the creation of federal mineral lease districts as funding and service delivery mechanisms, which will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of this state, with priority given to those communities designated as impacted by the development of natural resources covered in the federal act.

(3) The general assembly further finds and declares that federal mineral lease districts provide an effective mechanism to expedite the distribution of funding, without the use or increase of ad valorem and other taxes, to those communities designated as impacted by the development of natural resources covered by the federal act.

SECTION 30-20-1303, C.R.S. DEFINITIONS. As used in this part 13, unless the context otherwise requires:

(1) “County” means a home rule or statutory county in this state and includes a city and county.

(1.5) “Distribute” means to grant, loan, commit, or otherwise expend available funding to achieve the purposes of the district consistent with this part 13.

(2) “District” means a federal mineral lease district created pursuant to this part 13.

(2.5) “Federal act” means section 35 of the federal “Mineral Lands Leasing Act” of February 25, 1920, as amended.

(3) “Funding” means the direct distribution of money from the local government mineral impact fund to counties as described in section 34-63-102 (5.4)(c) or a distribution to the county in accordance with section 34-63-104 (3).

(4) “Resolution” means a resolution initiated and adopted by a board of county commissioners of a county to create a federal mineral lease district as described in section 30-20-1304 (2).

SECTION 30-20-1304, C.R.S. POWER TO CREATE FEDERAL MINERAL LEASE DISTRICTS. (1) Except as otherwise provided in this part 13, any county may create a district, so long as the district is created through a resolution adopted as specified in subsection (2) of this section no later than June 30, 2011, and each June 1 of every year thereafter.

(2) A board of county commissioners shall create a district by duly adopting, by majority vote, a resolution to that effect, and the resolution shall set forth:

(a) The name of the county creating the district;

(b) Repealed.

(c) A description of the boundaries of the district, which may include any municipality within the county creating the district;

(d) The name of the district; and

(e) The number of directors of the district. There shall be no fewer than three directors for a district, and the total number of directors shall be an odd number.

(3) Repealed.

(4) No later than the first business day after the adoption of a resolution, the county clerk and recorder shall transmit a certified copy of the resolution to the executive director of the department of local affairs, who shall, upon receipt of the certified copy of the resolution, allocate all future funding directly to the district. The state treasurer shall allocate all funding in accordance with section 34-63-104 (3) directly to the district.

(5) A district organized pursuant to this part 13 may be dissolved by the district board after not less than fifteen days’ notice to the public is given and a hearing is held. The notice shall

be published in at least one newspaper of general circulation in the county in which the district is located. After hearing any protests against or objections to dissolution, if a majority of the district board determines that it is in the best interests of all concerned to dissolve the district, the district board shall so provide by resolution, and verified copies of the resolution shall be filed within three business days with the office of the county clerk and recorder in the county in which the district is located and with the executive director of the department of local affairs. Upon such filings, the dissolution shall be complete, except that no district shall be dissolved until all funding is distributed consistent with this part 13 and has satisfied or paid in full all of its outstanding indebtedness, obligations, and liabilities.

(6) Notwithstanding any other provision in subsection (5) of this section, any board of county commissioners of a county that initiated and passed a resolution to create a district as described in section 30-20-1304 (2) as such section existed before April 6, 2012, may, within ninety days of April 6, 2012, initiate and pass a resolution to dissolve the district. For any district dissolved pursuant to this subsection (6), all undistributed funding shall be paid over to the county.

SECTION 30-20-1305, C.R.S. APPROVAL OF SERVICE PLAN. (Repealed)

SECTION 30-20-1305.5, C.R.S. POWERS OF A DISTRICT. (1) Each district formed pursuant to this part 13 is an independent public body politic and corporate. Each district is a public instrumentality, and its exercise of the powers specified in this part 13 are deemed and held to be the performance of an essential public function. A district is not an agency of county or state government and is not subject to administrative direction by any department, commission, board, or agency of a county or the state.

(2) In addition to any other powers granted to a district by this part 13, a district has the following powers:

- (a) To sue and be sued;
- (b) To enter into contracts and agreements including those described in section 29-1-201, C.R.S.;
- (c) To acquire real or personal property or an interest in real or personal property;
- (d) To sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the district's property or assets;
- (e) To enter into grant or loan agreements;

(f) In order to carry out the purposes of this part 13, to borrow money as evidenced by revenue bonds, certificates, warrants, notes, and debentures in accordance with the provisions of this part 13;

(g) To adopt an official seal;

(h) To distribute funding to an area outside the district boundaries consistent with this part 13; and

(i) To provide services consistent with the federal act and this part 13.

(j) To invest funding as set forth in section 30-20-1307.

(3) A district does not have the power to levy and collect taxes or to use the power of eminent domain.

