Report to the Colorado General Assembly:

STATE AND LOCAL TAXES

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 107

(Colorado - LEGISLATIVE COUNCIL - Committee on State and Local Taxes)

REPORT TO THE

COLORADO GENERAL ASSEMBLY

STATE AND LOCAL TAXES

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COLORADO GENERAL ASSEMBLY

LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL
DENVER, COLORADO 80203
222-9911 - EXTENSION 2285

November 22, 1965

To Members of the Forty-fifth General Assembly:

The Legislative Council is submitting herewith a report on state and local taxes, as directed by House Joint Resolution Number 1024, 1965 session.

The Committee appointed by the Council to make this study submitted its report on November 25, 1965, at which time the report was accepted by the Legislative Council for transmittal to the General Assembly.

Of the bills recommended by the committee, the Legislative Council requests the Governor to place all bills not relating to revenue matters on the "Governors Call" with the exception of Bill Number II -- relating to the availability of information contained in the tax warrant -- and Bill Number VI -- concerning the property taxation of mobile machinery.

Respectfully submitted,

/s/ Floyd Oliver
Chairman

FO/mp

COLORADO GENERAL ASSEMBLY

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November 22, 1965

Senator Floyd Oliver, Chairman
Colorado Legislative Council
341 State Capitol
Denver, Colorado - 80203

Dear Mr. Chairman:

Your Committee on State and Local Taxes submits herewith its report and recommendations on property, income, sales and excise, and highway user taxes. To conduct the study, the committee appointed four subcommittees to review problems in the aforementioned areas. The reports of the subcommittees also are appended for your consideration.

Respectfully submitted,

/s/ Representative Mark Hogan
Chairman, Committee on
State and Local Taxes

MH/mp

FOREWORD

Pursuant to House Joint Resolution Number 1024, 1965 session, the Legislative Council appointed a committee to conduct a study of possible economies and efficiencies in the administration of state and local taxes. At the initial meeting of the committee, Representative Mark Hogan, committee chairman, appointed members to four subcommittees as follows:

Subcommittee on Property Taxation

Representative Kenneth Monfort, chairman
Representative Palmer Burch
Representative Hiram McNeil

Subcommittee on Income Taxation

Representative John MacFarlane, chairman
Senator William Bledsoe
Senator Anthony Vollack
Representative Frank Kemp

Subcommittee on Sales and Excise Taxes

Representative Richard Gebhardt, chairman
Senator William Armstrong
Representative Joseph Calabrese
Representative Betty Miller

Subcommittee on Highway User Taxes

Senator John Bermingham, chairman
Senator Richard Hobbs
Representative Keith Singer
Representative Thomas Farley

Chairman Hogan was an ex officio member of all of the subcommittees.

Including the activities of the subcommittees, a total of 18 meetings were held in the course of the committee's study on state and local taxes. Considerable additional time also was spent by individual committee members in the compilation and development of tax information. In particular, Senator John Bermingham prepared the subcommittee's report on ton-mile taxes. Staff services were provided to the committee and the subcommittees by Dave Morrissey, senior analyst, and Mel Scariano, research assistant, of the Legislative Council staff, and Jim Wilson, assistant attorney general, provided bill drafting services to the committee and subcommittees.

Public hearings were held by the subcommittees to outline problems and review alternative proposals in respective areas of state and local tax administration. The subcommittee on Property Taxation met with representatives of the Tax Commission, County Assessors' Association, Public Expenditure Council, etc., to review general problems of property tax administration; the Income Tax Subcommittee held a public hearing on the applicability of a uniform act for the

allocation of corporate income for purposes of Colorado income taxation; the subcommittee on Sales and Excise taxes held meetings with state and local tax administrators and representatives of industry concerning centralized collection of cigarette taxes, sales and use tax auditing, and vendor fees; and the Subcommittee on Highway User Taxes also met with officials of the Revenue Department and State Patrol to review problems of ton-mile taxes.

The committee would like to express its appreciation to officials of the State Department of Revenue for providing information and consultation with the committee -- Hugh Weed, former Director; John Heckers, Director; Harold Drake, Deputy Director; Myron McGinley, Chief of Taxation; Stan Schwartz, Statistician; Robert Barton, Gross Ton Mile Tax Division, and Ray Evridge, Port of Entry Division. Also assisting in the committee's study were members of the Governor's Local Affairs Study Commission, Tax Commission, County Assessors' Association, Colorado Municipal League, and Public Expenditure Council. Members of the Taxation Committee of the Colorado Bar Association and representatives of foreign and domestic corporations contributed immensely to the study on uniform allocation of corporate income. A vote of thanks also is expressed to municipal officials and representatives of the cigarette industry participating in the work of the Subcommittee on Sales and Excise Taxes.

Lyle C. Kyle
Director

December 1, 1965

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REPORT OF COMMITTEE ON STATE AND LOCAL TAXES

The Legislative Council Committee on State and Local Taxes was appointed to conduct a study of methods of assessment, collection, and enforcement of state and local tax laws, and to recommend legislation implementing new methods and procedures, where needed, for administration of these taxes.

The committee divided itself into four subcommittees to conduct preliminary studies in the areas of property taxation, income taxation, sales and excise taxes, and highway user taxes. Three additional meetings were held by the full committee to review progress of the subcommittees and to study in detail the findings and recommendations of the subcommittees.

A summary of the proposed legislation and recommendations of the full committee are contained in the following paragraphs. Of course, more detailed information concerning the various areas of study is included in the subcommittee reports appended.

Committee Recommendations

Property Taxation

Six general recommendations presented by the Subcommittee on Property Taxation were approved by the full committee for transmission to the Legislative Council and the General Assembly -- amendment to "freeport" law; documentary stamp tax; posting and publication of assessments; effective date of tax exemptions; miscellaneous amendments to Chapter 94, Laws of 1964; and mobile equipment.

Freeport. Chapter 291, Session Laws of Colorado 1965, provides for a property classification of "freeport merchandise" to be assessed at 17½ per cent of actual value in 1966 and at five per cent of actual value each year thereafter. Of course, Chapter 94, Session Laws of 1964, provides that all properties, not otherwise provided for, shall be assessed at 30 per cent of actual value. Needless-to-say, the business community has expressed interest in the administrative determinations of the county assessors as to goods that may qualify for freeport assessment. A basic question posed to the committee is whether goods in the possession of wholesalers and retailers, which eventually are shipped out of state, may qualify for a freeport assessment? The committee does not believe that the freeport law is intended to include goods of wholesalers or retailers. The committee recommends clarifying legislation limiting freeport to goods in which the title remains with the manufacturer or producer thereof. In other words, a retailer or wholesaler may not qualify for freeport simply because he sells a portion of his goods in another state. Bill Number I is designed to implement the committee's recommendation.

Documentary Stamp Tax. County assessors currently rely on the "Federal Documentary Stamp Tax" for information on market values of property; however, Congress recently repealed the "Federal Documentary

Stamp Act," effective December 31, 1967. The committee believes that a documentary stamp tax is an effective tool for determining the market value of property and suggests that the General Assembly implement legislation providing for a state documentary stamp tax. The committee recommends adoption of a state documentary tax of five cents per five hundred dollars value affixed to every deed and covering the full consideration of real estate transactions as the best means for obtaining statistical information on the market value of real property.

Posting and Publication of Assessments. The full committee supports the subcommittee in its contention that public awareness of the assessed value of property will do much to bring about equalization of property assessments in Colorado. The committee believes that although the public is authorized to inspect assessment records, the assessment rolls are not available to a degree that common use is made of assessment records. With this in mind, the committee recommends that the valuation and description of real property contained in the tax warrant, prepared by the county assessor and delivered to the treasurer, should be made readily available for public inspection or that the information contained in the tax warrant should be published in a newspaper of general circulation in the county. The intent of the committee's recommendation is to encourage public review of the determinations of the assessor. A proposed bill to implement the committee's suggestion is contained in Bill Number II.

Effective Date of Tax Exemptions. Proposed Bill Number III is designed to expedite administrative procedures concerning the problem of abating taxes on properties in which a tax exemption is granted. At present, an exempt organization may file for a tax exemption on property for which taxes have been paid over a number of years. In the event an exemption is granted, a request may be made for an abatement of taxes for prior years. In many instances, it is difficult to determine or substantiate the tax exempt usage of the property in prior years, and the current practice of retroactive exemptions creates a financial burden to taxing jurisdictions. Therefore, the committee believes that the problem may be resolved by limiting exemptions to the year in which application is made and the exemption granted.

Miscellaneous Amendments. Preparation of an assessment roll as required by Section 137-8-3, Chapter 94, Session Laws of Colorado 1964, does not appear to be practical. First of all, in the large counties the assessment roll is so voluminous that the county board of equalization could not review the information contained therein in the normal course of its deliberations. Also, cost of preparation of the roll appears to be an unnecessary expense, and, in many instances, personal property tax payers fail to file schedules needed to compile the assessment roll. With this in mind, the committee recommends amending 137-8-3 to require the assessor to simply report the valuation for assessment (Bill Number IV).

In addition, the committee believes that insufficient time is allowed county boards of equalization to render decisions prior to submission of the abstract of assessments to the Tax Commission. The committee proposes that the boards should conduct hearings from the second Monday in July and continue until all have been heard on the last business day of July. The abstract of assessment no longer could

be reported to the Tax Commission on August 1, and the committee recommends an August 10 date (see Bill Number IV).

Mobile Equipment. A perennial problem for property tax administrators is the problem of assessing and collecting taxes on mobile equipment. Mobile equipment or mobile machinery often is used in a number of counties during the course of a year making enforcement of taxes on the equipment extremely difficult to obtain. In Colorado, the problem is complicated further by allowing owners of the special mobile equipment an apparent option to pay either an ad valorem tax or to register the vehicle for highway use and pay a specific ownership tax. The committee believes that the option must be eliminated and assessment of mobile equipment vested in a single tax administrator. Adding to the problem is the requirement that ad valorem taxes levied on the assessment date must be apportioned among counties in which the equipment is to be used. This provision appears to be unworkable, because contractors seldom know where their equipment will be located in the course of a year.

As an interim proposal to resolve these problems, the committee recommends adoption of proposed Bills -- Number V and VI. Based on present constitutional requirements, the committee believes that the taxation of mobile equipment must be conducted on an ad valorem basis. Therefore, the committee suggests that registration of mobile equipment for motor vehicle purposes be prohibited; however, an annual highway permit could be obtained. In order to achieve an equitable distribution of taxes between counties, the committee recommends continuation of pro-ration of ad valorem taxes on mobile machinery, but that pro-ration be based on the prior year's location rather than future location of the equipment (see Bill Number V).

On the other hand, as a long range solution, the committee deems it necessary to revise Article X, Section 6, Colorado Constitution. Briefly, adoption of a constitutional amendment would allow collection of a specific ownership tax on mobile equipment and mobile homes. The tax would be levied without recourse to the issuance of license plates, and the amount distributed from the tax also would be apportioned without reference to ad valorem taxes. The proposed amendment follows:

> SECTION 6. The general assembly shall enact laws classifying self propelled equipment, and also motor vehicles, trailers, semi-trailers, trailer coaches and mobile homes, prescribing methods of determining the value of such property, and requiring the payment of an annual specific ownership tax thereon, which said tax shall be in addition to any state registration or license fee on such property and payable to a designated county officer at the same time as any such registration or license fees are payable.
>
> Said graduated annual specific ownership tax shall be in lieu of all ad valorem taxes upon such property and shall be apportioned, distributed and paid over to the political subdivisions of the state in such manner as may be prescribed by law; provided,

that such laws shall not exempt from ad valorem taxation any such property in process of manufacture or held in storage, or which constitutes the stock of manufacturers or distributors thereof, or of dealers therein.

All laws exempting from taxation property other than that mentioned in this article shall be void.

Income Taxation

In the past, members of the General Assembly have been handicapped in formulating policy concerning the basic income tax structure because of a lack of statistical information. In particular, the Governor and the General Assembly need information on the impact to net tax liability or net taxable income of various contemplated changes in the income tax laws. To facilitate development of this data, the Department of Revenue currently is expanding data processing equipment by the addition of a "Systems 360." The system will enable the department to utilize sampling techniques needed to forecast revenue estimates of alternative programs being considered by the General Assembly. The Governor's Revenue Estimating Advisory Committee also is assisting department officials in determining types of information needed to be programed on basic data cards.

The committee supports compilation of data by the Revenue Department as essential to the deliberations of the General Assembly. Therefore, the committee is recommending legislation to require the department to collect information on an annual basis, and specifically to collect information on net tax liability and net taxable income (Bill Number VII).

Study Recommendations. A detailed report on the uniform allocation of income for corporate tax purposes also was submitted to the full committee by the Subcommittee on Income Taxation. The major difference between Colorado law and the uniform act is in regard to a three-factor formula for the allocation of income. Presently, Colorado law apportions income for tax purposes on the basis of "property" and "sales," while an additional factor of "payroll" is included in the uniform act. All but two states -- Colorado and North Dakota -- employ a "payroll" factor in their allocation formulas. A public hearing concerning the feasibility of adopting the uniform act was held by the subcommittee on September 10th.

Arguments supporting the adoption of the uniform act are that standardization of state income tax laws simplifies tax compliance, provides an equitable tax base between corporations nationwide, and may discourage federal intervention in a matter traditionally reserved to the states. Domestic industry strongly opposed adoption of the uniform act on grounds that the three-factor formula would reallocate a portion of Colorado's income tax burden from firms whose ratio of employment in Colorado is small, relative to sales and/or property holdings in Colorado, to firms who have a relatively large proportion of their employment in Colorado. In view of proposed legislation before Congress for the regulation of state income taxes on corporations involved in interstate commerce, no recommendation was made by

the subcommittee or the full committee. However, continued study of Colorado's Income Tax Act and the feasibility of local income taxes is recommended by the full committee.

Sales and Excise Taxes

Cooperative Program. In viewing possible economies and efficiencies in the sales tax field, the subcommittee reports that little integration of audit services exists between state and local sales and use tax administrators. Historically, federal and state officials have exchanged information on income tax returns for many years. The committee believes that the advantages obtained from federal and state cooperation could be extended to the administration of state and local sales taxes, and the committee recommends that section 138-9-12, Chapter 302, Session Laws of Colorado 1965, be amended to permit tax administrators of municipalities levying sales and use taxes to exchange information with state tax officials (see Bill Number VIII).

Broader Nexus Standard. The committee believes that foreign corporations doing business in Colorado should be required to collect Colorado use taxes on sales made in Colorado. This belief is based on the premise that if a foreign corporation makes significant sales in Colorado, competition to local retailers exists, and Colorado sales and use taxes should be equal. Of course, Colorado law requires corporations maintaining an office or agent in this state to collect use taxes on sales made in Colorado. However, the firms that do not maintain an office in Colorado, but conduct extensive advertising or catalogue activities in Colorado, are not subject to the Colorado sales and use tax statute. The committee recommends broadening the definition of what constitutes "doing business in Colorado" for purposes of sales and use tax administration (see Bill Number IX).

Permissive Legislation to Cities and Towns to Levy Sales Taxes. "Home rule" cities in Colorado currently are authorized to levy sales and use taxes under the auspices of Article XX, Colorado Constitution. The committee proposes that the General Assembly grant authority to all municipalities to levy sales and use taxes. In order to minimize the possibility of an individual being forced to pay a use tax in one jurisdiction on items in which a sales tax has been paid in another jurisdiction, the committee recommends that the permissive legislation contain a provision to prohibit duplicate taxation. For instance, if a Golden resident purchases an item in Denver and pays a sales tax, and the city of Golden has enacted a use tax under the provisions of the proposed bill, the item would not be subject to a use tax in Golden. However, in order to avoid constitutional problems associated with "home rule" cities, the committee also recommends that municipalities organized under article XX be excluded from the provisions of the bill (see Bill Number X). Therefore, if a resident of a "home rule" municipality pays a local sales tax in another jurisdiction, the items purchased still are subject to a use tax in the city of residence.

In view of the financial difficulties in which local governments find themselves, the committee reluctantly approved this bill as a stopgap measure although realizing that it was perhaps adding additional overlapping taxation at a time when simplification is

called for. The committee members express the hope that a broader collected and administered tax will be enacted in the near future.

