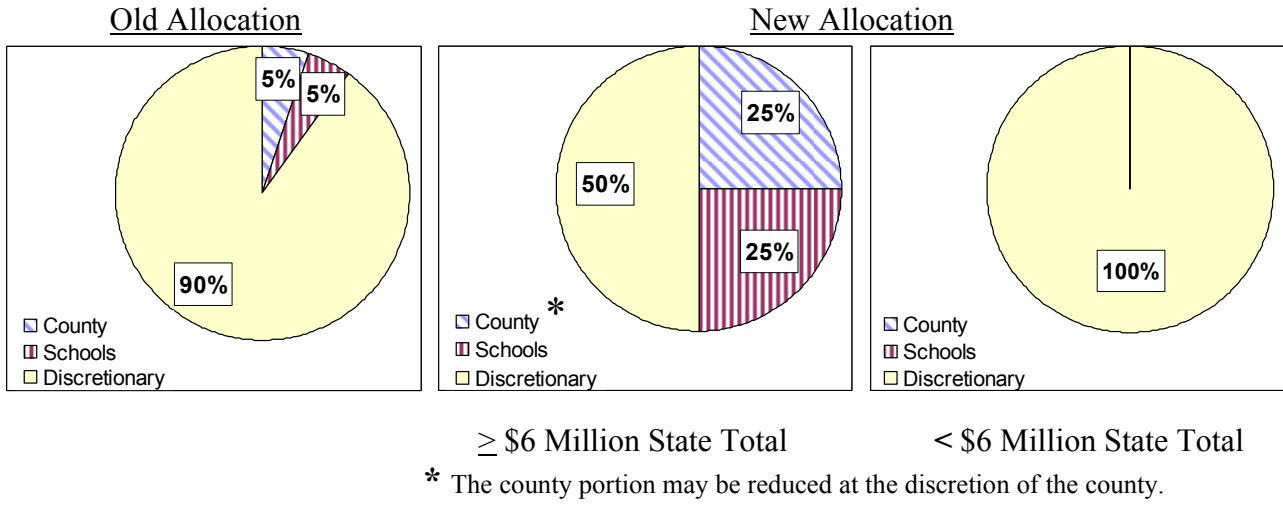


Changes in Distribution of National Forest Payments to Counties and Schools

During the 2009 Colorado Legislative session, House Bill 1250 was passed which changed the way that National Forest Payments are required to be distributed between school districts and county road and bridge funds. The Department of Local Affairs, in our role as a source for technical assistance, has developed some Frequently Asked Questions to help local governments understand the implications of these changes.

House Bill 09-1250 affects the National Forest Payments that are typically received from the US Department of Agriculture in November/December each year. These funds are primarily derived from lease revenue and timber production revenue from national forests within each county. Recent congressional actions have changed the amounts of money distributed, along with the calculations of these payments. Specifically, the Secure Rural Schools and Community Self Determination Act of 2000 provided an additional method to calculate each county's distribution.



1. How has the allocation changed from the past?

Prior to the 2009 National Forest Payment State law required school districts and the county road and bridge funds each to receive a minimum allocation of 5% of annual National Forest Payment receipts to the county. The other 90% was allocated to either source at the discretion of the local board of county commissioners. In 2009 a new allocation methodology will change the minimum required allocation amount from 5% to 25% to each purpose with at least 50% to be allocated between the two purposes at the direction of a team of three county and three school district representatives.

However in any year that Colorado's total state-wide National Forest Payments are less than \$6 million dollars, the county and school district team of representatives decides the allocation of 100% of payments received by the counties.



2. When will the change impact my county/school district?

The first National Forest Payments affected by the 2009 State legislative changes will be received by the state treasurer in late November or early December of 2009 and will be distributed to the counties within 30 days of receipt.

3. When is the money received, and when is it required to be distributed?

Typically the National Forest Payment is received by the State Treasurer in November. The funds are then distributed to each eligible county according to the federal distribution within 30 days. Counties may then distribute the minimum 25% to schools and to the road and bridge fund immediately upon receipt, except that the county may allocate less than 25% of the payment to the road and bridge fund in order to maximize the receipt of other federal funds. The remainder of the funds are allocated by the county-school team of representatives. Reporting of the amount retained by the county (for road and bridge purpose) occurs annually in the subsequent October through a survey from the Office of the State Auditor.

4. What are the county's responsibilities when it receives the payment?

The county selects three representatives, who may be commissioners or their designees, to meet with school district representatives concerning the allocation of the unallocated funds. There is no statutory guidance as to when this process must take place, it may occur before or after the state distribution to the county.

5. What are the school districts responsibilities when payments are received by the county?

School districts within each county will select a total of three representatives to meet with the county representatives to discuss the allocation of the unallocated portion of the funds. There are no requirements as to how the representatives are selected; this is at the discretion of the local school districts. Additionally, it may be necessary for school districts to either formally authorize the selected representatives to make a binding decision or require the negotiated agreement be signed by each school district independently (for example the districts may utilize an intergovernmental agreement or memorandum of understanding). There is no statutory guidance as to when this process must take place, it may occur before or after the state distribution to the county.

