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**Report to the Colorado General Assembly:
RECOMMENDATIONS FOR 1975,
COMMITTEE ON:**

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STATE AND LOCAL FINANCE



VOLUME III

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 207

DECEMBER 1974

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OF THE
COLORADO GENERAL ASSEMBLY

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* * * * *

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During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

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COLORADO LEGISLATIVE COUNCIL,
" RECOMMENDATIONS FOR 1975

(Volume III)

Committee on:

State and Local Finance

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 207
" December, 1974

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January 3, 1974

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REP. RONALD H. STRAHLE

To Members of the Fiftieth Colorado General Assembly:

The Committee on State and Local Finance during the past biennium has concentrated its attention on improving the equity of our existing state and local tax system. The recommendations resulting from the committee study this year are directed to that end.

The committee has not attempted to prioritize all of its recommendations. It is obvious from the table on page v that not all the recommendations can be implemented without state tax increases, and it is not the intent of the committee chairman, as stated in the presence of the committee, that such tax increases be forthcoming.

However, in keeping with previous committee recommendations concerning school finance, and with previous legislative actions concerning conforming the Colorado state income tax with the federal income tax, the committee recommends that the General Assembly consider the proposed changes in school finance programs and the state income tax. If general fund revenues are sufficient to absorb these changes without increasing other tax rates, then they would be enacted for the purpose of improving the equity of our tax system.

The table on page v is based on a number of assumptions listed in the footnotes. It is not intended to supplant offic-

ial revenue estimates, or to indicate what appropriations will be made in the upcoming session; however, it does give indications of what would happen, based on the assumptions, if all the major committee recommendations were adopted.

Very truly yours,

/s/ Senator Les Fowler
Chairman
Committee on State and
Local Finance

LF/mp

ERRATA

IMPACT OF COMMITTEE RECOMMENDATIONS
ON STATE GENERAL FUND
(Millions of Dollars)

<u>SUMMARY WITHOUT ANY CHANGES</u>	FY 1974-75	FY 1975-76	FY 1976-77
Surplus 7/1	\$ 93.1	\$ 81.5	\$ 70.3
General Fund Revenues	747.9 ^{1/}	838.6 ^{2/}	953.9 ^{2/}
Revenue Sharing Receipts	23.4	23.7	17.8 ^{3/}
Total Available	\$864.4	\$943.8	\$1,042.0
<u>Appropriations:</u>			
On-going Programs	\$451.2	\$509.4 ^{4/}	\$581.4 ^{4/}
New Programs	11.0	23.5 ^{5/}	37.8 ^{5/}
Capital Construction	35.5	27.6 ^{6/}	23.7 ^{6/}
School Finance Act (without change in current law)	276.2	299.5	312.1
School Transportation (without change in current law)	9.0	13.5	15.9
Total Appropriations	\$782.9	\$873.5	\$970.9
Surplus 6/30	\$ 81.5	\$ 70.3	\$ 71.1
<u>PLUS OR MINUS CHANGES RECOMMENDED BY COMMITTEE</u>			
I. Reductions in Revenues Only:			
Eliminate Surtax on Sub- chapter "S" Dividends	---	\$ 1.0	\$ 1.0
Conform State Low Income Allowance and Stand- ard Deduction with Fed.	---	18.8	12.5
New End of Year Surplus Figure With Revenue Adjustments Only	---	\$ 50.5	\$ 37.8
II. Increases in School Fin- ance Act, Transportation, and Change in Declining Enrollment Prov. Only:			
School Finance Act Incr.	---	\$ 11.7	\$ 25.3
Transportation Incr.	---	.5	---
Declining Enroll. Incr.	---	2.3	4.6
New End of Year Surplus Figure With Above Expenditure In- creases Only	---	\$ 55.8	\$ 26.7
III. Implementation of New Equalized Capital Re- serve Levy Program for Public Schools			
	---	\$ 18.2	\$ 36.3
New End of Year Surplus Figure With Addition of Capital Re- serve Program Only	---	\$ 52.1	\$ 16.6
IV. Summary of All Major Changes Recommended By Committee			
A. Eliminate surtax on Subchapter "S" Div.	---	\$ 1.0	\$ 1.0
B. Conform State Low In- come Allowance and Standard Dsduction with Federal	---	18.8	12.5
C. School Finance Act Increase	---	11.7	25.3
D. Transportation Incr.	---	.5	---
E. Declining Enroll. Incr.	---	2.3	4.6
F. Capital Reserve Levy Equalization Program	---	18.2	36.3
New End of Year Surplus Figure With All Major Recommendations Adopted		\$ 17.8	(\$61.1)

