

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

For the Year Ended September 30, 2011



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STATE AUDITOR**

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



January 25, 2012

Members of the Legislative Audit Committee:

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



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January 25, 2012

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, 2011. This Statement is the responsibility of the Colorado Office of the Governor, which has formally delegated the preparation of the Statement to the Colorado Department of Treasury. Our responsibility is to express an opinion on this Statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, *Governmental Auditing Standards* issued by the Comptroller General of the United States, and the Audit Guide for Payments in Lieu of Taxes issued by the Department of Interior. 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.

As described in Note F, 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, 2010, through September 30, 2011, 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. Part 44 of Subtitle A), 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, 2011, on the basis of accounting described above.

In accordance with *Government Auditing Standards*, we have also issued our report dated January 25, 2012, on our consideration of the Colorado Office of the Governor's and the Colorado Department of Treasury's internal control over compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is 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 internal control over financial reporting or on compliance. That report is an



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integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

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

A handwritten signature in black ink, appearing to read "D. H. ...". The signature is cursive and somewhat stylized.

STATEMENT OF FEDERAL LAND PAYMENTS
DURING THE PERIOD OCTOBER 1, 2010 THROUGH SEPTEMBER 30, 2011

FEDERAL AGENCY MAKING PAYMENT AND TYPE OF PAYMENT

	1	2	3	4	5	6	7	8	9	10	11	12	13
COLORADO COUNTIES	FS/MMS TIMBER & SEC SCHLS TITLE I	DISTRIBUTION USFS SECURE SCHOOLS TITLE III	FS BANKHD JONES	MMS/BLM MINERAL LEASING	BLM SEC 3 TAYLOR GRAZING	BLM SEC 15 TAYLOR GRAZING	BLM BANKHD JONES	BLM SALE OF MATLS	FERC PWR SALES	FW REF REVENUE SHARING	TOTAL	RECOMMENDE D ADJUSMNTS	RECOMMENDE D FOR ACCEPTNCE
ADAMS	0	0		116,029				0			116,029		116,029
ALAMOSA	7,555	0		758				0			8,313		8,313
ARAPAHOE	0	0		29,656				0			29,656		29,656
ARCHULETA	0	42,472		10,539				2			53,013		53,013
BACA	0	0		1,339				0			1,339		1,339
BENT	0	0		690				0			690		690
BOULDER	32,456	0		25,088				2,551			60,095		60,095
BROOMFIELD	0	0		16,270				0			16,270		16,270
CHAFFEE	0	34,824		10,888				102			45,814		45,814
CHEYENNE	0	0		15,671				0			15,671		15,671
CLEAR CREEK	68,184	0		87,921				0			156,105		156,105
CONEJOS	26,640	43,878		1,425				809			72,752		72,752
COSTILLA	391	0		545				0			936		936
CROWLEY	0	0		530				0			530		530
CUSTER	27,536	24,296		0				2			51,834		51,834
DELTA	111,424	39,326		*				3,315			154,065		154,065
DENVER	0	0		106,234				0			106,234		106,234
DOLORES	188,457	31,040		390,283				109			609,889		609,889
DOUGLAS	33,950	0		16,673				0			50,623		50,623
EAGLE	0	0		3,296				26			3,322		3,322
EL PASO	40,107	0		39,394				0			79,501		79,501
ELBERT	0	0		6,423				6			6,429		6,429
FREMONT	0	26,844		63,782				(1,705)			88,921	1,705	90,626
GARFIELD	0	30,672		*				68			30,740		30,740
GILPIN	10,665	0		4,306				260			15,231		15,231
GRAND	454,236	0		83,377				414			538,027		538,027
GUNNISON	680,889	87,230		1,259,023				1,013			2,028,155		2,028,155
HINSDALE	220,347	33,171		477				7			254,002		254,002
HUERFANO	54,026	0		30,023				93			84,142		84,142
JACKSON	134,401	18,462		49,064				173			202,100		202,100
JEFFERSON	40,533	0		105,604				0			146,137		146,137
KIOWA	0	0		4,224				0			4,224		4,224
KIT CARSON	0	0		4,242				0			4,242		4,242
LA PLATA	0	0		510,023				16,869			526,892		526,892
LAKE	0	0		25,576				70			25,646		25,646

Department of Treasury
Notes to the Statement of Federal Land Payments
For the Federal Fiscal Year Ended September 30, 2011

- 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 schools 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 \$15,181,829 in Timber Payments was distributed to the counties during the federal fiscal year ended September 30, 2011. Of this amount, \$9,304,079 was subsequently distributed by the counties to public schools. The Statement reflects the total amount received by the counties less the amounts paid to the public schools, or \$5,057,650 listed as Title I (Column 1) plus \$820,100 listed as Title III (Column 2), per *P.L.110-343, The Secure Rural Schools and Community Self-Determination Act of 2000*.