(4) Each district formed under this part 13 is subject to the “Local Government Budget Law of Colorado”, part 1 of article 1 of title 29, C.R.S., and the “Colorado Local Government Audit Law”, part 6 of article 1 of title 29, C.R.S.

SECTION 30-20-1306, C.R.S., BOARD OF DIRECTORS—APPOINTMENT OR ELECTION—REMOVAL. (1)(a)(I) Except as provided in subparagraph (II) of this paragraph (a), immediately after the creation of a district, the board of county commissioners of the county shall, by majority vote, appoint a board of directors for the district. The number of directors on the board shall be as set forth in the resolution creating the district.

(II) If the board of county commissioners finds that the board of directors for the district should be elected rather than appointed, the board of county commissioners shall outline the method of such an election by duly adopting by majority vote a resolution to that effect. The election procedures shall comply with the election requirements set forth in articles 1 to 13 of title 1, C.R.S.

(b) Members of the board of directors may be county commissioners from the county that created the district, representatives of the governing body of municipalities included in the district, or other officials representing the interests of areas impacted by mineral lease activities.

(c) County commissioners serving on the board of directors, if any, shall not constitute a majority on the board of directors.

(d) The officers of the board of directors shall be the president and a secretary who shall be elected annually by the board of directors from its own members.

(e) (I) Members of the board of directors shall serve staggered terms so that not more than one director's term expires in any one year, and thereafter terms shall be for three years each, and each term shall commence on January 15.

(II) Notwithstanding subparagraph (I) of this paragraph (e), every board of county commissioners of a county that initiated and passed a resolution to create a district as described in section 30-20-1304 (2) as such section existed before April 6, 2012, shall, within ninety days of April 6, 2012, pass a resolution fixing the initial terms of all existing directors. The resolution shall designate at least one director whose initial term shall expire on January 15, 2013, at least one director whose initial term shall expire on January 15, 2014, and at least one director whose initial term shall expire on January 15, 2015. Successor directors shall serve three year terms.

(2)(a) Each director shall hold office until the expiration of the term to which such director is appointed or elected or until a successor has been duly appointed or elected.

(b) Vacancies on the board of directors shall be filled by a majority vote of the board of county commissioners.

(c) The board of county commissioners of the county may remove any director for official misconduct, incompetence, neglect of duty, or other good cause shown, so long as the removal occurs after the director in question is given notice and an opportunity to be heard before the board of county commissioners at a public hearing.

(3) All special and regular meetings of the board of directors for a district shall be held pursuant to part 4 of article 6 of title 24, C.R.S.

SECTION 30-20-1307, C.R.S., BOARD OF DIRECTORS—POWERS AND DUTIES. (1)(a) Except as otherwise provided in subsection (1)(b) of this section, the board of directors of a district shall distribute all of the funding the district receives from the department of local affairs to areas that are socially or economically impacted, either directly or indirectly, by the development, processing, or energy conversion of fuels and minerals leased under the federal act; except that the board of directors may elect to invest up to fifty percent of the funding as specified in subsection (5) of this section.

(b) The board of directors may use up to ten percent of the annual funding for any

administrative costs of the district; except that any investment-related expenses are excluded from the calculation of the district's administration costs.

(c) Notwithstanding any other provision of this part 13, the board of directors of a district may reserve, or invest as specified in subsection (5) of this section, all or a portion of the funding for use in subsequent years.

(2) The board of directors may review any reports or studies made and may seek any additional reports or studies it deems necessary regarding the distribution of funding in the district.

(3) The board of directors may cooperate or contract with any other district to provide any function or service lawfully authorized to each of the cooperating or contracting districts, including the sharing of costs, only if the cooperation or contracts are authorized by each district with the approval of each district's board of directors. Any contract providing for the sharing of costs may be entered into for any period, not to exceed the existence of the district and notwithstanding any provision of law limiting the length of any financial contracts or obligations of governments. Any such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial and otherwise, of the contracting parties. Where other provisions of law provide requirements for special types of intergovernmental contracting or cooperation, those special provisions shall control.

(4) The board of directors may exercise any of the powers set forth in section 30-20-1305.5.

(5) If the board of directors elects to invest the portion of the funding as allowed in subsection (1)(a) of this section:

(a) The portion of the funding to be invested shall be held in a fund established by a resolution enacted by the district;

(b) The board of directors shall make investments pursuant to the investment policy described in subsection (6) of this section and in a manner that complies with the "Uniform Prudent Investor Act", article 1.1 of title 15;

(c) The board of directors may invest the portion of the funding 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;

(d) The board of directors may engage the services of investment advisors. The selection of investment advisors must be made following an open and competitive process.