- ^{1/} This is current year official estimate but may be adjusted downward.
- ^{2/} Revenue projection based on average increase of past eight years.
- ^{3/} As of today, the federal revenue sharing program expires 6/30/77.
- ^{4/} Based on estimated increase of 14% per annum, less estimated \$5 million reversions.
- ^{5/} Based on \$11 million in new programs each year and increased at 14% per annum.
- ^{6/} Based on approximately \$18 million in revenue sharing funds going for state assisted local sewer construction programs, with remainder for state capital construction needs.

IMPACT OF COMMITTEE RECOMMENDATIONS
ON STATE GENERAL FUND
(Millions of Dollars)

<u>SUMMARY WITHOUT ANY CHANGES</u>	FY 1974-75	FY 1975-76	FY 1976-77
Surplus 7/1	\$ 93.1	\$ 81.5	\$ 70.3
General Fund Revenues	747.9 ^{1/}	838.6 ^{2/}	953.9 ^{2/}
Revenue Sharing Receipts	23.4	23.7	17.8 ^{3/}
Total Available	\$864.4	\$943.8	\$1,042.0
<u>Appropriations:</u>			
On-going Programs	\$451.2	\$509.4 ^{4/}	\$521.4 ^{4/}
New Programs	11.0	23.5 ^{5/}	37.8 ^{5/}
Capital Construction	35.5	27.6 ^{6/}	23.7 ^{6/}
School Finance Act (without change in current law)	276.2	299.5	312.1
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Total Appropriations	\$782.9	\$873.5	\$970.9
Surplus 6/30	\$ 81.5	\$ 70.3	\$ 71.1
<u>PLUS OR MINUS CHANGES RECOMMENDED BY COMMITTEE</u>			
I. Reductions in Revenues Only:			
Eliminate Surtax on Sub- chapter "S" Dividends	---	\$ 1.0	\$ 1.0
Conform State Low Income Allowance and Stand- ard Deduction with Fed.	---	18.8	12.5
New End of Year Surplus Figure With Revenue Adjustments Only	---	\$ 50.5	\$ 57.6
II. Increases in School Fin- ance Act, Transportation, and Change in Declining Enrollment Prov. Only:			
School Finance Act Incr.	---	\$ 11.7	\$ 25.3
Transportation Incr.	---	.5	---
Declining Enroll. Incr.	---	2.3	4.6
New End of Year Surplus Figure With Above Expenditure In- creases Only	---	\$ 55.8	\$ 41.2
III. Implementation of New Equalized Capital Re- serve Levy Program for Public Schools			
	---	\$ 18.2	\$ 36.3
New End of Year Surplus Figure With Addition of Capital Re- serve Program Only	---	\$ 52.1	\$ 34.8
IV. Summary of All Major Changes Recommended By Committee			
A. Eliminate surtax on Subchapter "S" Div.	---	\$ 1.0	\$ 1.0
B. Conform State Low In- come Allowance and Standard Deduction with Federal	---	18.8	12.5
C. School Finance Act Increase	---	11.7	25.3
D. Transportation Incr.	---	.5	---
E. Declining Enroll. Incr.	---	2.3	4.6
F. Capital Reserve Levy Equalization Program	---	18.2	36.3
New End of Year Surplus Figure With All Major Recommendations Adopted		\$ 17.8	(\$ 8.6)

- ^{1/} This is current year official estimate but may be adjusted downward.
^{2/} Revenue projection based on average increase of past eight years.
^{3/} As of today, the federal revenue sharing program expires 6/30/77.
^{4/} Based on estimated increase of 14% per annum, less estimated \$5 million reversions.
^{5/} Based on \$11 million in new programs each year and increased at 14% per annum.
^{6/} Based on approximately \$18 million in revenue sharing funds going for state assisted local sewer construction programs, with remainder for state capital construction needs.