Under Section 30-29-101, C.R.S., the counties must distribute, at minimum, 25 percent of their National Forest Service Timber receipts to the local school districts.

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

Hinsdale County underfunded its Title III projects in the current federal fiscal year by \$2,884 and the previous fiscal year (2010) was underfunded by \$4,109 and (2009) was underfunded by \$35,569.

- B. Fremont County received a negative balance in the amount of \$1,705.45 for Sale of Land Management per the Bureau of Land Management due to refunds that were issued at the beginning of Fiscal Year 2010. When collections came in, they were offset by the following refunds that were issued by BLM Royal Gorge Field Office in Canon City, Colorado:

Castle Concrete Company	\$8,365.86
Castle Concrete Company	\$18,600.00
Castle Concrete Company	\$18,600.00
Castle Concrete Company	\$18,600.00
Tazak Heavy Equipment	\$18,600.00
Total	\$82,765.86

Department of Treasury
Notes to the Statement of Federal Land Payments
For the Federal Fiscal Year Ended September 30, 2011

- C. The State of Colorado did not distribute any money to counties for the following:
- FS Bankhead-Jones (distributed directly to counties by U.S.F.S.) (Column 3)
 - BLM Bankhead-Jones (distributed directly to counties by BLM) (Column 7)
 - FERC Power Sales (general purpose funds not distributed to counties) (Column 9)
 - Fish and Wildlife Refuge Revenue Sharing (distributed directly to counties by F&W) (Column 10)

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

- D. 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.)
- E. Federal Mineral Lease (FML) payments are distributed directly to counties and local governments by the Department of Local Affairs. (Column 4)
- F. 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.

Audit Finding

Federal Mineral Lease Districts

The Department of Local Affairs (the Department) distributes mineral lease revenues received from the Bureau of Land Management, a division of the Department of the Interior (DOI), directly to local governments, including counties, municipalities, federal mineral lease districts, and school districts for the leasing of public lands pursuant to the Mineral Leasing Act of 1920. In addition to mineral lease revenues, DOI also makes payments in lieu of taxes (PILT) to local governments to help offset losses in property taxes due to nontaxable federal lands within the local governments' boundaries. Each federal fiscal year, the DOI calculates each local government's PILT payment. When performing this calculation, the DOI reduces each local government's PILT payment by the amount of its mineral lease revenues received. Under the DOI's interpretation of applicable laws, when county governments redirect mineral lease funds to politically and financially independent service districts, PILT funding may be increased because of exemption from this part of the calculation. House Bill 11-1218 allows Colorado counties to establish federal mineral lease districts (districts) to receive mineral leasing revenue from federal lands in an effort to maximize the amount of PILT funding that the Colorado counties receive annually by excluding mineral leasing revenues from the federal prior year payment method calculation.

What was the purpose of the audit work?

The purpose of the audit work was to identify counties that created districts and determine if those identified counties received mineral lease revenues. We also performed testwork to determine whether the districts created under the authority of House Bill 11-1218 were legally separate and financially independent from the counties that created them to ensure that those mineral lease revenues may be exempt from deduction by the DOI from counties' PILT payments.

What audit work was performed and how were results measured?

We reviewed House Bill 11-1218, governmental accounting standards, and communication from DOI, on which the Department was copied, to determine whether mineral lease districts formed under House Bill 11-1218 were sufficiently segregated from counties to be independent entities. We reviewed mineral lease confirmation letters from counties and districts to verify which entities received mineral leasing revenue; and used the Department's *2011 Federal Mineral Lease Direct Distribution Payments* report to confirm payments made to the counties and districts.

We also reviewed Governmental Accounting Standards Board Statement No. 14 which provides guidance for determining legal and financial independence. According to the standards, an entity must be financially independent. In other words, if the primary government or county can appoint a voting majority of the entity’s governing board and either impose its will on the entity or have a financial benefit or burden imposed upon it by the entity, then the entity, in this case the federal mineral lease districts should be part of the county.