Refunds of Sales Tax. The full committee supports a proposal by the subcommittee to refund sales taxes to exempt organizations on a net tax basis only. In other words, when exempt organizations contract through a third party for construction of a building, the third party or general contractor must pay sales and use taxes on materials purchased. Section 138-5-14 (2) (c) C.R.S. 1963, however, allows the exempt organization to file a refund of sales taxes charged by the contractor as a part of construction costs. Of course, the vendors selling materials to the contractor collect the sales tax and are entitled to a three and one-third per cent of collections as a cost of administering the tax. Since the state currently refunds 100 per cent of taxes charged, the state actually pays out more than it collects. For this reason, the committee is recommending Bill Number XI which limits refunds to net taxes collected.

Food Tax Refunds. Bill Number XII simply outlines a proposal to allow discretion to the Director of the Department of Revenue to retain or destroy income tax returns filed for the purpose of obtaining a refund on sales taxes paid on food. Except for purposes of audit, there is little reason to utilize file space of the department for more than one year for purposes of storing income tax returns filed for sales taxes paid on food.

Continuation of Study. The subcommittee on sales and excise taxes conducted an extensive study in the area of a state-collected locally-shared cigarette tax. At the November 3rd. meeting of the subcommittee, a recommendation was adopted requesting the support of the full committee for continuation of a study of state-collected locally-shared cigarette taxes in 1966. Subcommittee members also expressed interest in expanding the study to include sales and use taxes. Background information in these areas is contained in the subcommittee report on sales and excise taxes. The Committee on State and Local Taxes strongly recommends continuation of the study in these areas.

Subcommittee Report on Ton-mile Taxes

The Committee on State and Local taxes received the subcommittee report on ton-mile taxes on the last meeting day of the full committee. While the committee was impressed with the accumulation of statistical data and other information in the report it noted conclusions or opinions in the subcommittee report that were not necessarily substantiated by the data contained therein. Since there was not time to accept or refute the conclusions drawn in the report through analysis of information from other sources, the committee simply is appending the subcommittee findings and recommendations to the report of the full committee. Therefore, the inclusion of the subcommittee study in the committee's report to the Legislative Council and the General Assembly should not be construed as approval or disapproval of the subcommittee report by the committee. The Committee on State and Local Taxes, however, does recommend continuation of the study on ton-mile taxes.

Bill Number I

A BILL FOR AN ACT

CONCERNING THE GENERAL PROPERTY TAX, AND RELATING TO FREEPORT MERCHANDISE.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 137-1-1 (16), as added to chapter 137, C.R.S. 1963, by section 2 of chapter 291, Session Laws of Colorado 1965, is hereby amended to read:

137-1-1. Definitions. (16) The term "freeport merchandise" means (a) those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state, for storage in transit prior to shipment to a final destination outside the state, ~~and which have acquired a taxable situs within the state~~ SO LONG AS THE TITLE TO SAID MERCHANDISE SHALL REMAIN IN THE MANUFACTURER OR PRODUCER THEREOF; and (b) those stocks of merchandise manufactured or produced within this state, remaining in a finished state and stored for shipment or shipped directly to a destination outside this state, SO LONG AS THE TITLE TO SAID MERCHANDISE SHALL REMAIN IN THE MANUFACTURER OR PRODUCER THEREOF.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill Number II

A BILL FOR AN ACT

CONCERNING THE GENERAL PROPERTY TAX, AND REQUIRING THE ASSESSOR TO MAKE AVAILABLE TO THE PUBLIC THE INFORMATION CONTAINED IN THE TAX WARRANT.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 137-5-29, as enacted by section 1 of chapter 94, Session Laws of Colorado 1964, is hereby amended to read:

137-5-29. Delivery of tax warrant - public inspection. As soon as practicable after the requisite taxes for the year have been levied, but in no event later than the first day of January of each year, the assessor shall deliver the tax warrant under his hand and official seal to the treasurer AND SHALL RETAIN ONE OR MORE TRUE COPIES THEREOF WHICH SHALL BE MADE READILY AVAILABLE TO THE GENERAL PUBLIC DURING THE COLLECTION YEAR IN A CONVENIENT LOCATION IN THE COURT HOUSE OR PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY. Such tax warrant shall set forth the assessment roll, reciting the persons in whose names taxable property in the county has been listed, the class of such taxable property and the valuation for assessment thereof, the several taxes levied against such valuation, and the amount of such taxes extended against each separate valuation. At the end of the warrant, the aggregate of all taxes levied shall be totaled, balanced, and prorated to the several funds of each levying authority, and the treasurer shall be commanded to collect all such taxes.

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

Bill Number III

A BILL FOR AN ACT

CONCERNING THE GENERAL PROPERTY TAX, AND PROVIDING FOR THE EFFECTIVE DATE OF THE EXEMPTION FROM TAXATION OF CERTAIN PROPERTY.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 137-3-18 (1) as enacted by section 1 of chapter 94, Session Laws of Colorado 1964, is hereby amended to read:

137-3-18. Review of applications for exemption - procedure - annual review. (1) The commission shall examine and review each application submitted claiming exemption of real or personal property from general taxation under subsections (5), (6), or (7) of section 137-2-1, and if it shall find and determine such exemption to be justified and in accordance with the intent of the law, it shall grant the same, EFFECTIVE COMMENCING WITH THE YEAR IN WHICH APPLICATION WAS MADE AND FOR WHICH THE EXEMPTION WAS GRANTED, AND NOT RETROACTIVELY.

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

Bill Number IV

A BILL FOR AN ACT

CONCERNING THE GENERAL PROPERTY TAX, AND AMENDING CERTAIN PROCEDURES IN THE VALUATION OF PROPERTY AND IN THE ASSESSMENT OF SUCH TAX.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 137-5-23, as enacted by section 1 of chapter 94, Session Laws of Colorado 1964, is hereby amended to read:

137-5-23. Abstract of assessment. Upon conclusion of hearings by the county board of equalization, as provided in article 8 of this chapter, the assessor shall complete the assessment roll of all taxable property within his county, and no later than the ~~first~~ TENTH day of August in each year he shall prepare therefrom two copies of the abstract of assessment, and in person, and not by deputy, shall subscribe his name, under oath, to the following statement, which shall be a part of such abstract:

"I, _____, the assessor of _____ county, Colorado, do solemnly swear that in the assessment roll of such property I have listed and valued all taxable property located therein and that such property has been assessed for the current year in the manner prescribed by law, and that the foregoing abstract of assessment is a true and correct compilation of each and every schedule.

_____"

SECTION 2. 137-8-3, as enacted by section 1 of chapter 94, Session Laws of Colorado 1964, is hereby amended to read:

137-8-3. Report of assessor. At the first meeting of the board of equalization, the assessor shall REPORT THE VALUATION FOR ASSESSMENT OF ALL TAXABLE PROPERTY IN HIS COUNTY ~~submit the assessment roll,~~ and shall note any valuations for assessment of livestock or portable

or movable equipment which have been apportioned pursuant to the provisions of sections 137-5-12 and 137-5-13. He shall submit a list of all persons in the county who have returned insufficient schedules of personal property, or who have failed to return any schedule, and shall report his action in each case. He shall also submit a list of all persons who have appeared before him to present objections or protests, and whose objections or protests have been refused or denied by him.

SECTION 3. 137-8-5 (2), as enacted by section 1 of chapter 94, Session Laws of Colorado 1964, is hereby amended to read:

137-8-5. Hearings on appeal. (2) The board shall continue its hearings from time to time until all petitions have been heard, but all such hearings shall be concluded ~~and decisions rendered thereon no later than the twenty-eighth day of July~~ BY THE CLOSE OF BUSINESS ON THE LAST BUSINESS DAY OF JULY.

SECTION 4. Effective date. This act shall take effect on July 1, 1966.

SECTION 5. Safety clause. The general assembly hereby finds determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill Number V

A BILL FOR AN ACT

CONCERNING THE GENERAL PROPERTY TAX, AND PROVIDING FOR THE APPORTIONMENT OF VALUE OF MOVABLE EQUIPMENT LOCATED OR MAINTAINED IN TWO OR MORE COUNTIES OF THE STATE DURING ANY CALENDAR YEAR.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 137-5-13 (1) and (2), as enacted by section 1 of chapter 94, Session Laws of Colorado 1964, and the amendment thereto enacted by section 1 of chapter 293, Session Laws of Colorado 1965, are hereby amended to read:

137-5-13. Movable equipment - apportionment of value. (1) Any person owning any portable or movable equipment which ~~is apt to be~~ WAS located or maintained in two or more counties of the state during ~~any~~ THE PREVIOUS calendar year shall indicate in a statement accompanying his personal property schedule the kind and description, and a serial number, if available, of such equipment, the counties in which such equipment ~~is apt to be~~ WAS located or maintained, and the ~~estimated~~ period of time during the PREVIOUS calendar year ~~in~~ DURING which such equipment ~~is apt to be so~~ WAS located and maintained IN EACH SUCH COUNTY. THE PROVISIONS OF SUBSECTIONS (1) AND (2) OF THIS SECTION SHALL NOT APPLY IN ANY CASE WHERE SUCH EQUIPMENT WAS ACQUIRED DURING THE PREVIOUS CALENDAR YEAR, BUT AFTER THE ASSESSMENT DATE THEREOF, AND WHERE THE SAME WAS MAINTAINED IN ONLY ONE COUNTY OF THIS STATE DURING THE REMAINDER OF SUCH YEAR.

(2) The assessor of the county in which such equipment is located on the assessment date shall determine its value, and shall apportion such value between the counties affected, and the school districts thereof, in the proportion that the periods of time during

which such equipment ~~may be~~ WAS located or maintained in such counties bears to the full calendar year. He shall furnish a copy of such valuation for assessment and apportionment to the owner of such equipment, or to his agent, and shall also transmit a copy thereof to the assessor of each county affected, as his authority to list the apportioned value of such equipment on the assessment roll of his county. For purposes of making such apportionment, the valuation for assessment of the portable or movable equipment made by the assessor of the county of original assessment shall be used by all county assessors involved.

SECTION 2. Repeal. 137-5-13 (3), as enacted by section 1 of chapter 94, Session Laws of Colorado 1964, and amended by section 1 of of chapter 293, Session Laws of Colorado 1965, is hereby repealed.

SECTION 3. Effective date. This act shall take effect on December 31, 1966.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill Number VI

A BILL FOR AN ACT

CONCERNING MOBILE MACHINERY AND VEHICLES WITH SPECIAL EQUIPMENT OR MACHINERY MOUNTED THEREON.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-3-2, Colorado Revised Statutes 1963, is hereby amended to read:

13-3-2. Vehicles exempt from registration. Vehicles owned and operated by any department of the federal government; ~~fire-fighting vehicles, police patrol wagons and police ambulances;~~ and farm tractors, farm trailers, hay balers, combines, and other heavy movable farm equipment primarily used on farms and not on the highways; and ~~road rollers and road machinery temporarily operated or moved upon the highways need not be registered under this article.~~ MOBILE MACHINERY NOT DESIGNED OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS OR CARGO, INCLUDING MOTOR VEHICLES ORIGINALLY DESIGNED FOR THE TRANSPORTATION OF PERSONS OR CARGO BUT WHICH HAVE BEEN REDESIGNED OR MODIFIED BY THE MOUNTING THEREON OF SPECIAL EQUIPMENT OR MACHINERY AND WHICH MAY BE ONLY INCIDENTALLY OPERATED OR MOVED OVER A HIGHWAY, SHALL NOT BE SUBJECT TO REGISTRATION UNDER THIS ARTICLE. THE DEPARTMENT OF REVENUE SHALL MAKE THE FINAL DETERMINATION OF VEHICLES CLASSIFIED AS MOBILE MACHINERY, AND THE COUNTY CLERK AND RECORDER OF ANY COUNTY OR THE MANAGER OF REVENUE OF THE CITY AND COUNTY OF DENVER SHALL NOT ISSUE A REGISTRATION CERTIFICATE OR COLLECT A SPECIFIC OWNERSHIP TAX ON ANY VEHICLE FOR WHICH THE REVENUE DEPARTMENT HAS NOT ISSUED A CERTIFICATE OF TITLE; PROVIDED, THAT BEFORE MOBILE MACHINERY MAY BE OPERATED ON THE HIGHWAY, THE OWNER OF SUCH A VEHICLE, OR HIS AGENT, SHALL OBTAIN A PERMIT AS REQUIRED BY SECTION 13-3-23 (12).

SECTION 2. 13-3-3, Colorado Revised Statutes 1963, is hereby amended by THE ADDITION OF A NEW SUBSECTION (3) to read:

13-3-3. Application for registration - tax. Whenever special equipment or machinery is mounted on a vehicle for which the department of revenue has previously issued a certificate of title, the owner of said vehicle, or his agent, before making application for a permit to operate the vehicle on the highways, shall obtain a statement of assessment from the county assessor of the county of his residence, or from the manager of revenue of the city and county of Denver if a resident thereof, that the special equipment or machinery has been assessed for the purpose of ad valorem taxes. Payment of any such ad valorem taxes on such special mounted equipment or machinery shall not be construed as payment in lieu of the specific ownership tax on the vehicle on which such special equipment or machinery is mounted.

SECTION 3. 13-3-23 (12), Colorado Revised Statutes 1963, is hereby amended to read:

13-3-23. Ton mile and passenger mile tax - fees. (12) Owners of ~~special-mobile-equipment~~ MOBILE MACHINERY DESIRING TO OPERATE SUCH VEHICLES ON THE HIGHWAYS may ~~elect-to-pay-the-same-registration-as-provided-in-paragraph-(b)-of-subsection-(4)-of-this-section-and-the-ton-mile-tax-or-to-operate-such-vehicle-under-a-special-trip-or-monthly~~ OBTAIN AN ANNUAL permit issued by the ~~department-of-revenue-or-the-Colorado-state-patrol~~ THE COUNTY CLERK AND RECORDER OF ANY COUNTY OR THE MANAGER OF REVENUE IN DENVER upon payment of a fee of two dollars and fifty cents, ~~for-each-one-hundred-miles,-or-portion-thereof,-or-an-annual-permit-of-two-dollars-and-fifty-cents-per-vehicle-ton-for-not-to-exceed-twenty-five-hundred-miles-traveled-on-the-public-highways;~~ provided, ~~however,~~ that this SUBSECTION shall not be

construed as allowing a motor vehicle carrier for hire to operate without A certificate of convenience and necessity. ANY SUCH PERMIT SHALL BE IN ADDITION TO AD VALOREM ASSESSED TAXES ON SUCH MOBILE MACHINERY.

SECTION 4. Repeal. 13-1-1 (48), Colorado Revised Statutes 1963, is hereby repealed.

SECTION 5. Effective date. This act shall take effect on January 1, 1967.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill Number VII

A BILL FOR AN ACT

CONCERNING THE PUBLICATION OF STATISTICS CONCERNING THE OPERATION OF THE INCOME TAX LAWS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 138-9-11, Colorado Revised Statutes 1963, as enacted by section 2 of chapter 302, Session Laws of Colorado 1965, is hereby amended BY THE ADDITION OF A NEW SUBSECTION (7) to read:

138-9-11. Duties and powers of director. (7) The director shall annually prepare and publish, or cause to be prepared and published, statistics reasonably available with respect to the operation of the income tax laws, including classifications of taxpayers and of income, net taxable income, the amounts allowed as deductions, exemptions, and credits, tax liability, and other facts which he deems pertinent.

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

BILL NUMBER VIII

A BILL FOR AN ACT

CONCERNING THE SALES AND USE TAX AND AUTHORIZING THE DIRECTOR OF REVENUE TO SUPPLY INFORMATION RELATIVE THERETO TO OFFICIALS OF MUNICIPALITIES IN THIS STATE IMPOSING SALES AND USE TAXES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 138-9-12 (5), Colorado Revised Statutes 1963, as enacted by section 2 of chapter 302, Session Laws of Colorado 1965, is hereby amended to read:

138-9-12. Reports and returns confidential. (5) Notwithstanding the provisions of this section, the director of revenue shall supply any county assessor of the state of Colorado or his representative with information relating to ad valorem assessments or valuation of property within his county, and, in his discretion, may permit the commissioner of internal revenue of the United States, or the proper official of any state OR ANY MUNICIPALITY IN THIS STATE imposing a similar tax, or the authorized representative of either, to inspect the reports and returns of taxes covered by this article.