(e) The board of directors may appropriate and disburse any part of the invested funding and all sums in excess thereof, including interest, dividends, or similar appreciated values, but shall do so only upon the enactment of a resolution identifying the reason for the appropriation and disbursement;

(f) The board of directors shall ensure that, at all times, liquid investment assets or other funding not invested remain at a level sufficient to pay for all budgeted and outstanding obligations of the district in any fiscal year; and

(g) The board of directors, individually or as a group, shall not engage in any activities that might result in a conflict of interest with respect to their fiduciary responsibility for the district.

(6) The board of directors shall adopt an investment policy resolution and shall review the investment policy annually. The investment policy must include:

(a) An acknowledgment of the board of director's fiduciary responsibility with respect to oversight of the district's investment policy;

(b) Performance benchmarks for all investments and for all investment advisors who may be hired by the board of directors;

(c) A requirement for the preparation and publication of annual financial statements that must include, at minimum, information regarding starting balances, contributions, investment income, and losses, if any, and any investment fees incurred;

(d) Careful consideration of investment fees or other brokerage costs which might reduce investment returns; and

(e) A requirement that the board of directors annually review the investments and annually set appropriations to be included in the trust fund.

EXHIBIT III

COLORADO REVISED STATUTES

TITLE 35, ARTICLE 45, SECTIONS 108 AND 109

PUBLIC DOMAIN RANGE

(TAYLOR GRAZING ACT FUND)

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 USC 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 IV

COLORADO REVISED STATUTES

TITLE 30, ARTICLE 29, SECTION 101

APPORTIONMENT OF FEDERAL MONEYS FROM PUBLIC LANDS

(USFS NATIONAL FORESTS FUND)

SECTION 30-29-101, C.R.S., RECEIPTS FROM NATIONAL FORESTS – LEGISLATIVE INTENT. (1)

All moneys received by the state treasurer from the federal government under provisions of the act of congress of May 23, 1908, as amended, 16 U.S.C. sec. 500, relating to receipts from national forests, referred to in this section as “national forest payments”, shall be credited to a clearing account.

(2) The state treasurer shall pay over the national forest payments within thirty days after receipt of the payments 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)(a) The boards of county commissioners of the counties receiving the payments specified in subsection (2) of this section shall allocate a minimum of twenty-five percent to the county road and bridge fund and a minimum of twenty-five percent to the public schools in the county; except that the county may allocate less than twenty-five percent of the national forest payments to the county road and bridge fund in order to maximize the receipt by the county of federal payments in lieu of taxes pursuant to 31 U.S.C. sec. 6901 et seq., referred to in this section as “PILT”. The allocation of the remaining fifty percent of the national forest payments shall be determined pursuant to the provisions of paragraph (b) of this subsection (3).

(b)(I) A total of three representatives from the school districts in the county and three members of the board of county commissioners, or their designees, shall meet and shall negotiate the remaining percentage allocation of the national forest payments to either the public schools in the county or the county road and bridge fund. In determining the allocation of the national forest payments, the parties shall seek to maximize the total amount of federal funds that may be received by the county and the public schools in the county.

(II) Unallocated national forest payments shall remain unspent until such time as the parties agree upon the allocation of the national forest payments between the county road and bridge fund and the public schools in the county.

(c) If there is more than one school district in the county, the amount allocated to each district shall be in the proportion that 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.

(4) Notwithstanding the minimum percentage allocations to the public schools in the county and the county road and bridge fund set forth in paragraph (a) of subsection (3) of this section, in any federal fiscal year in which the national forest payments received by the state from the federal government are less than six million dollars, the parties specified in paragraph (b) of subsection (3) of this section shall allocate one hundred percent of the national forest payments to either the public schools in the county or the county road and bridge fund pursuant to the provisions of paragraph (b) of subsection (3) of this section.

(5) Repealed.





INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS 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, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Statement of Federal Land Payments (Statement) of the State of Colorado, as of and for the federal Fiscal Year Ended September 30, 2020, and the related notes to the Statement, and have issued our report thereon dated March 15, 2021.

INTERNAL CONTROL OVER FINANCIAL REPORTING

In planning and performing our audit of the Statement, we considered the Colorado Office of the Governor's and the Colorado Department of the Treasury's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the Statement of Federal Land Payments, but not for the purpose of expressing an opinion on the effectiveness of the Colorado Office of the Governor's and the Colorado Department of Treasury's internal controls. Accordingly, we do not express an opinion on the effectiveness of the Colorado Office of the Governor's and the Colorado Department of the Treasury's internal controls.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of



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deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

COMPLIANCE AND OTHER MATTERS

As part of obtaining reasonable assurance about whether the State of Colorado's Statement of Federal Land Payments is free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, 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 or other matters that are required to be reported under *Government Auditing Standards*.

PURPOSE OF THIS REPORT

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

A handwritten signature in black ink, appearing to be "D. F. King" or similar, written in a cursive style.

Denver, Colorado
March 15, 2021