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LEGISLATIVE COUNCIL COMMITTEE
ON STATE AND LOCAL FINANCE

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COMMITTEE ON STATE AND LOCAL FINANCE

Having considered numerous subjects throughout the 1974 interim, the Committee on State and Local Finance recommends a total of 23 bills. Nine of the recommendations were based on proposals from the Department of Revenue and four from proposals of the Council on Educational Development (COED). The remaining ten recommendations of the committee concerned a variety of subjects, all designed to improve the equity of the existing state and local tax structure. In addition, the committee considered two joint resolutions referred by the 1974 General Assembly and recommends an interim study for the 1975-76 biennium. A specific budget request of the Department of Revenue received the committee's endorsement.

Bills 42 through 50, proposed by the Department of Revenue, would primarily clarify and correct language relating to the sales and income taxes. Several of the bills would simplify taxpayer compliance with the tax laws. The recurring problem of the taxation of movable structures (mobile homes) was addressed in Bill 51 which would provide for ad valorem taxation on the same basis as conventional homes.

Property tax exemptions for low income housing and certain charitable institutions would be modified under Bills 52 and 53. Bill 54 would reduce the assessment of livestock from the present 13 percent of actual value to five percent. Stored agricultural commodities would also be assessed at five percent under Bill 55.

Wine produced in the State of Colorado would be subjected to a lesser excise tax than those wines produced out-of-state under Bill 56. The long standing conflict concerning state assumption of court maintenance and facility costs would be subject to a study and some further state funding under Bill 57.

Bill 58 would expand the present statutes exempting some pensions from income taxation to include all pensions and the first \$5,000 of annuity income. Undistributed income from small business corporations (Subchapter "S") would be exempted from the surtax with Bill 59. Colorado's standard income tax deduction and low income allowance would be brought into conformance with existing federal levels under Bill 60.

Four proposals providing increased funding for public schools were endorsed by the committee. They would provide additional transportation aid, including funding for the purchase of buses, (Bill 61); grant additional state aid to school districts with declining enrollments (Bill 62); increase the equalization support levels and authorized revenue base of the 1973 School Finance Act (Bill 63); and bring the capital reserve levy under the state equalization program with a portion to be used for bonded debt retirement (Bill 64).

Priority Recommendations

At its December 6 meeting, the committee agreed that those proposals which would entail major fiscal impact, either requiring a large appropriation or significantly reducing revenue to state government, should be evaluated in terms of priorities. With regard to the COED proposals (Bills 61 through 64), the committee agreed that the first three items (transportation, declining enrollment, and equalization support level and authorized revenue base) should be considered as having higher priorities than Bill 64 (state equalization funding of capital reserve levies).

The committee recommends that the COED proposals, and that relating to the standard deduction and low income allowance (Bill 60), should be considered by the General Assembly in light of the status of general fund revenues. In addition, it was concluded that no proposal should be enacted which would require an increase in state taxes.

I. Joint Resolutions Referred to the Committee

The committee was directed to study the concepts of two joint resolutions and to report its recommendations to the General Assembly. S.J.R. 27 called for a study of the pros and cons concerning abolition of the general property tax, consideration of other methods of financing local government expenditures, and development of possible legislation relating thereto. It was determined that replacement of the property tax would require an approximate doubling of the individual income tax, corporate income tax, sales tax, use tax, and gasoline tax rates. It was the unanimous recommendation of the committee that the concept of S.J.R. 27 not be implemented.

H.J.R. 1039 directed that the committee study the feasibility of assessing land only for property tax in lieu of land and improvements thereon. After conducting a public hearing on site value taxation and homestead exemptions, the committee encouraged the sponsors of the resolution to pursue these concepts further. The committee took no position on the subject and has no recommendation to submit to the General Assembly.

II. Tax Profile Study

The Colorado Tax Profile Study (CTPS), prepared for the Legislative Council by consultants Dean Coddington and Reuben Zubrow in 1972, has proved to be a valuable tool in the evaluation of present tax policy and consideration of revisions to existing laws. Using the data developed for the CTPS, the Council also authorized the establishment of a computer model for the purpose of projecting the effects of proposed revisions to the tax laws.

Although data were updated for the establishment of the predictive model, there are two major needs requiring a new sample of individual income tax returns. First, the 1973 General Assembly effected major tax revisions with adoption of the School Finance Act and modification of the senior citizen's circuit breaker (the latter also substantially expanded during the 1974 session). The analysis of a new sample would reflect the impact of these legislative actions. Second, the original sample was not large enough to provide analytical data on a regional basis. A larger sample could facilitate regional tax comparisons.