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

Bill Number IX

A BILL FOR AN ACT

CONCERNING RETAILERS DOING BUSINESS IN THIS STATE, FOR THE PURPOSES OF THE SALES AND USE TAX.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 138-5-2, Colorado Revised Statutes of 1963, as amended by section 1 of chapter 97, Session Laws of Colorado 1964, is hereby amended BY THE ADDITION OF A NEW SUBSECTION (22) to read:

138-5-2. Definitions. (22) (a) "Doing business in this state", for the purposes of this article, means the selling, leasing, or delivering in this state, or any activity in this state in connection with the selling, leasing, or delivering in this state, of tangible personal property by a retail sale as defined in this section, for use, storage, distribution, or consumption within this state. This term shall include, but shall not be limited to, the following acts or methods of transacting business:

(b) The maintaining within this state, directly or indirectly or by a subsidiary, an office, distributing house, salesroom or house, warehouse, or other place of business.

(c) The soliciting, either by direct representatives, indirect representatives, manufacturers' agents, or by distribution of catalogues or other advertising, or by use of any communication media, or by use of the newspaper, radio, or television advertising media, or by any other means whatsoever, of business from persons residing in this state, and by reason thereof receiving orders from, or selling or leasing tangible personal property to, such persons residing in this state for use, consumption, distribution, and storage for use

or consumption in this state.

SECTION 2. 138-5-35 (2), Colorado Revised Statutes 1963, is hereby amended to read:

138-5-35. Monthly return - collection. (2) Every retailer ~~maintaining an office or place of~~ DOING business in this state ~~and every agent within this state of any retailer not maintaining an office or place of business in this state,~~ and making sales of tangible personal property for storage, use, or consumption in the state, and not exempted as provided in section 138-5-34, at the time of making such sales or taking the orders therefor, or, if the storage, use, or consumption of such tangible personal property is not then taxable hereunder, then at the time such storage, use, or consumption becomes taxable hereunder, shall collect the tax imposed by section 138-5-33 from the purchaser and give to the purchaser a receipt therefor, which receipt shall identify the property, the date sold or the date ordered, and the tax collected and paid. The tax required to be collected by such retailer ~~or agent~~ from such purchaser shall be displayed separately from the advertised price listed on the forms or advertising matter on all sales checks, orders, sales slips, or other proof of sales.

SECTION 3. Effective date. This act shall take effect on July 1, 1966.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill Number X

A BILL FOR AN ACT

AUTHORIZING TOWNS AND CITIES IN THIS STATE TO IMPOSE MUNICIPAL SALES AND USE TAXES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Chapter 138, Colorado Revised Statutes 1963, as amended, is hereby amended BY THE ADDITION OF A NEW ARTICLE 10 to read:

ARTICLE 10

MUNICIPAL SALES AND USE TAXES

138-10-1. Legislative declaration. The general assembly hereby declares that the imposition, administration, and enforcement of sales and use taxes by municipal corporations in this state affect the flow of commerce within this state and the welfare of the people of this state. The purpose of the general assembly in the enactment of this article is to provide a higher degree of uniformity in any sales and use taxes imposed by towns and cities. Nothing contained in this article shall be construed to affect or limit the powers of cities organized under article XX of the constitution of this state to impose, administer, or enforce any sales or use taxes.

138-10-2. Cities may levy tax. Any town or any city of the first or second class in this state may by ordinance adopt a sales and use tax in accordance with the provisions of this article.

138-10-3. Contents of sales tax ordinances. (1)(a) The sales tax portion of any sales and use tax ordinance adopted pursuant to this article shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in sub-

stance as follows:

(b) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the town or city.

(c) Provisions similar to those contained in article 5 of this chapter, insofar as they relate to sales taxes, except that the name of the town or city as the taxing agency shall be substituted for that of the state and the department of revenue, and except that the office of the appropriate town or city official shall be substituted for that of the director of revenue.

(d) A provision that all amendments to said article 5 of this chapter, subsequent to the effective date of the enactment of the sales and use tax ordinance, and relating to sales tax, not inconsistent with this article, shall automatically become a part of the sales tax ordinance of the town or city.

(e) A provision that the amount subject to tax shall not include the amount of any sales or use tax imposed by said article 5 of this chapter.

138-10-4. Contents of use tax ordinances. (1)(a) The use tax portion of any sales and use tax ordinance adopted pursuant to this article shall impose a complementary tax upon the storage, use, or other consumption in the town or city of tangible personal property acquired from any retailer for storage, use or other consumption in the town or city, and shall include provisions in substance as follows:

(b) Provisions similar to those contained in article 5 of this chapter, insofar as they relate to the use tax, except that the name of the town or city as the taxing agency shall be substituted for that of the state and the department of revenue, and except that the office of the appropriate town or city official shall be substituted

for that of the director of revenue.

(c) A provision that all amendments to said article 5 of this chapter, subsequent to the effective date of the enactment of the sales and use tax ordinance, and relating to the use tax, not inconsistent with this article, shall automatically become a part of the use tax ordinance of the town or city.

(d) A provision that the storage, use, or other consumption of tangible personal property, the gross receipts from the sales of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this article or under article XX of the constitution by any other town or city, shall be exempt from the use tax due under such ordinance.

(e) A provision that the amount subject to tax shall not include the amount of any sales or use tax imposed by said article 5 of this chapter.

138-10-5. Place of consummation of sale - charges included. For the purpose of a sales tax imposed by ordinance adopted pursuant to this article, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-town or city destination, or to a common carrier for delivery to an out-of-town or city destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax imposed by article 5 of this chapter, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in such town or city, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a sales tax imposed by ordinance pursuant to this article shall be determined by the provisions of article 5 of this chapter and

by rules and regulations promulgated by the department of revenue.

138-10-6. Article not mandatory. No provision of this article shall be construed to require any town or city in this state to impose any sales or use tax, to limit the rate of any sales or use tax, or to increase any sales or use tax imposed prior to the effective date of this article.

138-10-7. Limitation on conformity. Nothing in this article shall be construed to invalidate any sales or use tax adopted by ordinance by any town or city in this state prior to the effective date of this article; provided, that on and after January 1, 1967, no sales or use tax ordinance of any town or city in this state shall conflict with the provisions of this article or article 5 of this chapter, except as provided in this article. Nothing in this article shall be construed to prevent any town or city to provide in a sales or use tax ordinance for exemptions from any such tax or taxes in addition to those specified in article 5 of this chapter, not to prevent any town or city to authorize a vendor's expense allowance of not more than three and one-third per cent of his gross taxable sales.

SECTION 2. Effective date. This act shall take effect on July 1, 1966.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill Number XI

A BILL FOR AN ACT

CONCERNING REFUNDS OF SALES TAXES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 138-5-14 (2) (c), Colorado Revised Statutes 1963, is hereby amended to read:

138-5-14. Exemptions - disputes - refunds. (2) (c) A refund shall be made or a credit allowed by the director of revenue to any person entitled to an exemption where such person establishes: That a tax was paid by another on a purchase made on behalf of such person; and that a refund has not been granted to the person making the purchase; and that the person entitled to exemption paid or reimbursed the purchaser for such tax. NO SUCH REFUND SHALL BE MADE OR CREDIT ALLOWED IN AN AMOUNT GREATER THAN THE TAX PAID LESS THE EXPENSE ALLOWANCE ON SUCH PURCHASE RETAINED BY THE VENDOR PURSUANT TO SECTION 138-5-5 (1), AS AMENDED.

SECTION 2. Effective date. This act shall take effect on July 1, 1966.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill Number XII

A BILL FOR AN ACT

CONCERNING THE PRESERVATION OF INCOME TAX RETURNS FILED FOR PURPOSES OF FOOD SALES TAX REFUNDS ONLY.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 138-9-12 (1), Colorado Revised Statutes 1963, as enacted by section 2 of chapter 302, Session Laws of Colorado 1965, is hereby amended to read:

138-9-12. Reports and returns confidential. (1) All reports and returns of taxes, other than income tax returns, covered by this article shall be preserved for three years and thereafter until the director of revenue orders them to be destroyed. Income tax returns shall be preserved for four years and thereafter until the director of revenue orders them to be destroyed; PROVIDED, THAT INCOME TAX RETURNS FILED FOR PURPOSES OF FOOD SALES TAX REFUNDS ONLY SHALL BE PRESERVED FOR ONE YEAR AND THEREAFTER UNTIL THE DIRECTOR OF REVENUE ORDERS THEM TO BE DESTROYED.

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

REPORT OF SUBCOMMITTEE ON PROPERTY TAXATION

Committee on State and Local Taxes,

Colorado Legislative Council

November 16, 1965

REPORT OF SUBCOMMITTEE ON PROPERTY TAXATION

At the initial meeting of the Committee on State and Local Taxes, a Subcommittee on Property Taxation was appointed -- Representative Kenneth Monfort, chairman, Representative Palmer Burch, and Representative Hiram McNeil -- to review problems concerning the property tax. In order to outline problem areas, the Subcommittee on Property Taxation held a public hearing on June 22 with members of the Colorado Tax Commission, the County Assessors' Association and representatives of industry. On the basis of testimony presented at the hearing, the subcommittee limited the scope of its study to the following matters: clarification of Chapter 291, Session Laws of Colorado 1965, relating to freeport inventories; need for a state documentary tax stamp on sales of property; revision of salary schedules for assessors; publication or posting of property assessments; revision of statutes on taxation of mobile and mounted equipment; miscellaneous "housekeeping" amendments to Chapter 94, Session Laws of Colorado 1964; and mobile and mounted equipment. Subsequently, two additional meetings were held by the subcommittee to develop recommendations in the aforementioned areas.

Freeport

The Colorado business community has expressed concern with the inequities of property taxes on inventories to several interim legislative committees, namely a 1960 subcommittee of the Legislative Council Committee on Assessment Methods, as well as the 1963 Legislative Council Committee on Property Taxes. The impact of the inventory tax varies from business to business due to such factors as turnover, controllability of inventories, ability to pay, and overhead expenses, with the result that business leaders have strived for gradual elimination of the inventory tax.

In 1962, amendment number five was adopted at the November general election repealing the full cash value provision for assessment of property. Repeal of the full cash value provision appears to permit the General Assembly to differentiate between classes of property for purposes of establishing the ratio of valuation for assessment to market value. Subsequently, the Legislative Council Committee on Property Tax recommended the establishment of a freeport class of property to be assessed at a ratio of five per cent of the average amount invested. The committee based this recommendation on the need to keep Colorado competitive with the challenge of neighboring freeport states -- Arizona, Kansas, Nebraska, New Mexico, Oklahoma, Utah and Wyoming.

Chapter 291, Session Laws of 1965, defines "freeport merchandise" as follows:

> The term "freeport merchandise" means (a) those stocks of merchandise manufactured or produced outside this state which are in transit

through this state and consigned to a warehouse, or other storage facility, public or private, within this state, for storage in transit prior to shipment to a final destination outside the state, and which have acquired a taxable situs within the state, and (b) those stocks of merchandise manufactured or produced within this state, remaining in a finished state and stored for shipment or shipped directly to a destination outside this state.

The act also provides that for 1966, freeport assessments should be equal to 17½ per cent of actual value; and for 1967 and thereafter, freeport properties should be assessed at five per cent of actual value.

Administrative Interpretation of the Freeport Law. A number of questions concerning administrative interpretation of the freeport law have been raised by county assessors. Generally, determination of inventories that could qualify for freeport assessment may vary from county to county if the law is not clarified on specific points. Of course, fundamentally, these questions involve the extent of the inventory tax base that may qualify for a freeport assessment. The basic policy questions posed by administrative officials are listed below:

1) Does the term "freeport merchandise" include stocks of raw materials and work in process which in finished form will eventually be shipped out of state?

2) Must "freeport merchandise" be physically segregated from other stocks of merchandise to qualify for a reduced assessment? In other words, can a Colorado manufacturer simply report the percentage of his total sales destined for out-of-state delivery and apply this percentage to his total finished inventory to determine the amount of inventory qualifying for a freeport assessment?

3) Does the transfer of ownership of goods from the original out-of-state shipper affect the purchaser's eligibility to qualify for freeport assessment? May all wholesalers and retailers selling goods for delivery to other states also receive the benefit of reduced assesment on merchandise shipped to other states?

Subcommittee Recommendations. In answer to question (1) concerning stocks of raw material and work in process, the subcommittee believes that Section 137-1-1 (16)(b), Session Laws of 1965, is intended to be applied only to the finished product of a manufacturer and does not apply to materials that are utilized in arriving at the finished state. Furthermore, since there are instances in which a product receives very little processing, the county assessor must exercise discretion as to what constitutes a finished product. In other words, the subcommittee believes that a cattle feeding operation does not sufficiently process the raw material to warrant qualification under freeport. The subcommittee recommends that question (1) be answered negatively.

In regard to question (2), above, the subcommittee does not believe that actual physical segregation of inventories is needed to

qualify freeport inventories for a reduced assessment. However, invoices of stocks of merchandise held for out-of-state delivery must be carefully accounted for in applying for freeport assessment. In this manner, the total amount of goods shipped out of state may be determined in relation to total goods distributed, and the resulting percentage could be applied to the average annual inventory.

The subcommittee recommends a proposed bill to clarify questions under (3) above. The subcommittee believes that the concept of freeport may only apply to the manufacturer or producer of the stocks of merchandise. In other words, if there is an interruption in ownership of the goods, eligibility for freeport is lost. The subcommittee believes that wholesalers and retailers can not qualify for a freeport assessment.

State Documentary Stamp Tax Proposal

Chapter 94, Session Laws of Colorado 1964, lists six factors to be considered by county assessors in the determination of assessed values of property in Colorado -- location and desirability; functional use; current replacement cost, new, less depreciation; comparison with other properties of known or recognized value; market value in the ordinary course of trade; and earning or productive capacity. One of these factors, market value, can best be determined by comparing considerations given in real estate transactions. In the past, information on market values of property have been obtained through data compiled under the "Realty Recording Act" and the Federal Documentary Stamp Act." The "Realty Recording Act" was repealed by the Colorado General Assembly in 1963. Congressional action regarding excise taxes also repeals the federal documentary stamp tax, effective December 31, 1967. If county assessors are to be provided a continuous source of information on real estate transactions, the General Assembly should consider implementing legislation.

Subcommittee Recommendations. The subcommittee believes that the best method for obtaining statistical information on real estate transactions is through adoption of a state documentary stamp tax. We recommend a tax at the rate of five cents per five hundred dollars of value evidenced by a stamp affixed to every deed covering the full consideration. In this way, adoption of a state documentary stamp tax act would provide assessors with a continuing record of the market value of property.

Publication or Posting of Property Assessments

One of the principal problems in the assessment of real property is the equalization of assessments between properties within a county, as well as between counties. A great deal of study has been given to means whereby the public would be assured of fair and equitable assessments of property. The subcommittee believes that an informed public may do more to guarantee assessment equalization between properties than involved administrative procedures. For instance, if an individual can readily make a comparison between the assessed value of his own property and that of similar properties, he is in an excellent position to call to the attention of the assessor

any discrepancies that may exist. Although the public generally is not competent to appraise all types of property, persons owning a particular piece of property constructed at a given date may quickly make a comparison of structures of similar vintage and condition.

Notification to the public of real property assessments may be achieved in two ways: 1) publication in local papers or 2) posting of assessment lists. Publication of assessment lists probably would result in reaching the largest number of property owners. On the other hand, publication costs may outweigh the advantages obtained.

Subcommittee Recommendations. The subcommittee recommends that legislation be enacted requiring county assessors to either publish or notify the public of the availability of tax warrants during the month of December. In other words, the subcommittee believes that every effort should be made to encourage the public to become informed of the content of assessment records of the counties to insure equalization of assessed values of comparable real property.

Housekeeping Provisions to House Bill Number 1005, 1964 Session

Tax Exemptions -- Effective Date. Section 137-3-18 (1), Chapter 94, Session Laws of Colorado 1964, refers to exemptions granted for religious, educational, charitable, and the partial exemption granted to parsonages. At the present time these exemptions, when not timely claimed, are being related back to the date of original usage, which occasionally is very difficult to determine. If the effective date refers back to a preceding year, or is after warrant date for the current year, it is necessary to follow the abatement procedure for taxes levied in prior years. This creates some administrative problems and could create a financial burden to taxing jurisdictions where the abatement for prior years involves substantial tax dollars. It does not appear that it would be a hardship on the organization claiming the exemption to be required to make a timely claim for this exemption. Therefore, the subcommittee recommends that the tax exemptions become effective for the year in which application was made and the exemption granted.

