

CHAPTER 411

GOVERNMENT - STATE

SENATE BILL 10-209

BY SENATOR(S) Schwartz, Gibbs, Hodge, Kester, Penry, Scheffel, Steadman, White, Whitehead, Boyd, Foster, Heath, Morse, Newell, Williams;
also REPRESENTATIVE(S) Vigil, Looper, Pace, Tipton.

AN ACT

CONCERNING THE ALLOCATION OF 2009 NATIONAL FOREST PAYMENTS IN COUNTIES AS SAID PAYMENTS RELATE TO FEDERAL PAYMENTS IN LIEU OF TAXES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 30-29-101 (3) (a), Colorado Revised Statutes, is amended, and the said 30-29-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

30-29-101. Receipts from national forests - legislative intent - repeal.
(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).

(5) (a) (I) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(A) THE FACT THAT THE GENERAL ASSEMBLY DETERMINED THERE SHOULD BE A STATUTORY MINIMUM ALLOCATION OF NATIONAL FOREST PAYMENTS TO THE SCHOOL DISTRICTS IN A COUNTY DOES NOT CHANGE THE RELATIONSHIP BETWEEN THE COUNTY AND THE POLITICALLY AND FINANCIALLY INDEPENDENT SCHOOL DISTRICT;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(B) A LARGE NUMBER OF COLORADO COUNTIES ARE CONCERNED ABOUT A POTENTIAL INTERPRETATION OF THE PILT AUTHORIZING STATUTE THAT WOULD REQUIRE CERTAIN NATIONAL FOREST PAYMENTS THAT A COUNTY DID NOT RETAIN FOR ITS OWN PURPOSES TO BE DEDUCTED FROM THE COUNTY'S PILT ENTITLEMENT; AND

(C) THE AMOUNT OF NATIONAL FOREST PAYMENTS ACTUALLY AND DIRECTLY RETAINED BY A COUNTY FOR ITS OWN PURPOSES SHOULD BE THE AMOUNT CONSIDERED IN THE CALCULATION OF THE COUNTY'S PILT MONEYS.

(II) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT THE INTENT OF THIS SUBSECTION (5) IS TO ESTABLISH A METHOD FOR ALLOCATING THE FEDERAL FISCAL YEAR 2009 NATIONAL FOREST PAYMENTS, WHICH METHOD BENEFITS THE COUNTIES AS WELL AS THE PUBLIC SCHOOLS IN THE COUNTIES CONSISTENT WITH GUIDANCE FROM THE UNITED STATES DEPARTMENT OF THE INTERIOR CONCERNING THE INTERACTION BETWEEN NATIONAL FOREST PAYMENTS AND THE CALCULATION OF A COUNTY'S PILT MONEYS.

(b)(I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, THE MINIMUM TWENTY-FIVE PERCENT ALLOCATIONS TO THE COUNTY ROAD AND BRIDGE FUND AND TO THE PUBLIC SCHOOLS IN THE COUNTY SET FORTH IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION SHALL NOT APPLY TO THE ALLOCATION OF THE FEDERAL FISCAL YEAR 2009 NATIONAL FOREST PAYMENTS IF:

(A) THE UNITED STATES DEPARTMENT OF THE INTERIOR TREATS FEDERAL FISCAL YEAR 2008 NATIONAL FOREST PAYMENTS ALLOCATED TO THE PUBLIC SCHOOLS IN THE COUNTY IN EXCESS OF A MINIMUM STATUTORY ALLOCATION AS PRIOR YEAR PAYMENTS TO THE ALLOCATING COUNTY FOR PURPOSES OF COMPUTING THE COUNTY'S 2010 PILT MONEYS; AND

(B) THE COUNTY IS ENTITLED TO RECEIVE MORE THAN THE MINIMUM PAYMENT OF 2010 PILT MONEYS, COMMONLY REFERRED TO AS AN "ALTERNATIVE A" COUNTY.

(II) FOR THOSE COUNTIES FOR WHICH THE STATUTORY MINIMUM ALLOCATIONS SET FORTH IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION DO NOT APPLY, THE PARTIES SET FORTH IN PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION SHALL ALLOCATE ONE HUNDRED PERCENT OF THE FEDERAL FISCAL YEAR 2009 NATIONAL FOREST PAYMENTS DISTRIBUTED TO THE COUNTY BETWEEN THE COUNTY ROAD AND BRIDGE FUND AND THE PUBLIC SCHOOLS IN THE COUNTY.

(III) FOR ANY COUNTY DESCRIBED IN THIS SUBSECTION (5) IN WHICH THE PARTIES SET FORTH IN PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION ALLOCATED ONLY FIFTY PERCENT OF THE FEDERAL FISCAL YEAR 2009 NATIONAL FOREST PAYMENTS PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (5), THE ENTIRE AMOUNT OF THE FEDERAL FISCAL YEAR 2009 NATIONAL FOREST PAYMENTS RECEIVED BY THE PUBLIC SCHOOLS IN THE COUNTY SHALL BE DEEMED TO BE THE AMOUNT ALLOCATED BY THE PARTIES TO THE PUBLIC SCHOOLS IN THE COUNTY.

(c) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 10, 2010