Two alternatives were evaluated for the preparation of a new tax profile study: the General Assembly, in 1975, could authorize and appropriate funds for such a study; or the Legislative Council could use existing research funds for the project. The problem with appropriation by the General Assembly is that the project would be delayed for as long as six months as contrasted to immediate commencement. In addition, if the project could be started immediately, the department would be able to pull the sample on the basis of current filings as contrasted to pulling previously processed and filed returns. The committee therefore recommends that the Legislative Council authorize the immediate initiation of the study by the consultants.

The cost for the study is estimated to be \$98,265. This cost includes \$62,200 to the consultants for the pro-

ject, and for responding to a reasonable number of questions under the predictive model (to be prepared as a part of the project), and \$36,065 to the Department of Revenue for pulling the sample. The cost of the 1972 study was approximately \$69,000. The major increase is for the department to pull and transcribe the larger sample.

The committee also reviewed the Business Tax Profile Study feasibility project authorized by the General Assembly in 1974.

This project was intended to develop information concerning the incidence of state and local taxes on business and agriculture, similar to the kind of information developed for households in the Colorado Tax Profile Study. The committee suggested that, for various reasons, a three-year average would be an appropriate period to cover in this study.

The consultants testified that business response to the pilot project indicated that the problems of providing the necessary information, on a one or three-year basis, including the substantial man-hours required to do so for each business, make the project infeasible. It appeared that farmers and ranchers would encounter fewer problems in complying with the request for information.

III. Recommendation for Further Study

Housing Study

A public hearing was held on proposed legislation, considered in the last session, which would have required the assessment of certain residential improvements at a lesser rate than other properties. In addition, testimony was received concerning the need for state aid in the form of grants or loans for improving residential properties and the committee discussed the concept of urban homesteading. As a result of the discussions, the committee recommends that the 1975 session of the General Assembly direct the Legislative Council to create an interim committee on housing to study the various methods by which state and local governments might assist in housing development and improvement.

IV. Department of Revenue

Accounting Machinery Needs of the Department of Revenue

During this interim, the committee considered several income tax revisions which cannot presently be accommodated by the data processing capabilities of the department. No additional data can be retrieved from the income tax forms with existing accounting machines. Not only is the equipment unable to record new information; it has hampered the department's efficiency and verification of existing data. Replacement parts to the NCR 41 machines are difficult to obtain since such machines are no longer produced.

The department requested "on line" accounting machines from the General Assembly in 1974, but the funding for the system was not included in the long appropriations bill. The committee strongly recommends that the General Assembly, in 1975, approve the department's request for ten new accounting machines.

School District Data on Income Tax Returns

The Department of Revenue was asked to consider the possibility of inserting a reminder that designation of the school district in which the taxpayer resides is now required by law (S.B. 314, 1973 session). Subsequent to the December 6 committee recommendation, the department determined that some 400,000 forms have been sealed for mailing and that printing of such an insert would be costly and would delay the mailing of remaining forms. The department indicated a willingness to pursue this recommendation for 1974 tax returns through a variety of publicity mechanisms, including the possibility of special notice to those professionally engaged in the preparation of tax returns.

V. Bills Relating to Department of Revenue Proposals

Special Fuel Permits -- Bill 42

The problem. Under current law, owners of vehicles which require special fuels for operation (e.g., propane, butane, and diesel) must annually obtain a special fuel permit to allow the purchase of such fuel from licensed dealers. Vehicles which are subject to the ton-mile or passenger-mile tax must also receive a permit, but such permits remain valid

as long as the vehicle remains in the same ownership. These two provisions have required commercial carriers to carry two permits at all times, one of which must be renewed annually, and passenger vehicles using special fuel must obtain a new permit every year. Taxpayer inconvenience and document processing by the Department of Revenue are both unnecessarily compounded because of these provisions.

Recommendation. The committee's recommendation would allow the issuance of special fuel permits which would be valid for the life of the vehicle within one ownership, thereby eliminating the annual reapplication procedure for affected taxpayers. Bill 42 would also enable the department to issue special fuel permits and ton-mile or passenger-mile tax permits on the same card for those vehicles subject to both requirements.