Preparation of an Assessment Roll. Section 137-8-3, Chapter 94, Session Laws of Colorado 1964, requires the assessor to prepare an assessment roll which is administratively impossible for the majority of county assessors to comply with. The assessor prepares the tax warrant for the treasurer, for his use in the collection of the tax, after board of equalization adjustments and approval of the abstract. Denver, for instance, utilizes electronic data processing for the preparation of the tax warrant and extension of the levies. A special I.B.M. run of the 180,000 real and personal property schedules as an assessment roll would cost as much as $25,000 and be so voluminous that no board of equalization could possibly review same in its allotted time. All records of any assessor's office are always open to the review of the respective boards of equalization. Also, approximately 25 per cent of the personal property taxpayers in Denver County do not file schedules as required by law. To submit a special list, as required by this section, to the board of equalization, of those taxpayers who do not file schedules, alone would involve tremendous manpower and time costs. Therefore, the Committee recommends that Section 137-8-3

be amended to provide that the county assessor shall report the valuation for assessment of taxable property in his county to the County Board of Equalization.

Hearing Dates -- County Boards of Equalization. The county boards of equalization conclude hearings and render decisions no later than the 28th day of July. Since the 28th day of July is the last day for board hearings, it is traditionally the heaviest day for board hearings. The subcommittee recommends that the hearing dates provided in Section 137-8-5 (2), Chapter 94, Session Laws of Colorado 1964, be revised. Hearings before the boards of equalization should begin on the second Monday of July and continue until all have been heard. Also, hearings should be continued until the last regular working day of July. The abstract of assessments then would be reported to the Tax Commission on or before August 10, rather than August 1.

Taxation of Mobile Equipment

Prior to the adoption of the constitutional amendment creating the specific ownership tax, a large number of motor vehicle owners were escaping payment of property taxes on their vehicles. In October of 1936, the Denver Post reported that property tax revenues were not being collected on approximately one-half of the registered motor vehicles in Colorado. This large disparity in the collection of property taxes on motor vehicles suggested the need for coupling the assesment of the property tax with registration of the vehicles. The specific ownership tax provided the means for simplification of the administration of the property tax on motor vehicles. Also, the tax was designed neither to increase nor decrease the amount of revenue to be collected, nor to change, in any way, the distribution of revenue collected from the taxation of motor vehicles. In other words, the specific ownership tax was intended to simplify administration of property taxes on motor vehicles.

ARTICLE X, Section 6, Colorado Constitution, states:

> All laws exempting from taxation, property other than that hereinbefore mentioned, shall be void; provided however, that the general assembly shall enact laws classifying motor vehicles, trailers and semi-trailers and requiring the payment of a graduated annual specific ownership tax thereon, which said tax shall be in addition to, and payable to the proper county officer at the same time as state registration or license fees.
>
> Said graduated annual specific ownership tax shall be in lieu of all ad valorem taxes upon such property, and shall be distributed, apportioned, credited and paid over to the State and its political subdivisions as provided by law with reference to ad valorem taxes; provided further, that such laws shall not exempt from ad valorem taxation motor vehicles, trailers and semi-trailers in process of manufacture, or held in storage, or which constitute the stock of manufacturers, or distributors thereof or of dealers therein.

Two basic questions need to be answered in determining whether specific ownership tax or an ad valorem tax is the logical method of taxing mobile equipment. First of all, would a specific ownership tax on mobile equipment be the simplest and most economical tax to administer? Secondly, is the specific ownership tax, as outlined in the Constitution, intended to include mobile equipment not designed to be utilized on public highways?

Since county clerks have collected specific ownership taxes on mobile equipment and the statutes do not clearly prohibit the collection of a specific ownership tax on mobile equipment, the constitutionality of a specific ownership tax on mobile equipment is assumed. Therefore, the following paragraphs are devoted to an outline of general problems concerning present methods of taxing mobile equipment, taxing under a specific ownership tax provision, and taxing under an ad valorem statute.

Present Problems of Mobile Equipment Taxation. Following enactment of Article X, Section 6, Colorado Constitution, mobile equipment (drill rigs, cranes, loaders, air compressors, etc.) has been subject either to specific ownership taxes or property taxes. For instance, Section 13-3-2, C.R.S. 1963, provides: "Vehicles owned and operated by any department of the federal government, fire fighting vehicles, police patrol wagons, and police ambulances; and farm tractors, farm trailers, hay balers, combines and other heavy movable farm equipment primarily used on the farms and not on the highways, and road rollers and road machinery temporarily operated or moved upon the highways need not be registered under this article." The provision of "need not be registered under this article" has enabled owners of mobile and mounted equipment to exercise an option of either registering vehicles for highway use and paying a specific ownership tax or paying an ad valorem tax. Consequently, the administration of taxes on mobile equipment is a dual responsibility of both the county clerk and assessor.

Perhaps the principal problems posed concerning present administration of taxes on mobile equipment may be summarized as follows:

1) the law does not clearly define mobile equipment, making it difficult to determine whether the equipment should be treated as a vehicle utilized for highway purposes or simply considered as a piece of personal property and subject to ad valorem taxation;

2) the statutes do not specify a single method of taxing mobile equipment, adding to a breakdown in administration and collection of fair and equitable taxes on the equipment;

3) the alternative methods of taxation do not raise equal amounts of revenue, encouraging owners of special mobile equipment to switch methods of taxation, which adds to administrative confusion and compounds enforcement problems.

4) the mobility of the equipment makes enforcement of either specific ownership or ad valorem taxes difficult; and

5) proration of ad valorem taxes on mobile equipment between counties may not be economically feasible to administer.

In regard to problems presented by proration of taxes on mobile equipment, the following remarks to the subcommittee by Mr. Patrick McMahon of the Denver Assessor's Office may illustrate the problem:

> The problems inherent in the assessment of such equipment have been further complicated in recent years by legislation which attempts to prorate the assessment between counties according to the time such equipment may be located in each county within a given year.
>
> Under current legislation, administration of the assessment of such property is, for all practical purposes, next to impossible.
>
> Because mobile equipment is easily removed from any taxing jurisdiction, it has been customary for the Assessor of each county to list for assessment all such equipment found to be in his jurisdiction on the assessment date, as a jeopardy assessment, and notify the Treasurer so that immediate steps can be taken to collect the current year's taxes.
>
> Such procedures were fairly satisfactory when the assessment date was recognized as establishing situs for the current year's assessment. Under present legislation, however, the owner of such equipment may remove it immediately from the jurisdiction where it was listed on the assessment date, or even only state that he intends to remove it, and the assessment and tax collection become ineffective. The statutes do not specify a minimum time for prorating, so a proration of one day could conceivably apply, resulting in 1/365th of the full assessed value. This would have the effect of reducing a $36,500 assessed value to $100 per day.
>
> Although the Assessor of the county is held responsible for notifying the other county Assessors of the time such equipment is expected to be in their counties, and furnishing a proration of the assessment, based on information which the owner is supposed to furnish to the Assessor making the initial assessment, there is no assurance that the taxes will be collected by such other counties, or that the owner of the subject property will ever place his equipment within the counties he has indicated. Generally, it is not known in advance where equipment is apt to be located several months hence.

Attempts to Solve Problem. House Joint Resolution Number 25, 1963 session, directed a committee of the Legislative Council to conduct a study of the taxation of mobile and mounted equipment. A public hearing was held by the committee, and testimony at the hearing

revealed a lack of communication among public officials attending the meeting. Subsequently, the committee appointed an advisory committee of representatives of the Tax Commission, County Clerks' Association, County Assessors' Association, and Department of Revenue to review and recommend clarifying legislation.

Briefly, the advisory committee recommended that the determination of what constitutes special mobile equipment be left to the Department of Revenue. Also, the county clerks would be prohibited from collecting a specific ownership tax on mobile and mounted equipment. Thus, all equipment not qualifying for registration as a motor vehicle would be subject to ad valorem taxes. House Bill 1387, 1965 session, outlines the basic recommendations of the advisory committee.

Ad Valorem Taxation of Mobile Equipment. As previously mentioned, the 1963 Colorado Legislative Council Committee on Property Tax recommended that mobile equipment and mounted equipment be assessed for ad valorem taxes. Ineffective administration of an equitable tax on mobile equipment prompted the committee to make this recommendation. In part, dual responsibility for assessment and collection of taxes on mobile equipment has resulted in a breakdown of the fair administration of taxes on this class of personal property.

A Department of Revenue regulation prohibits the registration of mobile equipment unless a title to the equipment is issued. Nevertheless, there are instances in which the county clerks have registered vehicles and collected specific ownership taxes thereon. It is possible for an owner of mobile equipment to pay a minimum specific ownership tax fee of three dollars, preempting the authority of the county assessor to levy an ad valorem tax on the vehicle. In such instances, the assessed value of the vehicle may be much greater than that reflected by the three-dollar specific ownership fee, suggesting that an ad valorem tax is needed.

Arguments Supporting Property Tax on Mobile Equipment include:

1) Mobile equipment simply is a class of personal property and should be treated for tax purposes in the same manner as other classes of personal property. That is, the addition of wheels to a piece of machinery should not qualify the machinery for preferential tax treatment unless it may be conclusively proved that mobile machinery should be taxed under specific ownership because of the simplicity and equity of taxing the machinery in this manner as outlined by Article X, Section 6, Colorado Constitution.

2) The property tax on mobile equipment may be more equitable because of the fluctuation in mill levies among counties. For instance, property in counties with a high mill levy must bear an additional burden of taxes because the present specific ownership tax schedules do not raise an equal amount of money in relation to ad valorem taxes based on similar property values, at least,

in many instances. Conversely, a specific ownership tax on mobile equipment located in a given county in which the mill levies are relatively low also places an inequitable burden on the mobile equipment in relation to other classes of property within the county.

3) The property tax is more flexible in the determination of actual value than any form of a specific graduated tax, based on an established average valuation. In other words, the property tax may take into consideration individual factors of the condition of the equipment and whether the equipment has been rebuilt.

4) The property tax is designed to provide taxation based on the situs of the property at assessment date. Of course, proration of taxes is permitted on mobile equipment utilized in more than one county. Thus, the taxation of mobile equipment in the county of use is more likely under the ad valorem tax than under the specific ownership tax. Tax administrators, however, object to the proration of property taxes on mobile equipment because of the administrative problems involved.

5) County assessors are in the best position to locate and assess mobile machinery utilized in their respective counties for non-highway purposes. In other words, in the normal course of appraising personal property, the assessor also may easily value special mobile equipment.

Subcommittee Recommendations. The subcommittee recommends a three-step approach to standardizing the taxation of mobile and mounted equipment. First-of-all, for 1966, the subcommittee supports an attempt on the part of the county clerks and assessors to standardize procedures for the taxation of mobile and mounted equipment, based on House Bill Number 1387, 1965 session. Perhaps, on the basis of recommendations of the clerks and assessors, the director of the Department of Revenue may prescribe a single procedure for the administration of taxes on mobile and mounted equipment.

Secondly, the subcommittee recommends that similar legislation be enacted placing mobile and mounted equipment under ad valorem taxation. The subcommittee also recommends amending Section 137-5-13, Chapter 94, Session Laws of Colorado 1964, as amended, to provide for the apportionment of ad valorem taxes on movable equipment on the basis of the prior year's location. If the equipment is new or was not located in the state in the prior year then the equipment will be assessed and taxes levied according to the location of the equipment on assessment date.

As a long-range solution to the problem of taxation of mobile equipment, the subcommittee recommends that Article X, Section 6, Colorado Constitution, be rewritten as follows:

SECTION 6. The general assembly shall enact laws classifying self propelled equipment, and also motor vehicles, trailers, semi-trailers, trailer coaches and mobile homes, prescribing methods of determining the value of such property, and requiring the payment of an annual specific ownership tax thereon, which said tax shall be in addition to any state registration or license fee on such property and payable to a designated county officer at the same time as any such registration or license fees are payable.

Said graduated annual specific ownership tax shall be in lieu of all ad valorem taxes upon such property and shall be apportioned, distributed and paid over to the political subdivisions of the state in such manner as may be prescribed by law; provided, that such laws shall not exempt from ad valorem taxation any such property in process of manufacture or held in storage, or which constitutes the stock of manufacturers or distributors thereof, or of dealers therein.

All laws exempting from taxation property other than that mentioned in this article shall be void.

The proposed constitutional amendment is designed to accomplish four objectives:

1) require the taxation of mobile equipment and mobile homes under specific ownership;

2) permit the General Assembly to levy specific ownership taxes without regard to the issuance of licenses or registration plates;

3) provide payment of specific ownership taxes to a designated county officer; and

4) distribute specific ownership receipts in a manner prescribed by law without reference to ad valorem taxes.

Briefly, the specific ownership tax provides a means for simplification of the administration of property taxes on motor vehicles. The tax is designed neither to increase nor decrease the amount of revenue that could be collected under an ad valorem tax on motor vehicles. When the General Assembly initially established the specific ownership rate (Chapter 94, Session Laws of Colorado 1937), the average mill levy in the state was 30 mills. Consequently, a three per cent rate was established. Today, however, the average mill levy exceeds 60 mills, and the basic rate has not been revised. For this reason, the subcommittee recommends that the General Assembly consider a study of the specific ownership tax structure as it applies to motor vehicles.

REPORT OF SUBCOMMITTEE ON
INCOME TAXATION

Committee on State and Local Taxes,

Colorado Legislative Council

November 16, 1965

REPORT OF SUBCOMMITTEE ON INCOME TAXATION

The Subcommittee on Income Taxation held three meetings -- June 3rd, July 9th, and September 10th. The subcommittee elected to pursue two courses of study at the initial meeting, namely, 1) a review of problems of revenue estimating and 2) an examination of the "Uniform Allocation of Income for Tax Purposes Act," as outlined in the Suggested State Legislation Program for 1958 of the Council of State Governments.

On July 9th, the subcommittee met with tax attorneys and Department of Revenue officials to develop background information on the major differences between Colorado Statutes and the "Uniform Allocation of Income for Tax Purposes Act." The subcommittee also met with federal and state officials and representatives of the Governor's Revenue Estimating Advisory Committee to review the types of information needed to assist the General Assembly in formulating policy changes with respect to state revenues. Subsequently, Mr. John Heckers, acting director of the Department of Revenue, prepared a detailed comparison of the provisions of the uniform act with Colorado law. At the same time, the department developed statistical data on the impact of alternative proposals to the present allocation of income for corporate tax purposes: a three-factor formula -- sales, property, and payroll and a two-factor formula encompassing payroll and property only.

The final meeting of the subcommittee was devoted to a public hearing with representatives of foreign and domestic corporations to review the feasibility of application of the "Uniform Allocation of Income for Tax Purposes Act" to Colorado law. The public hearing enabled subcommittee members to review the pros and cons of the uniform act as outlined by tax attorneys, Colorado Public Expenditure Council, the State Chamber of Commerce, and representatives of domestic and foreign corporations.

"Uniform Allocation of Income For Tax Purposes Act"

The purpose of the "Uniform Allocation of Income for Tax Purposes Act" is to eliminate the uncertainty which exists as to tax liability of multistate businesses. Theoretically, uniform tax liability would enable every corporation to more easily determine its tax liability in each state in which it is engaged in business. The major difference between Colorado law and the uniform act is in regard to a three-factor formula for the allocation of income. Presently, Colorado law apportions income for tax purposes on the basis of "property" and "sales," while the uniform act provides for an additional factor of "payroll" in determining apportionment of income. Of course, the impact of a payroll factor is quite significant to individual corporations. A few other differences between Colorado law and the proposed uniform act follow:

1) the uniform act includes leased property as well as property owned by a corporation in determining allocation of income.

2) the uniform act provides for the value of property based on original cost rather than "net book value"; and

3) Colorado prohibits the apportionment of a sale to a state that does not levy a net income tax.

Impact of Three-factor Formula

Table I shows the impact of the proposed payroll factor in comparison with present Colorado law without regard to other changes recommended in the uniform act. According to Department of Revenue estimates an increase in income tax revenues of approximately $765,000 would be realized by the state if a three-factor formula were adopted. The major burden of this increase would be shared by domestic corporations -- $728,000. On the other hand, a slight increase of $37,000 in income taxes is estimated for foreign corporations.

It is interesting to note that the estimates are based on the exclusion of general executive officers from the computation of the payroll factor. Inclusion of executive personnel would result in reduction in taxes paid by the foreign corporations. Of course, the difference in total revenue probably would not be too significant.