6. How are the allocated funds distributed to multiple school districts within one county?

State statute directs that the school district allocation is distributed by the county based on each district's proportion of the preceding school years per pupil count compared to the total pupil count within the county jurisdiction.

7. How are allocations above the statutory minimum allocations determined?

The county and school district representatives (the team) are required to meet and negotiate the allocation of the unallocated funds (or 100% of the funds if the state receipts total less than \$6 Million). Any unallocated funds will be retained by the county, but may not be expended until agreement is reached.

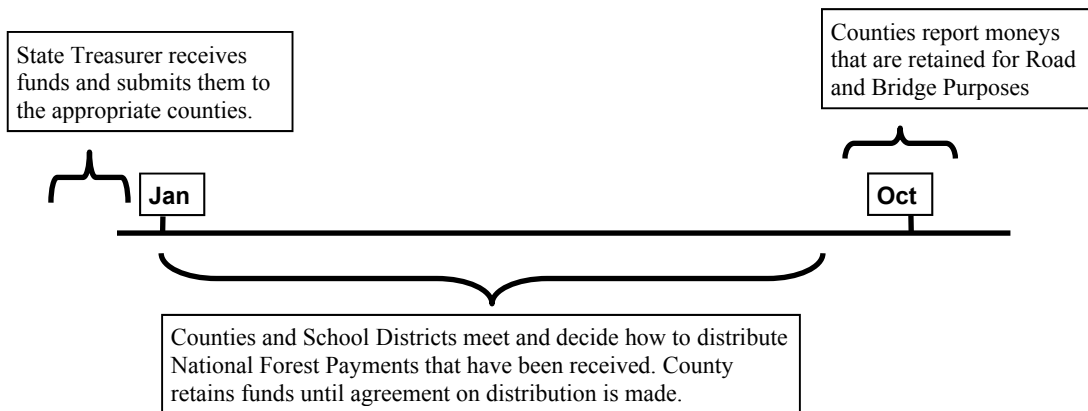
8. What will happen if agreement can not be reached?

If agreement can not be reached by October following a state distribution to the county, the county may have to report that the full amount of unallocated money has been retained by the county when the required reporting of federal lands payments to the Office of the State Auditor occurs; although the money can not be spent. If this money is reported as retained by the county, it may reduce the county's following year's Payment in Lieu of Taxes Act (PILT) payment and diminish the benefit of providing additional monies to school districts.

9. How does the new National Forest Payment method affect the county's PILT payment?

The amount of money received and retained by each county in National Forest Payments contributes to the calculation of each county's PILT payment. Among a number of other factors, the allocation determination can reduce or increase the county's PILT payment in the following year. The calculation is very complex and the DOLA suggests visiting the Department of Interior website (<http://www.doi.gov/pilt/>) to understand the method of calculating the impact of any National Forest Payments upon a county's PILT payment. The change in statute from HB09-1250 does not require any alteration in distribution of PILT monies received by the county.