What problems did the audit work identify?

We identified eight counties that created federal mineral lease districts in Federal Fiscal Year 2011. However, based on our review of governmental accounting standards and communication from DOI, the language of House Bill 11-1218 may not provide sufficient evidence to indicate that districts and counties are legally and financially independent. For example, under House Bill 11-1218, it appears that counties continue to have significant influence on the federal mineral lease districts, thereby creating financial dependence. As shown in the table below, the following counties created districts to receive the identified mineral lease revenues in Federal Fiscal Year 2011.

Federal Mineral Lease District Revenue By County Federal Fiscal Year 2011	
County	Amount
Delta County	\$873,033
Garfield County	\$3,526,396
Mesa County	\$1,623,107
Moffat County	\$1,163,830
Park County	\$272,853
Rio Blanco County	\$2,725,652
Routt County	\$176,631
Weld County	\$845,882
Total	\$11,207,384
Source: Office of the State Auditor’s analysis of the Department of Local Affairs’ Federal Mineral Lease Direct Distribution Report.	

Why does this problem matter?

If the DOI determines that districts are not separate and financially independent entities, counties will be required to report mineral leasing revenue received for the purposes of calculating PILT payments. As a result, the counties could receive lower PILT payments.

Why did the problem occur?

Prior to the passage of House Bill 11-1218, the Department did not obtain guidance from DOI to ensure that all necessary criteria related to the creation of legally separate and independent federal mineral lease districts was included in the proposed bill. DOI provided informal guidance, on which the Department was copied after the Bill was passed, indicating that the districts as defined in the bill “appears to lack sufficient language that would establish real independence” of federal mineral lease districts. As a result, all criteria for the creation of legally separate and independent federal mineral lease districts was not included in House Bill 11-1218 as passed by the legislature. House Bill 11-1218 grants Boards of County Commissioners authority over certain aspects of federal mineral lease districts, yet these provisions appear to conflict with legal and financial independence requirements set forth by governmental accounting standards.

(Classification of Finding: Deficiency in Internal Control.)

Recommendation No. 1:

The Department of Local Affairs (the Department) should ensure that federal mineral lease districts (districts) comply with federal Payments in Lieu of Taxes requirements that the districts be separate and financially independent entities from Colorado counties by:

- a. Working with the General Assembly to revise existing legislation so that districts are separate and financially independent entities, using the guidance provided by the Department of the Interior.
- b. Communicate with the U.S. Department of the Interior for further guidance regarding “evidence of independence,” if necessary.

Department of Local Affairs Response:

- a. Agree. Implementation date: August 2012

The Department of Local Affairs, in our duty to provide technical assistance to local governments, will work to evaluate Department of the Interior rules, opinions, audit guidance, and other materials to assist ensuring Federal Mineral Lease Districts are sufficiently separate and financially independent entities from Colorado counties which create them. In the event of a determination that districts are not independent due to statutory reasons, we will work with the General Assembly and counties to recommend changes to existing legislation. In the case where districts are not independent due to issues regarding their formation or

administration, we will provide suggestions to counties in an effort to resolve such issues.

- b. Agree. Implementation date: August 2012

If necessary, the Department of Local Affairs will ask for clarification from U.S. Department of the Interior staff on their rules, opinions, and audit guidance concerning political and financial independence of districts in regard to Department of the Interior PILT calculations.

Disposition of Prior Audit Recommendation

The following audit recommendation is summarized from the Statement of Federal Land Payments Audit for the year ended September 30, 2009. The following recommendation is classified as a Deficiency in Internal Control.

Rec. No.	Recommendation	Disposition
Rec. No. 1	The Department of Treasury and the Department of Local Affairs should work together to ensure the State is in compliance with Public Law 110-343 by (a) providing enhanced guidance and training to the counties to improve county awareness of proper calculation methods and the consequences of not reserving the required amount for projects under Title III of the federal Secure Rural Schools and Community Self-Determination Act, (b) developing and implementing monitoring procedures to verify that counties place required Title III amounts into reserve, (c) ensuring that all counties return unreserved Title III amounts to the United States Treasury as required by Public Law 110-343, and (d) consider performing all necessary Title III reserve calculations at a central level and separately distributing funds to counties as appropriate based on county elections.	<p>a. Implemented.</p> <p>b. Partially Implemented. The Departments have worked together to develop an action plan, which includes sending letters to the counties providing them guidance and requirements related to the Title III reserve amounts. In addition, the Department of Treasury sent written instructions to counties informing them of the exact amounts to be placed into reserve, which decreased the number of errors identified in prior years. However, we still identified a county error and the Departments did not implement their plan for monitoring the federal program. The Departments plan to fully implement this part of the recommendation by October 2011.</p> <p>c. Partially Implemented. Although a portion of the unreserved Title III amounts have been returned to the U.S. Treasury, as required, two counties have not returned \$39,719 in unreserved Title III funds. The Departments plan to ensure that the remaining funds are returned to the U.S. Treasury by January 2012.</p> <p>d. Implemented.</p> <p>(Classification: Deficiency in Internal Control)</p>