Arguments Supporting Adoption of the Uniform Act

Presently, the taxation of multistate corporations by state and local governments presents a significant reporting burden and compliance problem for firms engaged in interstate commerce. For instance, the Special Congressional Subcommittee on the Taxation of Interstate Commerce, under the chairmanship of Representative Edwin Willis of Louisiana, reports that:

"If interstate companies were to pay state taxes in all states in which they make sales, most companies would be subject to such a mass of tax obligations that they simply could not cope with the diversity and complexity that is currently associated with state and local tax laws. Of the 1,431 companies engaged in interstate commerce that were studied by the subcommittee, almost three-fourths would be required to file for nine or more taxes, and more than one-third would have to file in twenty-four or more states for a minimum of 40 taxes.

"However, it was found as to each of the taxes studied that the potential multistate tax burden was drastically reduced in practice. The actual filing experience with state and local taxes of the same 1,431 companies shows little involvement with multistate tax problems. This is attributable both to jurisdictional factors and to noncompliance with filing requirements. Of this group of companies, more than two out of five paid taxes of any kind (either of the types included in this study or any other) to only one state. Of all the companies studied by the subcommittee which paid taxes in more than one state, seven out of ten filed in three or fewer states and only one out of 20 filed in more than fifteen states." In other words, there is considerable noncompliance of state tax laws suggesting that

Table I

STATE OF COLORADO
EFFECT ON STATE REVENUE OF ADOPTION OF A THREE-FACTOR FORMULA[1] FOR THE APPORTIONMENT OF CORPORATE INCOME[2]

	Number of Returns	$ Revenue Increase	$ Revenue Decrease	Net Increase (Decrease)
Corporations affected				
Domestic[3]	225	756,988		
	97		28,608	
	322			728,380
Foreign[4]	390	390,902		
	744		353,562	
	1,134			37,340
Totals	1,456	1,147,890	382,170	765,720
Corporations not affected[5] [6]	49			
Grand Total	1,505	1,147,890	382,170	765,720

1/ The three factors are revenue, property and payroll.

2/ Returns for this analysis were those which were received from July 1, 1964, through June 30, 1965, and which apportioned income by use of the statutory formula.

3/ Domestic firms - Main offices located in Colorado, i.e., domestic commercial domicile.

4/ Foreign firms - Main offices located outside Colorado, i.e., foreign commercial domicile.

5/ State revenue was not affected by the addition of the payroll factor to these returns. It should be noted, however, that two large foreign corporations in this group had already used the three-factor formula. If both of these corporations had used the statutory two factor formula, the addition of the payroll factor would have caused a decrease in revenue to the State of $172,886. The Department of Revenue had some time in the past granted permission to one of the corporations to use the payroll factor, but the general policy is to discourage such deviations. In accordance with this policy, permission to use the three-factor formula for future years has been cancelled for the one and an assessment has been levied against the other.

6/ In addition to the 49 returns in this group, there were 1,680 returns (979) domestic and 701 foreign) which had no tax liability and therefore were not analyzed.

Prepared by: Research and Statistics Section, Colorado Department of Revenue, August 27, 1965.

corporations complying with tax laws may be paying more than their fair share of state and local taxes.

Since the states have not standardized their laws, firms are faced with multiple bookkeeping procedures to determine taxes due within each state, as well as the problem of obtaining legal assistance to determine whether taxable situs is established in each state in which the corporation is doing business. The Willis Committee reports that the multi-state tax burden tends to work a hardship on companies that are small in terms of personnel and sales activity. The reporting burden to small companies may be greater than for large companies because of the lack of skilled personnel to comprehend tax laws in various states in which a business is engaged. Of course, a firm must conduct a certain minimum amount of business to provide enough profit to employ legal counsel in the states in which a tax liability occurs. Generally, if the tax liability is small, chances are the state is not in a position to enforce payment of the tax because of the collection expense involved. Again, only the large firms are subject to audit and tax collection in most instances.

Perhaps a strong argument for Colorado's adopting the uniform act is that Colorado is only one of two states -- Colorado and North Dakota -- utilizing a two-factor formula for the allocation of income for tax purposes. The allocation factors utilized by North Dakota include "property" and "business." The "business" factor consists of three elements -- compensation paid, sales, and purchases -- which added together make up a single factor. Since North Dakota includes the payroll factor, at least to some degree, Colorado is the only state that does not incorporate a payroll factor.

The effect of the two-factor formula may easily be demonstrated by the following hypothetical example.

Tax Impact If Corporation Located In Other State*

(1)	(2)	(3)	(4)	(5)
State	Factor	Per Cent Allocation Factor	Amount of Firm's Factor Allocated	Per Cent of Firm's Income Allocated Col. (3) X (4)
Colo.	Sales	50%	80%	40.0%
	Property	50%		
Other	Sales	33.3%	20%	6.6%
	Property	33.3%	100%	33.3%
	Payroll	33.3%	90%	30.0%
			Total Per Cent of Income Allocated	109.9%

* Principal place of business is in another state levying an income tax and utilizing three-factor formula.

Tax Impact If Corporation Located in Colorado

(1) State	(2) Factor	(3) Per Cent Allocation Factor	(4) Amount of Firm's Factor Allocated	(5) Per Cent of Firm's Income Allocated Col. (3) X (4)
Colo.	Sales	50%	20%	10.0%
	Property	50%	100%	50.0%
Other	Sales	33.3%	80%	26.7%
	Property	33.3%		
	Payroll	33.3%	10%	3.3%
			Total Per Cent of Income Allocated	90.0%

Examination of the hypothetical example outlined above reveals a considerable disparity between the tax liability of a foreign corporation and the tax liability of a domestic corporation. In some instances, it may be possible for partial double taxation to exist to foreign corporations. In other words, if over 100 per cent of a firms net taxable income is subject to state taxation, double taxation exists. Conversely, if less than 100 per cent of a firm's income is apportioned for tax purposes, under taxation may exist. Briefly, the aforementioned hypothetical tax illustration may demonstrate the tax advantage to Colorado domestic corporations.

Testimony at the September 10 meeting plus subsequent material from Mr. Frank Cavanaugh, appended to the September 10 Minutes of Meeting, contends that Colorado's failure to enact uniform legislation may encourage federal intervention to require states to conform to a uniform tax method. This may be especially significant in view of the fact that the Willis Committee recommends the adoption of a two-factor formula which may result in further proportionate loss of income taxes from foreign corporations.

In summary, arguments supporting the adoption of the uniform act are that standardization of state income tax laws simplifies tax compliance, provides an equitable tax base among corporations nationwide, and may discourage federal intervention in a matter traditionally reserved to the states.

Arguments Opposing Adoption of the Uniform Act

At the September 10 hearing of the Subcommittee on Income Taxation, representatives of domestic industries (firms in which main offices are located in Colorado) strongly opposed adoption of uniform legislation, especially the concept of a three-factor formula for the allocation of income based on sales, property, and payroll. For instance, Mr. E. W. Sandberg, Colorado Public Expenditure Council, stated, in part, "The effect of changing from our present two-factor formula to the proposed three-factor formula is to effectively reallocate a portion of the Colorado state corporate income tax burden from

firms whose ratio of employment in Colorado is small, relative to their sales and/or property holdings in Colorado, to firms who have a relatively large proportion of their total employment in Colorado. In a very real way it would result in transferring a portion of the tax burden from foreign firms tapping Colorado wealth to domestic firms creating Colorado wealth..."

Mr. C. S. Milligan, President of the Manufacturers Association of Colorado, stated in a letter to the subcommittee: "...The Board of Directors of the Manufacturers Association of Colorado met on September 9, 1965, and discussed the proposed 'Uniform Division of Income for Tax Purposes Act.' It was their unanimous opinion that if this suggested legislation is enacted into law, the tax burden on Colorado based manufacturing firms would be increased significantly and would be extremely detrimental to industrial expansion of the state.

"In addition, this kind of increase in the cost of an operation to Colorado manufacturers would necessarily have to be reflected in the pricing of their product, thereby placing local industry at a disadvantage with out-of-state competitors..."

Mr. Robert Wilson, Gates Rubber Company, distributed a statement to the subcommittee also emphasizing the adverse effect to the encouragement of expansion of existing industries and the attraction of new industries. In part, Mr. Wilson's statement mentioned the following items:

"The additional income tax that would result from the application of the proposed legislation would not have the effect of uniformity and would, in fact, weaken the competitive position of resident companies with foreign companies -- and would most certainly discourage not only the expansion of our present Colorado companies but also the location of new industry in Colorado. It would appear that this proposed legislation is, therefore, contrary to the objectives of the Business Climate Study Committee of the Governor's Economic Development Council. There are many responsible people striving diligently to improve the business climate of the State of Colorado and to create an atmosphere of opportunity and cooperation for business in the hope that substantial business interests will be induced to locate their plants in our State."

In general, representatives of domestic firms pointed out that the principal manufacturers in the state of Colorado would be adversely affected by the adoption of a three-factor formula for the allocation of income. These Colorado-based manufacturing companies provide the bulk of employment to Colorado citizens suggesting that weakening the competitive position of these firms with foreign-based corporations may weaken the general economy of the state.

A concluding argument also was presented by the Great Western Sugar Company:

"If the Colorado income tax apportionment formula is changed before Congress acts on the legislation now being prepared by the Special Subcommittee, the new Colorado formula can be effective only until the new uniform, nationwide formula is enacted by Congress and

will then have to be changed again to conform to the federal formula. This will cause trouble and expense to business organizations who would be compelled to change their bookkeeping and accounting practices to comply with the new Colorado apportionment formula, and shortly thereafter change them again to conform to the new apportionment formula established by Congress."

The subcommittee did not make a recommendation concerning the uniform allocation of income for corporate tax purposes, but simply reported its findings to the Committee on State and Local Taxes.

Recommendations of the Special Subcommittee on State Taxation of Interstate Commerce

The special congressional committee on state taxation of interstate commerce recommends enactment of legislation providing a workable method of state income taxation of multistate business under uniform rules governing division of income, jurisdiction to tax, and the basic definition of taxable income. The congressional committee recommends the adoption of a two-factor formula encompassing payroll and property and deleting a sales factor. The subcommittee makes this recommendation on the grounds that the impact to state revenues would not be significant and that the sales factor creates the greatest difficulty in administration and allocation of taxable income. Also, formula apportionment would be the sole method of allocating income, i.e., separate accounting and specific allocation would be eliminated.

Table II provides a breakdown of the impact to state revenues if a two-factor formula were adopted under Colorado law. A net increase of $1,212,623 in state revenues would result. A decrease of $528,328 to foreign corporations and an increase of $1,740,951 is estimated to accrue to domestic corporations.

Table II

STATE OF COLORADO
EFFECT ON STATE REVENUE OF ADOPTION OF A TWO-FACTOR FORMULA[1] FOR THE APPORTIONMENT OF CORPORATE INCOME[2]

	Number of Returns	$ Revenue Increase	$ Revenue Decrease	Net Increase (Decrease)
Corporations affected				
Domestic[3]	228	1,770,190		
	94		29,239	
	322			1,740,951
Foreign[4]	373	801,841		
	764[5]		1,330,169	
	1,137			(528,328)
Totals	1,459	2,572,031	1,359,408	1,212,623
Corporations not affected[6]	46			
Grand Total	1,505	2,572,031	1,359,408	1,212,623

1/ The two factors are property and payroll.

2/ Returns for this analysis were those which were received from July 1, 1964, through June 30, 1965, and which apportioned income by use of the statutory formula.

3/ Domestic firms - Main offices located in Colorado, i.e., domestic commercial domicile.

4/ Foreign firms - Main offices located outside Colorado, i.e., foreign commercial domicile.

5/ It should be noted that two large foreign corporations in this group used a three-factor formula of revenue, property and payroll. If both of these corporations had used the statutory two-factor formula, the elimination of the revenue factor and the addition of the payroll factor would have caused a further decrease of $170,047.

6/ In addition to the 46 returns in this group, there were 1,680 returns (979 domestic and 701 foreign) which had no tax liability and therefore were not analyzed.

Prepared by: Research and Statistics Section, Colorado Department of Revenue, September 9, 1965.

Statistical Reporting

The Subcommittee on Income Tax is concerned that the General Assembly and the Governor have been handicapped in formulating proposed policy changes in tax laws because of a lack of statistical information on the impact of suggested amendments to basic tax programs. For instance, three basic factors are needed to estimate impact of revisions in income tax laws: gross income, net taxes, and tax liability. The latter factor is not available from Department of Revenue statistics. Development of statistical samples which will provide information on proposed changes in Colorado's income tax law is needed on an annual basis. Of course, the adoption of the "Systems 360" by the Revenue Department also facilitates the feasibility of establishing a sampling technique for analysis of current revenues; the "Systems 360" provides greater capacity and stores more information than is possible with existing data processing equipment of the department.

The subcommittee recognizes that extrapolation of data on the impact of proposed programs is an added expense to the department's operations; however, the overriding consideration is the need for accurate information on which members of the General Assembly may base their decisions in shaping state policy. The subcommittee also wishes to emphasize that a survey of the entire statistical universe of income tax returns is not necessary to develop information on the impact of proposed changes in the income tax law. A relatively small sample of returns, updated on an annual basis, will provide sufficient data to accurately project changes in revenue estimates, resulting from proposed amendments to the state's income tax program.

In order to encourage the development of these statistical samples, the Subcommittee on Income Taxation recommends amending Section 138-9-11, Chapter 302, Session Laws of 1965, by the addition of the following language:

> The director shall annually prepare and publish, or cause to be prepared and published, statistics reasonably available with respect to the operation of the income tax laws, including classifications of taxpayers and of income, net taxable income, the amounts allowed as deductions, exemptions, and credits, tax liability, and other facts which he deems pertinent.

REPORT OF SUBCOMMITTEE ON
SALES AND EXCISE TAXES

Committee on State and Local Taxes

Colorado Legislative Council

November 16, 1965

REPORT OF SUBCOMMITTEE ON SALES AND EXCISE TAXES

The Committee on State and Local Taxes assigned a study of possible economies and efficiencies in excise tax administration to the Subcommittee on Sales and Use Taxes. In the course of its study, the subcommittee reviewed two major areas -- multiplicity of cigarette taxes and administration of sales and use taxes. Six meetings were held by the Subcommittee, two of which were devoted to public hearings. Subcommittee members met with representatives of the cigarette industry and with municipal officials to review problems of cigarette taxation in Colorado on August 2, 1965. In particular, the subcommittee was concerned with the relative costs of collection of municipal cigarette taxes and with the feasibility of centralizing administration of municipal cigarette taxes. The subcommittee also reviewed current practices and procedures for the administration of state and local sales and use taxes and met with sales and use tax officials from the City and County of Denver and the State Department of Revenue on September 2.

Subcommittee Recommendations

Cooperation Between State and Local Sales and Use Tax Officials. At the September 2 meeting of the subcommittee, tax officials from the City and County of Denver and the State Department of Revenue indicated that Section 138-9-12, Chapter 302, Session Laws of 1965, handicaps state and local taxing officials from a free interchange of information on sales and use tax collections. The so-called "secrecy provision" may result in duplication of effort of state and local tax administrators to enforce collection of sales and use taxes. For instance, Denver tax officials reported that if a free exchange of information existed between Denver and state tax administrators, Denver tax officials could utilize state collected information on audits of foreign corporations, use tax assessments of out-of-state suppliers, and information on unlicensed vendors retaining sales tax collections.

Under section 138-9-12, Chapter 302, Session Laws of 1965, county assessors and federal tax officials are permitted access to state tax returns. Similarly, federal income tax information also is made available to state tax administrators. The economies and efficiencies involved in the exchange of information among federal, state, and local tax administrators appear to be self-evident, and the subcommittee recommends that Section 138-9-12 be amended to permit tax administrators in municipalities levying sales and use taxes to have access to state tax records and vice versa.

Adoption of Broader "Nexus Standards". Section 138-5-33, Chapter 300, Session Laws of 1965, provides: "There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of storing, using, or consuming in this state any articles of tangible personal property purchased at retail..." The so-called "use tax" is designed to provide a tax on goods purchased outside of Colorado for use in the state of Colorado. In this

way, Colorado retailers are not put in an unfair competitive position with out-of-state merchants. For instance, Section 138-5-35 (2) provides "Every retailer maintaining an office or place of business in this state, and every agent within this state of any retailer not maintaining an office or place of business in this state, and making sales of tangible personal property for storage, use or consumption in the state, and not exempted...shall collect the tax imposed by Section 138-5-33 from the purchaser and give the purchaser a receipt therefore...." In other words, the State Department of Revenue requires many corporations maintaining an office or agent in this state to collect a use tax on sales made in Colorado. The definition of what constitutes doing business in a state or municipality is known as the "nexus standard."