National Forest Payment Timeline

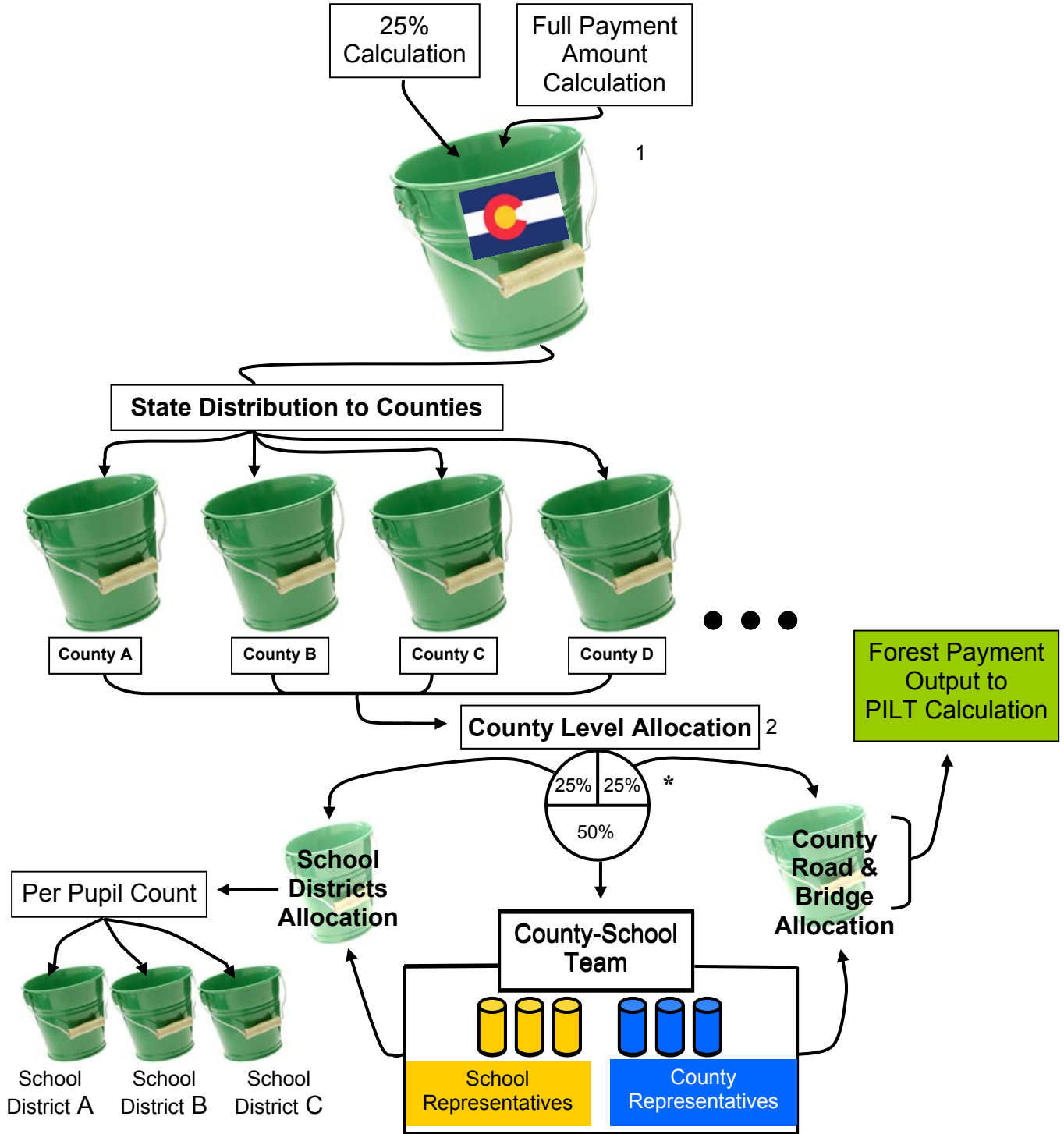




Flow Chart

National Forest Payments

16 U.S.C. 500 Payments



1- If the state total is less than \$6 million dollars then the County-School Team decides allocation of 100% (2) of the funds in the county level allocation. * May be reduced



Payment In Lieu of Taxes Act (PILT)

31 U.S.C. 6902 Payments

County Information

Federal Acreage
Population

A and B Calculations
Performed Annually by the
Department of the Interior

National Forest
Payment Input
(Road and Bridge)

A

$$\begin{array}{r} \text{Acreage} \\ \times \text{Rate } 1 \\ \hline = \text{Sub Total} \end{array}$$

Population Cap ²

- Federal Lands Payment
- Deductions:
- Forest Payment
- Mineral Lands Lease
- Federal Power Act
- Taylor Grazing Act
- Bankhead-Jones Act
- Superior National Forest
- Mineral Leasing for Acquired Land
- Material Disposal Act
- Refuge Revenue Sharing Act
- Other Federal Land Payments...

= A Total

B

$$\begin{array}{r} \text{Acreage} \\ \times \text{Rate } 1 \\ \hline = \text{Sub Total} \end{array}$$

Population Cap ²

= B Total

The Larger of the
A or B Total
is the County's PILT
Payment

Payment to Counties



1- The Rates for A and B for the 2009 PILT payment were \$2.37 and \$0.33 respectively. These rates are adjusted for inflation annually.

2- The population cap calculation is outlined within the 31 U.S.C. 6902 and is adjusted annually for inflation. The Population Cap is a static dollar value each year. **If the (Acreage) x (Rate) totals above the jurisdiction's population cap for either A or B, then the population cap is used for the rest of the calculation.**



Resources:

- **Forest Payments FAQ**
– This site provides frequently asked questions about the National Forest Payment program.

<http://www.fs.fed.us/srs/Title-I-FAQs.shtml>

- **Payment in Lieu of Taxes FAQ**
– This site provides frequently asked questions about the PILT payment, including eligibility, deductions, and calculation information.

<http://www.doi.gov/pilt/faq.html>

- **Office of the State Auditor Report – Statement of Federal Land Payments**
– This includes information on the prior year payments that contribute to the PILT calculation (released in March of each year).

<http://www.leg.state.co.us/OSA/coauditor1.nsf/ReportPublicRelease?OpenForm&Start=1&Count=900&Expand=1&Seq=1>

- **US Forest Service – Forest Payment and Secure Rural Schools and Community Self Determination Act Information**
– The Forest Service site explains the National Forest payment and the changes that have occurred with the passage of the Secure Rural Schools and Community Self Determination Act of 2000. This site also includes historic information on National Forest Payments and the other requirements of distribution for federal programs.

<http://www.fs.fed.us/srs/>

Other Resources

Organization	Number
Colorado Association of School Executives	(303) 762-8762
Colorado Association of School Boards	(303) 832-1000
Colorado Counties Inc.	(303) 861-4076

If there are additional questions, please contact Jarrod Biggs with the Department of Local Affairs, Division of Local Government at 303-866-2156