The provision requiring the display of the special fuel permit on the vehicle is proposed for change to allow the permit to be either carried in or displayed on the vehicle. This provision is primarily addressed to the owners of non-commercial vehicles which use special motor fuel who may not want to have a requirement different from gasoline vehicle owners; i.e., they must display a permit on their vehicle.

Fiscal impact. Because special fuel permits cost only one dollar, the fiscal impact of the bill is probably minimal (about 73,000 permits were issued in 1973). A significant number of permits would still be issued each year as vehicles change ownership. The reduction of documents required to be processed by the department and the applications for special fuel permits (when required) being spread throughout the year, and not concentrated in December, could result in increased departmental efficiency and decreased costs to at least partially offset decreased revenues. The ability of the department under the bill to issue both special fuel and ton-mile or passenger-mile tax permits on the same card could likewise be a source of savings and efficiency.

Liquor Licenses -- Bill 43

The problem. The Department of Revenue has experienced collection difficulties in the past because local licensing authorities acting as the state's agents are not required to forward the state's portion of liquor license fees to the department before a state license may be issued. Another problem encountered by the department results from all licenses expiring on December 31 of each year. This

causes a large increase in their workload during this renewal period and requires temporary personnel shifts from enforcement to license processing.

Recommendation. It is recommended that local licensing authorities be required to forward the state's share of the license fees to the Department of Revenue before the state license is issued. The committee also recommends that the licenses be valid for one year from date of issue in order to spread the workload of the department more evenly throughout the year. Testimony indicated that this change would result in an even spread of license applications throughout the year, within 4 or 5 years, due to the high rate of change in the ownership of such establishments. Because local licenses are issued concurrently with the state license, these changes should not conflict with local governments and may be of benefit to localities in spreading out their license processing duties.

Fiscal impact. No fiscal impact should result from adoption of this bill. However, improved efficiency to the department may accrue from leveling of yearly workloads.

Sales Tax on Returnable Containers -- Bill 44

The problem. As a result of a court case, Colorado is one of the few states which does not tax business on original purchases of returnable containers (e.g., pop bottles) for use in the business. A second problem is an area of uncertainty in Colorado law concerning whether sales tax can be charged for short-term rentals, such as daily ski rentals. Under current law and regulations, a business has the option of paying sales tax on a rental item when purchased or of collecting sales tax on each rental contract. The area of confusion centers on the ability of a business to collect the sales tax on short-term rentals.

Recommendations. Returnable containers are an asset of a business concern and it is an inequitable exemption not to subject original purchases to the sales tax. Accordingly, it is recommended that the sales tax be imposed on business purchases of containers that are returnable for use in their original condition. No sales tax is now imposed on consumer deposits paid for the use of returnable containers and the committee's recommendation would not change this situation. It is also recommended that the law be clarified to allow businesses to collect a sales tax on short-term rentals or pay the sales tax on their original purchase of the rental item if they so choose. The commit-

tee understands that this would be consistent with the wishes of most affected businesses.

Fiscal impact. The Department of Revenue has estimated that the changes recommended by the committee could result in increased state revenues of up to \$250,000 per year.

Sales and Use Tax on Corporate Transactions -- Bill 45

The problem. Under current law, sales and use taxes are levied against transactions when there is no true change in ownership. For example, a corporation that reorganized itself, formed a subsidiary, and transferred assets to that subsidiary would be subject to a sales or use tax on the physical assets transferred to the subsidiary. Another example would be that of a group of doctors or lawyers who changed their individual practice to a professional corporation. Their assets, such as office equipment and furniture, would be subject to the sales tax although they remained the owners of the new corporation and the ownership merely changed their legal status. Another aspect of this problem has been that the Department of Revenue has been inconsistent in the past about imposition of the sales tax on such transactions; generally applying the tax to corporate activities but exempting individuals or small professional corporations.

Recommendation. The committee concluded that the imposition of the sales tax a second time because of a change in the legal status of the owner, but without any true change in ownership, is inequitable. It is recommended that such transactions be exempt from the imposition of the sales and use tax when no true change of ownership occurs.

Fiscal impact. According to the Department of Revenue, the fiscal impact of this recommendation would be negligible due to the small number of situations of this nature which occur each year.

Income Tax - Filing of Withholding Returns -- Bill 46

The problem. Many small businesses object to submitting monthly withholding deposit reports plus tax returns for Colorado income taxes. Under current law, employers who withhold more than \$100 per month make deposits and file a report monthly and those who withhold less make deposits and file a report quarterly, both by the 15th of the month following the close of the appropriate period. In addition,

both must file quarterly tax returns by the 30th day of the month following the end of each quarter.