The subcommittee members believe that Colorado's nexus standard needs to be broadened to allow the Department of Revenue to require firms (mail order houses, etc.) which conduct a significant business in the state through catalogues or other advertising media to collect use taxes on items sold in Colorado. Section 166A -- 2-19, Municipal Code of the City and County of Denver, establishes a much broader standard of nexus than the state. For example, subsection (2) of section 166A 2-19 provides:

> (2) The soliciting, either by direct representatives, indirect representatives, manufacturers' agents, or by distribution of catalogues or other advertising, or by use of any communication media, or by use of the newspaper, radio or television advertising media, or by any other means whatsoever, of business from persons residing in Denver, and by reason thereof receiving orders for or purchasing, or renting tangible personal property, from such persons residing in Denver for use, consumption, distribution and storage for use or consumption in Denver; and, the tangible personal property so ordered, purchased or leased actually has come to rest for any length of time in Denver and has become a part of the mass of property of Denver, as a result thereof.

The subcommittee believes that irregardless of whether a firm maintains an office in the state, if significant sales are made in the state, competition to local retailers exists and state sales and use taxes should be equal.

Statutory Authority of First and Second Class Cities to Levy Sales Tax. At the August 2 meeting of the subcommittee, officials of the Colorado Municipal League urged the subcommittee to consider a recommendation to allow first and second class cities to levy sales and use taxes. "Home rule" cities, of course, have this authority and fifteen Colorado Municipalities currently levy sales and use taxes. Briefly, the sales and use tax is a substantial source of revenue for these Colorado municipalities. For example, Denver's sales and use tax accounts for over 20 per cent of the city's total revenues (including state and federal funds), and the percentage of sales and use tax revenues to total revenues in Gunnison exceeds 30 per cent and in Littleton approximates 20 per cent. The subcommittee believes that first and second class cities that are hard pressed financially should

be provided with an opportunity to levy a sales and use tax in the same manner as "home rule" cities.

Clarification of Leasing Provisions

Subsection 138-5-2 (17), C.R.S. 1963 provides:

> When right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made, such lease or contract shall be considered the sale of such article and the tax shall be computed and paid by the vendor upon the rentals paid (emphasis added).

The word "continuous" may create some problems for the courts and administrators as to its meaning. In Hubertson vs. Cruse (1946), 115 Colo. 274, the Colorado Supreme Court held that driverless car operators (rental agencies) are liable for sales taxes on automobiles purchased. On the basis of this court decision and section 138-5-2 (17) the Department of Revenue, by directive, allows an option to rental agencies to pay a sales tax on equipment purchased or collect a sales tax on rentals.

The subcommittee recommends that section 138-5-2 (17), C.R.S. 1963, be amended to provide for noncontinuous leases (30 days or less) and continuous leases (more than 30 days). The sales tax, of course, is to be paid by the lessee on the rentals paid.

Another proposal also was submitted to the Committee on State and Local Taxes without recommendation. The alternative contains an additional requirement that rental agencies also pay sales taxes on equipment purchased for rental purposes. If this proposal were enacted in conjunction with the initial recommendation, a sales tax would be required on two transactions -- 1) on the purchase of equipment for rental purposes by the lessor and 2) on the rentals paid by the lessee.

Sales Tax Refunds

Approximately $1,200,000 of sales tax collections are refunded to tax exempt organizations under Section 138-5-14 (2) (c), C.R.S. 1963. Since vendors retain a percentage of sales tax collections (three and one-third per cent), net collections to the state amount to only 96 and two-thirds per cent of monies refunded to the tax exempt institutions. The subcommittee recommends that the State Department of Revenue refund only net collections to the state rather than the total tax. If the proposal were adopted by the General Assembly, the state would retain about $60,000 previously refunded to exempt organizations.

State and Local Sales and Use Taxes

Colorado is one of 40 states enacting a sales and use tax. The Colorado General Assembly enacted a two per cent tax on sales at retail in 1935. The act was known as the "Emergency Retail Sales Tax Act of 1935." Subsequently, the Thirty-first Colorado General Assembly adopted House Bill Number 615 providing for continuation of a two per cent tax on the purchase price of goods stored, consumed, or used in Colorado. Of course, the act provided that a use tax could not be collected on items for which a Colorado retail sales tax had been paid. However, the law does not permit reciprocity with other states. For example, an individual purchasing an item in another state and paying a sales tax in that state also is required to pay a use tax on the item in Colorado.

The basic state sales tax rate of two per cent remained until the Forty-fifth General Assembly raised the rate to three per cent. In the intervening period, tax brackets were provided to insure adequate collection of the retail sales tax for small sales. Brackets were first established in House Bill 100, 1945 session. Tax brackets provided by House Bill 1001, First Extra Session of the Forty-fifth General Assembly, follow:

Amount of Sale			Tax
$ .01	including	$ .18	No Tax
.19	"	.51	1¢
.52	"	.84	2¢
.85	"	1.00	3¢

State Sales and Use Taxes

Table III lists states utilizing sales and use taxes. Only 10 states -- Delaware, Massachusetts, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, Oregon, Vermont, and Virginia, do not have sales and use taxes. Idaho's legislature enacted a three per cent sales and use tax during the 1965 session. State sales tax rates range from two to five per cent: seven states -- Indiana, Iowa, Louisiana, Nevada, New York, Oklahoma, and Texas, require a two per cent rate; a four per cent levy is made in Alabama, Maine, Michigan, Rhode Island, and Washington (4.2 per cent); the State of Pennsylvainia has a five per cent rate; 22 states including Colorado levy a three per cent tax; and the remaining states -- Connecticut (3½), Hawaii (3½), Illinois (3½), Mississippi (3½), and Wyoming (2½) -- levy a tax of two or three per cent plus a fraction of one per cent.

Table III

STATE SALES TAX RATES, EXEMPTIONS, AND RECEIPTS

(1) State	(2) Sales and Use Tax Rates	(3) Exemptions Food/Drug	(4) 1964 Revenue General Sales or Gross Receipts[a] (Add 000)
Alabama	4 %	---	$ 141,179
Alaska (gross receipts)	3	---	
Arizona	3	---	84,785
Arkansas	3	---	72,891
California	3	F/D	882,872
COLORADO	3	D	60,724
Connecticut	3.5	F/D	111,917
Florida	3	F/D	228,449
Georgia	3	---	185,424
Hawaii (gross receipts)	3.5	---	70,956
Idaho	3	---	
Illinois	3.5	---	558,584
Indiana	2	---	188,238
Iowa	2	---	88,215
Kansas	3	---	86,140
Kentucky	3	---	109,455
Louisiana	2	---	104,748
Maine	4	F/D	40,780
Maryland	3	F/D	104,496
Michigan	4	---	537,524
Mississippi	3.5	---	89,003
Missouri	3	---	173,785
Nevada	2	---	21,253
New Mexico	3	---	57,836
New York	2	---	
North Carolina	3	D	156,731
North Dakota	3	---	21,115
Ohio	3	F	296,353
Oklahoma	2	---	66,397
Pennsylvania	5	F/D	507,569
Rhode Island	4	F/D	30,179
South Carolina	3	---	85,481
South Dakota	3	---	18,206
Tennessee	3	---	147,289
Texas	2	F/D	204,735
Utah	3	---	47,739
Washington	4.2	---	304,920
West Virginia	3	---	104,684
Wisconsin	3	F/D	80,274
Wyoming	2.5	---	13,074

a. Compendium of State Government Finances in 1964, U.S. Department of Commerce, Table 6, page 13.

Importance of Sales Tax as a Source of State Revenue. For fiscal year 1964-65, receipts from taxes, federal grants, licenses, permits, miscellaneous charges, etc., amounted to about $439,125,000 for the State of Colorado. Of this amount, the general state sales tax accounted for $59,347,000, and the use tax -- $4,143,000. In other words, approximately 14.5 per cent of all state monies was derived from sales and use taxes in 1964-65. The importance of the sales tax to Colorado is magnified if the general tax structure is considered only. For instance, for 1964-65, property, sales, income, inheritance, franchise, and other miscellaneous taxes approximated $243,731,000. Of this amount, sales and use taxes accounted for 26.0 per cent ($63,490,000) of the total general taxes.

The percentage of general sales and use tax collections to total taxes for a three-year average from 1961 to 1963 for selected states follows:[1]

Sales Taxes as Percentages of Total Taxes

State	Average Percentage For '61, '62, '63
Alabama	32.2%
Arizona	40.2
Arkansas	34.2
California	31.9
COLORADO	24.1
Connecticut	31.0
Florida	32.2
Georgia	38.6
Hawaii	42.4
Illinois	47.3
Iowa	30.5
Kansas	35.2
Kentucky	29.4
Louisiana	18.7
Maine	31.3
Maryland	22.1
Michigan	43.2
Mississippi	37.0
Missouri	34.0
Nevada	28.1
New Mexico	28.3
North Carolina	22.6
North Dakota	34.7
Ohio	29.5
Oklahoma	19.8

1. Report of the Special Subcommittee on State Taxation of Interstate Commerce, House Report Number 565, Volume 3, page 618.

State	Average Percentage For '61, '62, '63
Pennsylvania	32.0%
Rhode Island	27.0
South Carolina	29.8
South Dakota	29.4
Tennessee	34.3
Texas	16.1
Utah	31.4
Washington	41.9
West Virginia	19.6
Wisconsin	9.2
Wyoming	28.1

It is interesting to note that the percentage of state sales taxes to total taxes range from 9.2 per cent in Wisconsin to 47.3 per cent in Illinois. The percentage of sales tax revenue to total taxes exceeds 40 per cent in Arizona, Hawaii, Illinois, Michigan and Washington, while in 14 states the percentile is over 30 per cent. Colorado is one of twelve states in which sales and use tax revenues range between 20 and 30 per cent of total general taxes.

Municipal Sales and Use Taxes

Fourteen municipalities in Colorado now levy sales and use taxes. A survey of municipal sales tax collections reveals that annual municipal collections range from about $82,000 in Gunnison to $14,000,000 in Denver. (See Table IV). With the exception of Denver which levies a two per cent tax, the remaining thirteen municipalities levy a one per cent tax -- Aspen, Alamosa, Aurora, Boulder, Cortez, Durango, Englewood, Grand Junction, Gunnison, Littleton, Longmont, Montrose, and Pueblo.

A comparison of sales and use tax receipts to collections from all taxes, fees, licenses, federal and state monies, etc., reveals that the local sales tax is an important source of revenue to Colorado municipalities (see Table V). For instance, although the city of Gunnison collects the least amount of revenue from its sales and use tax in relation to other municipalities -- approximately $82,000, the revenue derived approximates 30.3 per cent of the total municipal budget, at least according to Table V. Denver (20.9 per cent) and Littleton (22.2 per cent) also derive more than 20 per cent of total revenues from sales and use taxes. For all other municipalities, the per cent of sales and use taxes to total revenues range from 11.3 to 19.7 per cent.

Local Sales and Use Taxes in Other States. In addition to Colorado, twelve states have local sales taxes with over 2,000 governmental units deriving sales and use tax revenues. Local sales and use tax rates range from one-half of one per cent to a four per cent rate. New York City, for instance, levies a four per cent sales tax.

Table IV

Municipal Sales and Use Tax Collected in Colorado*

(1) Municipality	(2) Tax Rate	(3) % of Vendor's Fee	(4) Exemptions Food/ Drug	(5) Price Brackets	(6) Amount Collected Dollars[a]	(7) Net State Sales Tax Collected[b]
Alamosa	1%	NA	NA	$ .19-1.18 1.19-2.18 2.19-3.18+	$ NA	$ 304,000
Aurora	1	5%	---	.19-1.18 1.19-2.18 2.18+	493,636	351,000 700,000[c] 1,051,000
Boulder	1	3	D	.51-1.50 1.51-2.50 2.50+	909,800[d]	1,616,000
Cortez	1	5	---	.19-1.18 1.19-2.18 2.19+	120,000[d]	318,000
Denver	2	5	F/D	.19- .68 .69-1.18 1.19-1.68	13,796,496	20,352,000
Durango	1	5	---	.17-1.14 1.15-2.14 2.14+	187,135	444,000
Englewood	1	5	F/D	.44-1.18 1.19-2.18 2.19+	404,860	1,394,000
Grand Junction	1	5	D	.51-1.17 1.18-2.16 2.17-3.15 3.16+	417,500[d]	1,380,000

Table IV
(Continued)
Municipal Sales and Use Tax Collected in Colorado

(1) Municipality	(2) Tax Rate	(3) % of Vendor's Fee	(4) Exemptions Food/ Drug	(5) Price Brackets	(6) Amount Collected Dollars[a]	(7) Net State Sales Tax Collected[b]
Gunnison	1%	5%	---	$ .19-1.18 1.19-2.18 2.19+	$ 82,060	173,000
Littleton	1	5	F/D	.51-1.50 1.51-2.50 2.50+	224,728	1,048,000
Longmont	1	5	D	.17-1.17 1.18-2.16 2.16+	NA	639,000
Montrose	1	5	D	.17-1.17 1.18-2.17 2.17+	130,000[d]	322,000
Pueblo	1	5	F/D	.44-1.18 1.19-2.18 2.19+	850,842	2,743,000

* Source: Survey of municipalities and Colorado Department of Revenue, 1964 Annual Report, page 54.

a. Receipts of city sales tax are anniversary year totals or estimates.
b. Receipts of state sales taxes in cities are for fiscal year 1964.
c. Aurora is in two counties, upper figures are Adams County, lower figures are Arapahoe County.
d. Estimated tax receipts for one year.

Table V

Relationship of Total Municipal Revenues
To Sales and Use Tax Collections
For Selected Municipalities
in Colorado*

(1) Municipality	(2) Year Applicable	(3) Total Revenues**	(4) Sales Tax	(5) Per Cent Col. (4) to Col.(3)
Alamosa	1963	$ 592,796	$ 67,054	11.3%
Aurora	1964	2,557,627	422,073	16.5
Boulder	1964	2,300,859	344,896	15.0
Denver	1963	66,476,213	13,796,496	20.8
Durango	1962	847,053	141,594	16.7
Englewood	1963	1,247,401	214,575	17.2
Gunnison	1964	270,765	82,060	30.3
Littleton	1964	1,010,426	224,728	22.2
Pueblo	1964	4,324,536	850,843	19.7

* Source: Auditors' reports filed with State Auditor.
** Includes federal and state monies, charges, fees, licenses, as well as general taxes.

Table VI lists the number of municipalities levying sales and use taxes in each state. For the most part, there are comparatively few municipalities levying sales and use taxes in Colorado in relation to the number of cities and towns levying sales taxes in states permitting local sales and use taxes. At present, statutory cities and towns in Colorado do not have authority to levy sales and use taxes. "Home rule" cities, of course, may levy sales and use taxes.

Table VI

NUMBER OF MUNICIPALITIES WITH SALES AND USE TAXES BY STATES*

State	Taxing Units	Scope	Administration
Alabama	91	Sales and Use	State and Local
Alaska	32	Sales and Use	Local
Arizona	10	Sales and Use	Local
California	389	Sales and Use	State
COLORADO	15	Sales and Use	Local[a]
Illinois	1,223	Sales	State
Louisiana	25	Sales and Use	State and Local
Mississippi	177	Sales	State
New Mexico	29	Sales	State[b]
New York	8	Sales and Use	Local
Tennessee	1	Sales and Use	State
Utah	135	Sales and Use	State
Virginia	2	Sales and Use	Local

* Source: U.S. House of Representatives Report No. 565, page 843.
a. State collects tax in Gunnison.
b. Three municipalities administer tax.

It also is interesting to note that of the thirteen states in which local sales taxes are levied, five states collect all municipal sales taxes -- California, Illinois, Mississippi, Tennessee, and Virginia. In addition, three of these states have extensive municipal sales and use taxes.

Vendors' Fees. Colorado law permits vendors to retain three and one-third per cent of their sales tax collections to cover cost of administration. The rate for collection of a vendor's fee formerly amounted to five per cent on a two-cent per dollar of sales levy. However, the tax rate was raised in the 1965 session to three per cent, and the vendor's fee was reduced to three and one-third per cent of collections. Of course, the present tax brackets relating to breakage enable some vendor's to collect more than the three per cent tax on net sales. The Department of Revenue requires vendor's to remit breakage, as well as the three per cent tax due the state.