Exhibit I

Colorado Revised Statutes Title 34, Article 63 Royalties Under Federal Leasing *Only applicable portions of statutes have been included.

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

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

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

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

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

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

(C) 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.

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

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

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

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

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

(b) (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 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) Notwithstanding any other provision of this section, in the fiscal years commencing July 1, 2012, and July 1, 2013, unless another source of funding becomes available, the executive director of the department of local affairs shall transfer, prior to any other distribution specified in this paragraph (b), three million two hundred fifty thousand dollars of the moneys available for grant applications pursuant to this paragraph (b) to the state treasurer, who shall credit the moneys to the wildfire preparedness fund created in section 23-31-309 (4), C.R.S. The Colorado state forest service designated in section 23-31-302, C.R.S., shall annually report on the use of the moneys transferred pursuant to this subparagraph (II) to the department of local affairs, the office of state planning and budgeting, and the general assembly. This subparagraph (II) is repealed, effective July 1, 2016

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

(b.7) Notwithstanding any provision of paragraph (b) of this subsection (5.4) to the contrary, on June 30, 2011, the state treasurer shall deduct fifteen million dollars from the local government mineral impact fund and transfer such sum to the general fund.

(b.8) Notwithstanding any provision of paragraph (b) of this subsection (5.4) to the contrary, on June 30, 2012, the state treasurer shall deduct thirty million dollars from the local government mineral impact fund and transfer such sum to the general fund.

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

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

(6) Repealed.

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

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

institution of higher education may accept and expend moneys from the local government impact fund.

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

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

Exhibit II

Colorado Revised Statutes
Title 30, Article 20
Federal Mineral Lease Districts
*Only applicable portions of statutes have been included.

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:

(a) It is of statewide concern to maximize the amount of payment in lieu of taxes that counties in Colorado annually receive;

(b) Counties help manage thousands of acres of public lands in Colorado, and payment in lieu of taxes funding from the federal government defrays county public land management costs; and

(c) Counties would not be able to fund important services and programs for Colorado citizen enjoyment of public lands without maximizing payment in lieu of taxes funding to Colorado.

(2) The general assembly further finds and declares that as a result of the United States department of the interior declaring that federal mineral lease payments to counties are to be counted as prior-year payments under the payment in lieu of taxes payment formula, as described in 31 U.S.C. sec. 6902, Colorado counties will lose millions of dollars otherwise dedicated to Colorado public land management.

(3) The general assembly further finds and declares that in order to maximize the amount of payment in lieu of taxes funding Colorado receives, county federal mineral lease payments must be protected from the new federal prior-year payment method. To that end, counties should have the ability to collaborate with state and local stakeholders within the framework of a federal mineral lease district to ensure protection of payment in lieu of taxes funding dedicated to public land management in Colorado.

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.

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

(3) "Funding" means the direct distribution of moneys from the local government mineral impact fund to counties as described in section 34-63-102 (5.4) (c), C.R.S.

(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) The names of any municipalities to be included in the proposed district if such municipalities have enacted ordinances as specified in subsection (3) of this section;

(c) A description of the boundaries of 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) The governing body of a municipality may enact an ordinance proposing to join a district before the adoption of a resolution by a board of county commissioners pursuant to subsection (1) of this section.

(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:

(a) The governing body of each municipality named in the resolution; and

(b) 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.

(5) A district shall be active for two years from the date of the resolution creating the district. Prior to the end of the two-year period, the board of county commissioners may pass a reauthorizing resolution to continue the existence of the district for another two years.

Section 30-20-1305, C.R.S. Approval of service plan. (1) The board of county commissioners of a county that creates a district shall constitute the approving authority for the district service plan.