A related problem is that an employer is not required to notify the Department of Revenue when he changes from monthly to quarterly filing as often happens with seasonal businesses. As a result, the department may perceive an employers' failure to file a continued monthly return as a delinquency. Issuance of delinquent notices results in employer resentment because he rightly feels he is doing what the law requires.

Recommendations. The committee recommends that the requirement of monthly deposit of withholding taxes be made applicable to those employers withholding \$600 or more per quarter. Those collecting less than \$600 quarterly would file quarterly. This change would result in about 240,000 fewer documents each year for employers to file and pay postage on and for the department to process. The deposit requirement for small employers would be discontinued so that these employers will have a full month after the close of the period before they must file the return and pay the taxes. Employers filing monthly would still be required to make a deposit by the 15th of the following month, except that for the third month of each quarter the return and payment must be submitted. This change should relieve some of the filing pressures on small businesses and also would spread out the influx of returns to the department to allow greater efficiency.

In order to eliminate taxpayer and departmental confusion concerning which filing period system the employer is operating under, the committee further recommends that the employer be required to give the department 30 days written notice when changing from monthly to quarterly filing schedules. This change should reduce taxpayer friction and improve departmental control over delinquency.

Fiscal impact. The fiscal impact of the recommendation arises from allowing small employers to file quarterly and pay on the 30th day of the month. This change would result in some delay of \$8 or \$9 million revenues to the state on which interest income would be lost for approximately 30 days.

Income Tax Delinquent Penalties -- Bill 47

The problem. The current status of the national economy has caused loan interest rates to reach high levels. As

a result, the penalty provisions of the state income tax are, in some cases, less than it would cost a taxpayer to borrow similar amounts of money from a bank. It has become cheaper for some taxpayers to be delinquent on income taxes than to borrow that money conventionally, effectively putting the state in the position of being an unwilling and unintentional money lender. Although not a significant problem at this time, indications are that the federal government is now having this problem with the federal income withholding and social security taxes and that the problem is beginning to appear at the state level.

Recommendation. Under Bill 47 the penalty provisions relating to income taxes would be revised substantially, as follows:

- (1) Failure to file timely return with no intent to evade -- increase penalty from \$1 or 5% of the tax due (whichever greater) to \$5 or 5% per month up to a maximum of 25% (whichever greater);
- (2) Failure to pay tax when due -- change penalty from \$2 or 25% of tax due (whichever greater) to 5% plus 0.5% per month over one month to a maximum of 25%;
- (3) Failure to pay tax when due with no intent to evade -- \$1 or 5% (whichever greater) would be covered as (2) above; and
- (4) Failure to file return or pay tax due on demand of the executive director of the Department of Revenue -- would be covered in (1) and (2) above respectively.

Interest rates on delinquent taxes would remain unchanged at 1.5% per month.

Fiscal impact. The Department of Revenue estimates that the fiscal impact of this recommendation would not be great, but positive.

Use of Income Tax Tables -- Bill 48

The problem. Under current law, resident individuals are allowed to compute their normal state income tax from tax tables prepared by the Department of Revenue. The limit

on the tax tables is adjusted gross income of \$10,000 or less. Information received by the committee indicated that the federal government may soon increase the use of tax tables by taxpayers with adjusted gross income up to \$20,000 per year. If this occurs, it would place some taxpayers in the position of being able to use tax tables for their federal returns but having to compute their tax on state returns. Since Colorado generally follows federal procedures, the department indicated a need for flexibility to conform with federal changes in this area.

Recommendation. The committee concluded that it would be appropriate to give the executive director discretionary authority in the preparation of tax tables so that conformity with the federal income tax provisions could be continuous.

Fiscal impact. In the event that the federal government allows an increased level in the use of tax tables and the executive director so adjusts the Colorado forms, printing costs for additional pages and columns of tables would be the only increased cost. This cost is not expected to be significant.

Corporate Income Tax - Director Discretion -- Bill 49

The problem. Under existing law, the executive director of the Department of Revenue may allocate income and deductions between corporations owned or controlled by the same interests in order to prevent evasion of taxes and to clearly reflect income. The committee received testimony that this law requiring that both conditions must be present in order for the director to act results in some instances where the director had concluded it would be in the best interest of the state to be able to consolidate income but is not now allowed to do so.