Generally, of the 40 states levying a sales and use tax, 22 compensate vendors for collection of the sales tax. For the most part, vendors' fees range from one to five per cent of sales tax collections; however, Maine and Idaho permit vendors to retain breakage and in two states -- Michigan and Georgia -- vendor fees are limited to maximum amounts.

State	Compensation to Vendors	State	Compensation to Vendors
Ohio[1]	One per cent	Wisconsin	Two per cent
Texas[2]	One per cent	Florida	Three per cent
Arkansas	Two per cent	Georgia[3]	Three per cent
Illinois	Two per cent	Missouri	Two per cent (sales) Three per cent (Use)
Kentucky	Two per cent	North Carolina	Three per cent
Louisiana	Two per cent	Oklahoma	Three per cent
Maryland	Two per cent	South Carolina[4]	Three per cent
Nevada	Two per cent	COLORADO	Three and one-third per cent
Pennsylvania	One per cent	Alabama[5]	Five per cent
Tennessee	Two per cent		

Michigan -- First $50 of gross receipts is deductible from taxable sale.
Maine -- Excess tax collected (breakage).
Idaho -- Excess tax collected (breakage).

1. Ohio -- two per cent discount if collections filed by 18th of the month.
2. Texas -- two per cent additional fee to vendors who prepay a reasonable estimate of tax.
3. Georgia -- maximum limit of $108.
4. South Carolina -- A discount of three per cent is allowed if tax due is under $1,000 and over $100; and one per cent if over $1,000.
5. Alabama -- allows five per cent on first $100 of tax; two per cent on remainder.

Arguments in support of vendor fees include:

1) economic cost for collection of the tax should be borne by the state;

2) compensation encourages cooperation by retailers; and

3) Loss of compensation for late filing of returns lessens delinquency on filing returns.

On the other hand, vendor fees are opposed on the grounds of loss of revenue; taxpayers should not be compensated for compliance with tax laws; and cost of collections vary from one retailer to another suggesting that a flat percentage does not compensate retailers in a just manner.

Costs to States for Administration of Sales Tax. Costs to the state of Colorado in 1963-64 for sales and use tax administration amounted to $951,807 or 1.57 per cent of total net collections. The tax rate for 1963-64 was two per cent. Of course, the percentage allocated for administrative cost should decrease proportionately with the increased rate of the sales tax to three per cent. For comparative purposes, Table VII lists the per cent of sales tax administrative costs in selected states.[2]

Table VII

PER CENT OF SALES AND USE TAX COLLECTIONS ALLOCATED FOR STATE ADMINISTRATIVE EXPENSES -- 1959-1960

State	Administrative Cost Per Cent	State	Administrative Cost Per Cent
Alabama	1.60%	Missouri	1.60%
California	1.70	Nevada	1.40
COLORADO (1964)	1.57	North Carolina	1.36
Florida	1.10	North Dakota	.63
Georgia	1.10	Ohio	1.20
Illinois	.87	Oklahoma	1.40
Iowa	.90	Pennsylvania	1.80
Kansas	1.40	South Dakota	.98
Kentucky	1.30	Tennessee	.67
Maine	1.50	Utah	1.00
Maryland	1.15	Washington	.80
Michigan	.80	West Virginia	.79
Mississippi	1.03	Wyoming	1.00

2. State Sales Tax Administration, John Due, page 229.

In State Sales Tax Administration, Professor John Due points out that many of the states with low administrative costs for sales and use tax collection appear to be weak in audit procedures, suggesting that significant losses of revenue may result if too much emphasis is placed on reducing administrative costs. Professor Due suggests that an optimum cost of 1.7 per cent on a three per cent tax rate as reflected by California's enforcement program may be desireable.

If the assumption that the cost of administration remains approximately the same without regard to rate increases is valid, an index of comparative costs between states based on Table VII may be obtained by multiplying the tax rate times the per cent of administrative costs. On this basis, states are ranked as follows:

State	Index of Administrative Costs*	State	Index of Administrative Costs*
Pennsylvania	7.20	Mississippi	3.09
California	5.10	North Carolina	3.08
Arizona	4.80	Oklahoma	2.80
Maine	4.50	Nevada	2.80
Ohio	3.60	Illinois	2.61
Kansas	3.50	Michigan	2.40
Maryland	3.45	Tennessee	2.01
Florida	3.30	Utah	2.00
Georgia	3.30	Wyoming	2.00
Washington	3.20	South Dakota	1.96
Missouri	3.20	Iowa	1.80
COLORADO	3.14	West Virginia	1.58
		North Dakota	1.26

* Data based on 1959-60 data (see Table V) with the exception of Colorado (1964 fiscal year).

Use Tax Collections. Use tax collections in Colorado appear to be averaging about 6.3 per cent of total sales and use tax revenues. For the ten year period from 1954 to 1964, use tax collections ranged from a low of 5.51 per cent of total sales and use tax revenues in 1962 to a high of 7.35 per cent in 1957. An annual breakdown follows:*

Fiscal Year ended June 30	Use tax as a percent of total Sales & Use Tax	Fiscal Year ended June 30	Use tax as a percent of total Sales & Use Tax
1954	6.65	1959	5.79
1955	6.32	1960	6.01
1956	6.66	1961	6.11

Fiscal Year ended June 30	Use Tax as a Percent of total Sales & Use Tax	Fiscal Year ended June 30	Use tax as a percent of total Sales & Use Tax
1957	7.35	1962	5.51
1958	6.35	1963	5.67
1964	6.42	1965	6.53

*Source: Colorado Department of Revenue.

For comparative purposes, use tax collections in other states for 1963 ranged from a low of 1.5 per cent in Arizona and South Dakota to a high of 14.4 per cent in Wyoming (see Table VIII). The average for the states reported amounted to 7.5 per cent.

Table VIII

REVENUE SIGNIFICANCE OF THE USE TAX[a]

State	1963 Use Tax Revenue (in thousands of dollars)[b]	Use tax revenue as a percentage of Sales and use tax revenue
Alabama	$ 9,957	9.4%
Arizona	1,188	1.5
COLORADO	3,979 (1964 fiscal year)	6.4
Illinois	41,304	7.6
Iowa	7,759	9.6
Kansas	10,434	12.4
Maine	4,224	14.0
Michigan	36,981	7.5
Mississippi	7,288	8.8
New Mexico	4,514	8.2
North Carolina	10,938	7.5
Ohio	12,635	4.6
Oklahoma	2,749	4.4
South Dakota	274	1.5
Washington	17,375	7.6
West Virginia	864	2.0
Wyoming	1,782	14.4
		7.5% Average

a. Source: Op. Cit., Report of Special Subcommittee on State Taxation of Interstate Commerce, page 619.

b. Sales and use tax totals reported in the retail state tax collections include collections from various motor vehicle taxes which are levied in place of a sales or use tax. Since there is no breakdown between how much of the tax would be attributed to a sales tax and how much to a use tax, these taxes have been deducted from the sales and use tax totals.

Enforcement of Use Taxes. Enforcement of use taxes appears to be the most difficult and most expensive aspect of sales tax administration. Both officials of Denver and the State Department of Revenue reveal that the most lucrative aspects of sales and use tax auditing is in the area of use taxes. Of course, purchases by Colorado residents necessitate an audit of records of foreign corporations to close major leakage in sales and use tax collections. The problems of use tax administration also appear to magnify inequities in collection of the tax. For instance, requirements for filing of returns and audit of foreign corporations for purposes of use tax collections is concentrated in more lucrative accounts. Thus, the large corporations doing a substantial business in the state are targets for enforcement. On the other hand, smaller firms, or firms with a minimum amount of business tend to escape collection and remittance of sales and use taxes. Of course, audit of the smaller firms would be too expensive to administer, suggesting that efficient collection of use taxes is bound to be plagued with inequities.

Nexus Standards. Assessment of foreign corporations for collection of sales and use taxes is based on so-called "nexus standards," i.e., a corporation may be taxed or required to collect a tax for the privilege of carrying on a trade or business or receiving income from sources within a state. The basis for determination of whether a foreign corporation is responsible for collection of sales and use taxes is based not only on legislative determination but judicial and administrative determination as well. Table IX lists the nexus standards compiled by the Special Subcommittee on State Taxation of Interstate Commerce. Table IX lists the standards applied by Denver, Pueblo, the State of Colorado, and a summary total for other state administrations. According to the survey (Table IX), Denver probably is more strict than any state with the exception of Missouri in what constitutes nexus.

Relationship of Sale and Use Tax Collections to Personal Income. Although it is exceedingly difficult to compare the relative success of state sales and use tax programs, it may be interesting to compare an index of the percentage of sales tax receipts to personal income by states. If the states are ranked according to the percentage of sales and use tax collections to personal income and tax collections are adjusted to a two per cent rate, Hawaii derives the highest per cent of sales tax revenue to income (2.28 per cent). According to Table X, Colorado ranks 22nd with 1.19 per cent of personal income utilized for sales and use taxes. The state with the least amount of sales taxes collected in relation to personal income (based on a two per cent rate) is Wisconsin. It is also interesting to note that the amount of collections in relation to exemptions for food are significant. Eight of the ten states with food exemptions collect the least amount of money in relation to personal income. If the sales tax states that exempt food from taxation are deleted from Table X, Colorado would rank in the lowest quartile.

Table IX

NEXUS STANDARDS FOR USE TAX COLLECTION IN DENVER, PUEBLO, COLORADO, AND OTHER STATES

Contacts With Taxing Locality		City of Denver	City of Pueblo	State of Colorado	Number of States Using Standard
All retail outlets outside State, advertising in newspapers published outside States but which reach residents of locality, goods reach residents of locality by--					
mail or common carrier	goods sold for cash	X			1
	goods sold on credit	X			1
	goods sold C.O.D.	X			1
	goods sold subject to security interest	X		X	3
delivery by parcel service		X		X	2
delivery in company operated vehicles		X		X	13
driver-salesmen selling from trucks		X		X	34
Orders received by mail or telephone at place of business outside State, goods regularly shipped into locality by mail or common carrier and--					
advertising	by national radio and TV	X			1
	in national periodicals	X			1
	by "spillover" radio or TV	X			1
	by local radio or TV	X			3
	in local periodicals	X			4
	on local billboards	X			4
	by direct mail from outside the State	X			6

Contacts With Taxing Locality	City of Denver	City of Pueblo	State of Colorado	Number of States Using Standard
catalogs mailed to prospective customers in the locality	X			7
telephones from outside State used to solicit local orders	X			4
Unsolicited orders received outside State by mail or telephone without sales promotion in State; factory, warehouse and sales office outside State; goods are regularly shipped into the locality by mail or common carrier; corporation has--				
administrative office in the locality	X			23
research facility, for company use only, in the locality	X			20
realty in locality held for investment	X			7
stock of raw materials stored in the locality	X		X	16
qualifications to do business in the locality's State	X		X	10
Employees regularly or occassionaly in the locality but not soliciting orders; factory, warehouse and sales office outside State; orders received outside State by mail or telephone and goods regularly shipped into the locality by mail or common carrier; the employees in the locality are--				
"missionary men" creating demand for products but not taking orders	X		X	22
exhibiting goods at space leased for short terms but not taking orders	X		X	18

Contacts With Taxing Locality	City of Denver	City of Pueblo	State of Colorado	Number of States Using Standard
conducting credit investigations and making collections	X			21
installing or assembling the corporation's products	X			28
servicing or repairing the corporation's products	X			27
Employees regularly or occasionally in locality soliciting orders; goods are regularly shipped from a place of business outside the State into the locality by mail or common carrier; the orders are solicited in the locality--				
at display rooms leased for a few days, subject to outstate acceptance	X		X	29
by salesmen using their own cars, subject to outstate acceptance	X		X	23
from sales office in the locality, subject to outstate acceptance	X		X	35
and accepted by salesmen using their own cars	X		X	36
Factory in the locality but sales are made only through retail outlets outside the State; sales to residents of the locality are--				
made over the counter outside the State for cash			X	10
made over the counter outside the State on credit			X	12
cash sales made outside the State with goods shipped in by mail or common carrier	X		X	24

Contacts With Taxing Locality	City of Denver	City of Pueblo	State of Colorado	Number of States Using Standard
Retail outlets in the locality as well as outside the States; sales to residents of the locality are--				
made over the counter outside the State) for cash			X	13
) on credit			X	15
cash sales made outside the State with goods shipped in by mail or common carrier	X		X	31

Source: Report of Special Subcommittee on State Taxation, House Report Number 565, Volume 3

Contacts With Taxing Locality		City of Denver	City of Pueblo	State of Colorado	Number of States Using Standard
Retail outlets in the locality as well as outside the States; sales to residents of the locality are--					
made over the counter outside the State	for cash			X	13
	on credit			X	15
cash sales made outside the State with goods shipped in by mail or common carrier		X		X	31

Source: Report of Special Subcommittee on State Taxation, House Report Number 565, Volume 3

TABLE X

STATE SALES TAX RECEIPTS COMPARED WITH PERSONAL INCOME

State	Percentage of Sales Tax Receipts to Personal Income*	Food Exemption
Hawaii	2.28	
West Virginia	1.97	
New Mexico	1.90	
Washington	1.85	
Louisiana	1.62	
Arizona	1.61	
Nevada	1.60	
Wyoming	1.54	
Arkansas	1.53	
Mississippi	1.52	
Georgia	1.49	
Utah	1.47	
North Dakota	1.45	
Tennessee	1.39	
South Dakota	1.39	
Iowa	1.35	
South Carolina	1.35	
Oklahoma	1.29	
Kentucky	1.27	
Michigan	1.21	
Alabama	1.19	
COLORADO	1.19	
Florida	1.17	X
North Carolina	1.13	
Kansas	1.12	
California	1.04	X
Missouri	1.01	
Illinois	1.01	
Indiana	.97	
Maine	.97	X
Texas	.91	X
Ohio	.75	X
Connecticut	.71	X
Maryland	.70	X
Pennsylvania	.69	X
Rhode Island	.67	X
Wisconsin	.52	X

* Sales tax receipts were adjusted to two per cent.

Local Sales and Use Tax Administration

Of the fourteen Colorado municipalities contacted by the Council staff, only Boulder limits vendor fees for collection of sales taxes to less than five per cent -- three per cent. Generally, determination of municipal sales tax collection costs is fairly hard to ascertain. For instance, municipal officials may only spend a portion of their time in sales tax administration. Furthermore, staff costs that may be indirectly related to sales tax administrative costs seldom are accounted for. Similarly, building space, miscellaneous supplies, and other miscellaneous charges probably should be applied to cost of administering the sales and use tax of respective communities. For the most part, these costs are not included in the following computations. Nevertheless, the percentages estimated for administration of municipal sales and use taxes in Colorado may be of some value. In viewing the comparison, note that the State charges 2.0 per cent of net collections to cover costs of administering local sales taxes.

Municipality	Cost of Administration in 1964 -- Per Cent
Aurora	1.7% city; 2.0% state
Durango	1.0
Englewood	3.6
Grand Junction	2.1
Gunnison	1.0 city; 2.0% state
Littleton	2.7
Montrose	2.3
Pueblo	2.4

At this time, the number of local sales and use taxes in Colorado may not pose a problem for the business community. However, as the number of cities levying the sales tax continues to expand, the burden of multiple sales and use tax collection will increase for many retailers. At present, with the exception of Gunnison, municipal sales and use taxes are collected locally. Perhaps municipalities have elected to collect their own sales and use taxes, because the state does not collect local use taxes and a charge of two per cent for sales tax administration only is too high.

Multiplicity of Sales and Use Taxes

The multiplicity of local sales and use taxes in Colorado may not pose much of a problem at present. However, as the demand for increased municipal revenues continues, the growth in the number of cities levying sales and use taxes probably will be substantial. The problems posed by multiplicity of sales and use taxes, coupled with local administration, present not only duplicate administrative expenses for state and local governments, but also place a substantial burden on retailers who must file separate state and local returns. A summary of critical issues concerning state and local sales taxes follows:

1) jurisdictional disputes concerning tax liability;

2) duplicate or double taxation in some instances to the consumer, i.e., a sales tax could be paid at the point of sale and use tax paid at the point of delivery;

3) differences in requirements of local tax provisions, exemptions for instance, increase difficulty of compliance;

4) determination of allocation of local sales for tax purposes pose an administrative problem to the seller;

5) increases in the number of local returns that must be filed magnifies the cost of collection and payment of taxes by retailers;

6) vendor fees for collection of local taxes reduce revenues to local governments;

7) audit of firms by small municipalities may not be feasible, suggesting a breakdown in enforcement;

8) with large municipalities auditing major retailers, the number of audits conducted may become burdensome to individual firms; and

9) increases in local income tax rates probably will result in further "run-away buying".