(2) (a) The service plan shall be submitted to the board of county commissioners for approval no later than ninety days after the date of the resolution creating the district.

(b) The service plan shall include requirements for annual audits of all of the funding the district receives. Copies of the audits shall be sent annually to the state treasurer.

(3) Upon submission of the service plan, the board of county commissioners may:

(a) Approve without condition or modification the service plan;

(b) Disapprove the service plan; or

(c) Conditionally approve the service plan subject to submission of additional information relating to the modification of the proposed service plan.

Section 30-20-1306, C.R.S. Board of Directors - appointment - removal. (1) (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.

(b) At least one member of the board of directors shall be a county commissioner from the county that created the district. Other members may be 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 from the county that creates a district serving on the board of directors 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) The term of each member of the board of directors shall be two years unless the district is reauthorized pursuant to section 30-20-1304 (5) and the member is reappointed as specified in paragraph (a) of this subsection (1).

(2) The board of county commissioners of the county that creates a district shall, by majority vote, have the power to remove any member of the board of directors for the district. Vacancies on the board of directors shall be filled by the board of county commissioners.

(3) All special and regular meetings of the board of directors for a district shall be held at locations that are within the boundaries of the district. The provisions of this subsection (3) governing the location of meetings may be waived only if the proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board and if a resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (3) and further stating the date, time, and place of such meeting.

Section 30-20-1307, C.R.S. Board of Directors - powers and duties. (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), on an annual basis, the board of directors of a district shall distribute all of the funding the district receives from the department of local affairs to areas within the district that are 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.

(b) The district may use up to ten percent of the annual funding for any administrative costs of the district.

(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) A district 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.

Exhibit III

Colorado Revised Statutes Title 35, Article 45 Public Domain Range

*Only applicable portions of statutes have been included.

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 IV

Colorado Revised Statutes

Title 30, Article 29

Apportionment of Federal Moneys from Public Lands

*Only applicable portions of statutes have been included.

Section 30-29-101, C.R.S. Receipts from national forests. (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.



January 25, 2012

**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 the Statement of Federal Land Payments of the State of Colorado, as of and for the Federal Fiscal Year ended September 30, 2011, and have issued our report thereon dated January 25, 2012. 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.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Colorado Office of the Governor's and the Colorado Department of Treasury's internal controls over financial reporting as a basis for designing our auditing procedures 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 internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Colorado Office of the Governor's internal control over financial reporting.

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 combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the State of Colorado's Statement of Federal Land Payments will not be prevented, or detected and corrected on a timely basis.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.



We Set the Standard for Good Government

Compliance and Other Matters

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

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. H. [unclear] [unclear]". The signature is cursive and somewhat stylized.



January 25, 2012

**Independent Auditor's Report on Compliance with Requirements
that Could Have a Direct and Material Effect on Each Major
Program and on Internal Control Over Compliance in
Accordance with OMB Circular A-133**

Members of the Legislative Audit Committee:

Compliance

We have audited the State of Colorado's compliance with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) *Circular A-133 Compliance Supplement* that could have a direct and material effect on each of the State's major federal programs related to the Statement of Federal Land Payments for the Federal Fiscal Year ended September 30, 2011. The State of Colorado's major federal programs are identified in the summary of auditor's results section of the *State of Colorado Statewide Single Audit* for the year ended June 30, 2011. Compliance with the requirements of laws, regulations, contracts and grants applicable to the major federal programs related to the Statement is the responsibility of the Colorado Office of the Governor, which has formally delegated the preparation of the Statement to the Colorado Department of Treasury. Our responsibility is to express an opinion on the State of Colorado's compliance based on our audit.

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

In our opinion, the State of Colorado complied, in all material respects, with the requirements referred to above that could have a direct and material effect on each of its major federal programs related to the Statement of Federal Land Payments for the Federal Fiscal Year ended September 30, 2011.



We Set the Standard for Good Government

Internal Control Over Compliance

Management of the Colorado Office of the Governor and the Colorado Department of Treasury are responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts, and grants applicable to major federal programs related to the Statement of Federal Land Payments. In planning and performing our audit, we considered the Colorado Office of the Governor's and the Colorado Department of Treasury's internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine the auditing procedures for the purpose of expressing an opinion on compliance and to test and report on the internal control over compliance in accordance with OMB *Circular A-133*, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the State of Colorado's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of the internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above.

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 "Diana R. [unclear]". The signature is written in a cursive style with a large initial "D".

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