Recommendation. Bill 49 would give the director authority to allocate income to either prevent tax evasion or clearly reflect income.

Fiscal impact. The committee's recommendation is not anticipated to have a significant impact on state revenues.

Definition of Camper Trailer -- Bill 50

The problem. Under current law, "camper trailer" is defined as being less than 26 feet long, and taxed under Class D specific ownership classification. "Trailer coach" or

"mobile home" are defined to be between 26 and 32 feet long, and taxed as Class E. The effect of this statute is to cause two separate classes of property for the administration of the specific ownership tax by the Department of Revenue and the county clerks when there is little actual difference between them.

Recommendation. Bill 50 is recommended which would consolidate the above mentioned classes into a single Class D of vehicles for specific ownership taxation under the definition of "camper trailer", "trailer coach", and "mobile home". Class E would be repealed.

Fiscal impact. The effect of this bill would be to place all vehicles presently classified as "trailer coaches" and "mobile homes" and subject to Class E specific ownership tax into the Class D category. As Class D rates are lower than Class E, there would be a tax reduction for certain vehicles and an approximate revenue loss of \$77,000 to local governments. The rates for the two classes are as follows:

CLASS D

<u>Year of Service</u>	<u>Rate of Tax</u>
First year	2.10% of taxable value
Second year	1.50% of taxable value
Third year	1.20% of taxable value
Fourth year	.90% of taxable value
Fifth, sixth, seventh, eighth, and ninth years	.45% of taxable value
Tenth and each later year	.45% of taxable value or three dollars, whichever is greater

CLASS E

<u>Year of Service</u>	<u>Rate of Tax</u>
First year	2.30% of taxable value
Second year	2.00% of taxable value
Third year	1.90% of taxable value
Fourth year	1.70% of taxable value
Fifth year	1.50% of taxable value

(continued)

<u>Year of Service</u>	<u>Rate of Tax</u>
Sixth year	1.25% of taxable value
Seventh year	1.10% of taxable value
Eighth year	1.00% of taxable value
Ninth year	.90% of taxable value
Tenth and later years	.85% of taxable value
Minimum annual tax	\$25.00

VI. Bills Relating to the Property Tax

Taxation of Movable Structures -- Bill 51

The problem. Mobile home taxation legislation adopted by the General Assembly in 1973 (S.B. 365) was addressed to five problem areas identified by a 1972 interim committee. These problems were:

- (1) Dual responsibility for tax collection (assessor and clerk);
- (2) Equity of taxation ("fair share" of taxes vis-a-vis conventional home owners in the same geographical area);
- (3) Inflexibility of a statutory taxation rate;
- (4) Deduction of mobile home tax revenues from the school finance act; and
- (5) Mobile home valuation for assessment and bonded indebtedness capacity.

The latter three problem areas appear to have been resolved by S.B. 365, which created a new ad valorem class of movable structures, and the 1973 school finance act. The question of tax equity has remained of concern to some movable structure owners who object to the provision for determination of actual value, the depreciation schedule prepared by the Department of Revenue, and the use of 30 percent of actual value for determination of assessed value when some counties use, in effect, a lesser figure for conventional homes. The problem of the assessment authority divided between the county assessor and county clerk was not resolved by S.B. 365, as indicated by an Attorney General's opinion to the committee chairman.

On November 12, 1974, a Denver District Court decision (Civil Action #C-44198) found that: (1) the statutory requirement that the Department of Revenue value movable structures at 30 percent of actual value, contrasted with a lesser percentage used by the various assessors for other property, violates the uniformity requirement of Article X, Section 3, Constitution of Colorado; and (2) the depreciation formula is arbitrary and capricious and violates the requirement that property be assessed with relation to its true value.

Recommendations. As recommended, Bill 51 would provide for the ad valorem taxation of movable structures under the jurisdiction of the county assessor. The proposal, to be effective for taxable year 1975, would provide treatment for movable structures similar to other ad valorem properties, with payment dates, appeals, and assessment procedures the same as for conventional homes.

The proposal would repeal all registration requirements, including fees, for movable structures. Another provision would extend the duration of the lien on the mortgage of any movable structure for the full term of the mortgage. (H.B. 1563 adopted by the 1973 General Assembly extended the lien to full term for all liens after July 1, 1973). Further, the bill would require that a copy of a moving permit be submitted to the lending institution.

Fiscal impact. Movable structures are presently taxed on a current year's use basis. As ad valorem taxation would be on previous year's use, there would be a one-year period (calendar 1975) in which local governments would receive no tax revenues from movable structures. The result would be as follows:

<u>Tax Year</u>	<u>Taxes Due</u>
1974	February 28, 1974
1975	April 30, 1976
1976	April 30, 1977

Because of the one-year delay in tax revenues from movable structures, counties, municipalities, school districts, and special districts with large percentages of movable structures could experience funding problems. The staff will prepare an analysis of the fiscal implications.

Property Tax Exemption - Elderly Residents of Low Income Housing -- Bill 52

The problem. Under existing law, portions of housing projects for qualified low income, elderly persons are exempt from property taxation. Residents of each unit of the project are questioned as to their qualification for exemption. The tax exemption is computed as a percentage of the structure equal to the percent of the project occupied by qualified residents. Qualifications are set at 62 years of age or older with asset and income limits of 150 percent of the limits prescribed for the nearest federally assisted low income public housing. This procedure has resulted in widely divergent exemption levels, ranging from a low of \$11,250 in assets (Pueblo) and \$5,813 in income (Salida) to highs of \$22,500 in assets (Salida) and \$8,438 in income (Denver) for single persons.

A related problem is that some of the housing projects receiving partial exemptions under the current law use this decrease in property tax liability to reduce the rent of all residents, not just those whose qualification under the law results in the partial exemption. This situation apparently arose because of misunderstandings about federal regulations governing some projects.

Representatives of the U.S. Department of Housing and Urban Development testified that they do not require the allocation of benefits to all residents. The committee concluded that this action was unintentional and did not represent an attempt to circumvent the law.

Recommendation. It was concluded that the divergence in income and asset limits resulting from the present statute was not justified by differences in local living costs and the committee therefore recommends that the asset and income limits be set uniformly throughout the state. The proposed limits are \$3,500 for income and \$18,000 for assets.

In order to clarify the law and prevent a recurrence of past problems, it is further recommended that an amendment requiring that the exemption from property taxes be passed on directly in the form of lower rents to those persons qualified and not spread across-the-board to all residents of a project.

Fiscal impact. The fiscal impact of the bill to local governments whose jurisdictions contain such units would not exceed the total taxes paid by non-exempt units at the present time. The total loss would therefore be less than the approximately \$500,000 tax liability estimated for 1974.

Property Taxation - Exempt Charitable Property -- Bill 53

The problem. As a result of a recent court decision, multi-unit residential properties associated with church or eleemosynary hospitals, health care facilities, schools, and institutions are totally tax exempt, whereas others are only partially exempt under the law dealing with low income housing for the elderly (discussed under Bill 52). In many cases, these residences are totally exempt, even though they are not occupied by persons utilizing the associated facilities.

Recommendation. These units are in direct competition with public projects so their tax situation should be consistent with low income, federally assisted housing projects for the elderly. Such residential properties should be totally exempt only when occupied by persons using the related care facilities. If not occupied by persons utilizing such facilities, the residence should come under the statute which provides partial exemptions for housing projects for low income elderly. (See Bill 52 for committee's findings and recommendations relating to this partial exemption.) Bill 53 is a companion measure to Bill 52 to improve tax equity and consistency.

Fiscal impact. The fiscal impact of the committee's recommendation on local governments should be small but positive. Eight totally exempt projects exist in the state at this time. Five of these are located in Denver.

Assessment of Livestock -- Bill 54

The problem. Current law provides that business stocks of merchandise be assessed on the basis of five percent of the average inventory of the previous year. Livestock are assessed in the same manner but at a level of 13 percent. In many respects there is little difference between a businessman's inventory and a rancher's livestock -- both are essentially the inventory of a business enterprise.

Recommendation. Bill 54 would set the assessed value of livestock at five percent of actual value, based on the owner's average inventory for the previous year, which would make livestock assessment consistent with the assessment of other stocks of merchandise. Also recommended is a technical amendment to allow assessors to use market values in the determination of actual values of livestock for assessment in cases where data are not available from the Colorado Crop and Livestock Reporting Service.