Recognition of the problems of multiplicity of taxation and the need for simplifying tax collections has been made by the Colorado General Assembly. Chapter 38, Session Laws of 1963, provides the Colorado Department of Revenue with authority to enter into a contract and to collect local taxes which are levied and collected by the state.

Solutions in Other States.[3] To meet problems outlined above, the states of California, Illinois, Mississippi, Tennessee, and Utah adopted legislation to encourage centralized administration of state and local sales and use taxes. For example California adopted the "Bradley-Burns Uniform Sales and Use Tax Act," in 1955. Briefly the act authorizes counties to levy a one per cent sales tax provided the county tax conforms to the state tax and the county contracts for state administration. Cities were brought under the system by allowing a credit against the county tax for payments of city taxes conforming to the state tax. City taxes may not exceed one per cent to qualify for the credit against the county levy. The state board of equalization charges one and one-half per cent to cover costs of administration of the county tax. Local taxes are collected on the same form as the state taxes, and the monies are distributed to the counties. Approximately 85 per cent of collections returned to counties are distributed to municipalities. It also is interesting to note that Utah adopted a plan similar to California's state and local sales tax system.

3. Op. Cit. Report of Special Subcommittee on State Taxation, page 863.

A summary of state administered programs in other states follows:

1) In 1963, Tennessee adopted legislation requiring cities and counties to conform with the state sales tax program. Local administration is allowed; however, in the few localities adopting sales and use taxes, the state administers the taxes. Out-of-state vendors are not required to collect local use taxes.

2) The Mississippi Legislature adopted legislation in 1950 permitting municipalities to levy a one per cent tax on sales and services already taxed by the state. Municipalities were required to accept the state tax base, state rates, and state administration. Of course, local taxes are reported on the same form as the state tax.

3) Based on a 1955 law, the legislature of the state of Illinois authorized municipalities to levy a one-half per cent sales tax. Local use taxes are prohibited. Local taxes are reported on the state tax form and the state charges a four per cent administration fee.

4) New Mexico allows the state tax agency to collect local sales taxes for municipalities conforming to the state tax. A use tax is not permitted. Twenty-six municipalities use the state tax form and pay a three per cent fee to the state.

Cigarette Taxation

Following entry of the State of Colorado into the cigarette tax field in 1964, the question of centralized collection of cigarette taxes was raised. Members of industry argued that the multiplicity of cigarette taxes in Colorado was working an unnecessary hardship on the cigarette wholesalers in Colorado. The industry did not object so much to the total tax burden, but rather to the problems involved in conforming to the tax requirements of individual municipalities. On this basis, the subcommittee evaluated present administrative procedures for cigarette tax administration with a view towards coordinating state and local cigarette tax programs.

Historical Development of Cigarette Taxes in Colorado

For the past decade, cigarette taxes have been an important source of tax revenues for a number of Colorado municipalities. The Colorado Municipal League reports that from 1952 to 1962, the number of cities and towns levying a cigarette tax increased from 20 to over 50. Similarly, municipal cigarette revenues increased from $290,634 (1952) to $2,094,000 (1963). The state of Colorado entered the cigarette tax field in 1964 by providing for a one and one-half mill tax on each cigarette, or a tax of three cents per pack. Subsequently, in 1965, the General Assembly raised the cigarette tax to five cents per pack.

Impact of Cigarette Taxes

Municipal Cigarette Taxes. A summary of revenue from cigarette taxes collected by municipalities in 1964, individual municipal tax levies, and discounts paid to vendors are listed in Table XI. Denver, of course, collects the largest amount of cigarette revenues -- $1,107,150 in 1964. Denver levies a two cent tax on each pack of cigarettes. Aurora, utilizing a four cent per pack levy, ranks second in municipal cigarette revenues collected (in 1964 -- $171,177). Generally, municipal cigarette tax levies range from one cent per pack in Pueblo and Bayfield to four cents in Aurora. Three cent levies are made in Durango, Walsenburg, Pagosa Springs, Nucla, Manassa, Silverton, and Telluride. However, the vast majority of municipalities levy a tax of two cents per pack.

Administrative discounts or vendors' fees also vary widely among cities imposing cigarette taxes. Of the municipalities listed in Table XI, five do not provide a discount to vendors -- Rocky Ford, Glenwood Springs, Pagosa Springs, Naturita and Ignacio. Delta, on the other hand, allows a 20 per cent discount to vendors, while more than half the cities levying a cigarette tax in Colorado allow a ten per cent vendor's fee.

The importance of municipal cigarette tax revenue in relation to total city or town revenues may readily be determined from Table XI. For instance, the per cent of cigarette tax revenues to total municipal revenues in Walsenburg is 11.2 per cent and exceeds five per cent in Aurora (6.4 per cent), Pagosa Springs (7.5 per cent), Holly (9.5

TABLE XI

MUNICIPAL CIGARETTE TAX REVENUES IN COLORADO

(1) Cities by Population	(2) Total Municipal Revenues 1964	(3) Estimated Cigarette Tax Coll. 1964	(4) Actual Cig. Tax Coll. 1964	(5) Actual Cig. Tax Coll. Jan.- July 1965	(6) Vendor Fees	(7) Cigarette Tax Revenue As Per Cent of Total Revenue	(8) Estimated 1965 Pop.2	(9) Tax Rate Pennies Per Pack	(10) Amount Collected Per Penny Tax	(11) Per Capita Coll. Per Penny of Tax
Denver	$69,128,000	$1,107,150	$1,107,150	$519,293	6%	1.6%	527,000	2	$553,575	$1.05
Pueblo		*	55,283	56,625	8		97,000	1	55,283	.57
Colorado Springs			131,154	68,622	8		90,000	2	65,577	.72
Aurora	2,694,885		171,177	78,600	6	6.4	66,000	4	42,794	.64
Boulder	2,336,438		84,677	42,163	8	3.6	50,250	2	42,338	.84
Englewood	3,780,767		92,594	38,076	8	2.5	36,760	2	46,297	1.26
Grand Junction			52,196	26,332	10		22,400	2	26,098	1.16
Trinidad	405,408		15,917	7,012		3.9	10,800	2	7,958	.74
Durango	989,045	30,000	28,131	13,481	10	2.8	11,200	3	9,377	.83
La Junta			19,763	9,353	10		8,900	2	9,881	1.11
Cortez			20,882	10,815	5		7,000	3		
Broomfield	149,550	92,300	8,040	6,200	10	5.3	6,600	2	4,020	.60
Montrose	456,649	16,500	26,547	12,351	10	5.8	5,400	4	6,636	1.22
Rocky Ford	199,523		9,436	5,535			5,150	2	4,718	.91
Walsenburg	108,592	10,500	12,171	6,039	8	11.2	5,060	3	4,057	.80
Glenwood Springs							4,200	2		
Gunnison	581,385	15,000	15,487	6,898	10	2.7	4,100	2	7,743	1.88
Delta	222,315	10,500	9,720	5,452	10		4,000	2		
Brush	254,719		9,922	4,070		3.9	4,000	2	4,860	1.21
Monte Vista			11,086	5,796	8		3,650	2	5,543	1.51
Las Animas			6,876	3,812	2		3,500	2	3,438	.98
Florence	116,172		3,796	3,002	8	3.3	2,850	2	1,854	.65
Rifle	287,768	9,500	2,570	2,161	10	.8	2,200	2	1,285	.57
Yuma	267,010		4,908	2,791	6	1.8	2,000	2	2,454	1.22
Limon							1,950	2		
Akron	140,889		4,862	2,243	10	3.5	1,890	2	2,431	1.28
Steamboat Springs	398,247	4,800	7,522	3,304	8	1.9	2,050	2	3,761	1.83
Meaker			4,785	2,439	10		1,665	2	2,392	1.43
Center			4,262	1,326			1,600	2	2,131	1.33
Rangely	223,000	5,500	4,628	2,092	10	2.1	1,850	2	2,314	1.25

TABLE XI
(Continued)

(1) Cities by Population	(2) Total Municipal Revenues 1964	(3) Estimated Cigarette Tax Coll. 1964	(4) Actual Cig. Tax Coll. 1964	(5) Actual Cig. Tax Coll. Jan.- July 1965	(6) Vendor Fees	(7) Cigarette Tax Revenue As Per Cent of Total Revenue	(8) Estimated 1965 Pop.2	(9) Tax Rate Pennies Per Pack	(10) Amount Collected Per Penny Tax	(11) Per Capita Coll. Per Penny of Tax
Holyoke	$ 651,244	$	$ 4,423	$ 1,967		.7%	1,660	2	$ 2,211	$ 1.33
Idaho Springs	47,032	5,000	5,671	2,705		1.2	1,500	2	2,835	1.89
Pagosa Springs	70,503	5,500	4,319	1,962		7.5	1,400	2	2,159	1.54
Castle Rock	72,767	3,600	3,207	1,572	8%	4.4	1,310	2	1,603	1.23
Aspen	459,860		9,466	4,717			1,500	2	4,733	3.15
Holly	41,157		3,924	1,728	10	9.5	1,150	2	1,962	1.70
Paonia	101,920	2,600	2,115	1,073	5		1,080			
Dove Creek[1]	54,415		800				1,050			
Naturita	37,695	1,600	1,532	919		4.1	1,000	2	766	.76
Nucla	56,000		2,325	1,170		4.2	850	3	775	.91
Palisade	111,484						860			
Manassa	12,225						835	3		
Walden	287,696		1,457	869		.5	840	2	728	.86
Hugo			2,091	876			880	2	1,045	1.18
Silverton			2,282	1,350	15		800	3	760	.95
Saguache	8,915						750	2		
Telluride	41,757		1,333	88	10	3.2	775	3	444	.57
Ignacio	13,550	1,700	2,094	1,046			650	2.7	775	1.19
Cedaredge	32,401	1,500	1,756	768			565	2		1.55
New Castle	13,922	860	838	370	10	6.0	450	2	419	.93
Silt	28,407		942	382	10	3.3	400	2	471	1.17
Artesia	14,884	1,000					350	2		
Rico	17,077	225	315	145		1.8	350	2	157	.45
Bayfield	21,820		643	380		2.9	345	1	643	1.86

* Blanks indicate that information was not available.

1. Dove Creek repealed cigarette tax May, 1964.
2. Estimated Colorado population in 1965 is 1,986,875.

per cent), New Castle (6.0 per cent), Montrose (5.8 per cent) and Broomfield (5.3 per cent). The average per cent of cigarette revenues to total revenues for all municipalities reporting is 3.8 per cent (see Table XI).

Table XI also lists the annual per capita collection of municipal cigarette revenues per penny of tax levied. The city of Aspen, for instance, annually collects $3.15 per person for each penny of tax levied on cigarettes. Of course, Aspen's two cent tax on cigarettes derives a total amount of $6.30 per person. Aspen is the only municipality in which a one cent tax on cigarettes provides more than $2.00 per capita in revenue. One cent per capita cigarette taxes also exceed $1.50 in Bayfield ($1.86), Cedaredge ($1.55), Holly ($1.70), Pagosa Springs ($1.54), Idaho Springs ($1.89), Steamboat Springs ($1.83), Monte Vista ($1.51), and Gunnison ($1.88). Note that, for the most part, these cities have a significant volume of tourists, nonresident sales, and commuter traffic. Communities collecting a penny per person tax on cigarettes amounting to less than $.75 annually include: Pueblo ($.57), Colorado Springs ($.72), Aurora ($.64), Trinidad ($.74), Rifle ($.65), Yuma ($.57), Telluride ($.57), and Rico ($.45).

State Cigarette Tax. State revenues from the cigarette tax amounted to $7,586,730 in fiscal year 1965. The state rate for the month of June (1965) was five cents per pack, while a three-cent per pack rate was in effect in the preceding eleven months. Projecting these figures to a one-cent per pack rate, annual collections amount to about $2,323,500. Consequently, based on 1964 population estimates, the penny per capita impact of a state cigarette tax is $1.19. Of the 42 municipalities for which the one cent per capita projections are available, 20 exceed the $1.19 per penny per capita state figure for cigarette taxes.

The state vendor's fee paid to wholesalers for administration of the state tax amounted to 10 per cent of the value of stamps issued. Subsequently, with the increase to five cents per pack, the General Assembly reduced the vendor's fee from 10 per cent to six per cent. In other words, the General Assembly did not believe that an increase in the state tax necessitated an increase in administrative costs to wholesalers.

Simplicity of Administration

"Unit" Tax. Usually, the cigarette tax is a "unit" tax rather than a "sales" tax. The tax, therefore, generally is levied at the initial source of distribution within the state, namely, the cigarette wholesaler. Of course, there are exceptions to this rule in the smaller municipalities of the state. For instance, according to data published by the Municipal League, wholesalers pay the stamp tax and affix the municipal stamps for 34 municipalities. This responsibility is shared by wholesalers and retailers in 11 municipalities; and in only six municipalities are retailers responsible for administration of cigarette taxes.

From the viewpoint of state and local tax administrators there are a number of advantages to a "unit" tax. For instance, a tax levied at the original source of distribution reduces the number of

organizations collecting and reporting the tax to the tax administrator. Denver, for example, administers its entire cigarette tax program through a system of meter collections involving 18 major wholesalers.

Meter Machines. The major cigarette wholesalers in the Denver area lease meter machines from the Pitney-Bowes Company for the purpose of imprinting state and local cigarette tax stamps. Procedures for use of the meter machines required by the Denver Treasurer's Office, for example, are as follows:

1) the wholesaler brings the meter into the Denver Treasurer's office;

2) the wholesaler presents a check to the treasurer for a specific number of stamps;

3) the treasurer adjusts the meter for a given number of stamps; and

4) the meter is placed in operation by the wholesaler, and when the number of stamps purchased from the treasurer has been used up the counter automatically locks.

Of course, the Pitney-Bowes system is designed to minimize the possibility of tampering with the meter. The treasurer's office is provided with a special key and places a seal on the meter.

Cost of Administration -- Denver. The use of meter machines allows collection of the cigarette tax in advance, at little cost (a six per cent discount is allowed by Denver), and in a relatively "tamperproof" manner. To enforce use of the meter machines, the cigarette tax division simply maintains control by use of two revenue inspectors. An audit of the wholesalers' records is not necessary, according to Mr. Joe Parker, Denver Treasurer's Office, because the meters are carefully checked and all charges are collected in advance. Collection of monies at the time of sale of stamps or adjustment of the meter enables the Denver Treasurer's Office to invest idle monies immediately.

State Administration. Meter procedures similar to those established in Denver are utilized by the State Department of Revenue. The Department of Revenue provides an option to wholesalers to either utilize the services of a reputable banking institution for meter tax collections or to have the Department of Revenue collect the tax and adjust the meters. In other words, a bank may collect the cigarette tax from the wholesaler and lock the cigarette tax stamp meter in the manner outlined for the Denver Treasurer's Office. The state tax stamp program on cigarettes is enforced by four inspectors -- two in the Denver area and one each in Grand Junction and Pueblo.

Problems Encountered By The Committee

Problems Posed By Multiplicity of Taxes. From the viewpoint of state and local tax officials, cigarette taxes may be administered at very little cost to the taxing jurisdiction. The use of meter

machines and the sale of cigarette stamps to vendors provide a simple and economic method of collection. Despite the apparent efficiencies involved in the collection of municipal cigarette taxes, the following major problems exist:

1) The vendors' fees paid by most municipalities often are not considered as part of the administrative expense for collection of municipal cigarette taxes. Elimination of local vendors' fees would increase revenues from cigarettes by a significant amount. Furthermore, although municipal costs are minimal for administration of the cigarette tax, duplication of enforcement personnel exists. Denver, for instance, employs two cigarette revenue inspectors, while the State Department of Revenue also employs two inspectors in the Denver area. Perhaps more effective utilization of revenue agents could be achieved under a single tax agency.

2) The problem of affixing cigarette tax stamps for each municipality is a significant one for cigarette wholesalers. First-of-all, all packages of cigarettes sold in Colorado must have a state stamp. This means that each pack must be metered. Generally, metering all packs for a single stamp may not be too much of a problem for a wholesaler; however, when a number of municipalities issue stamps necessitating metering according to specific final destinations, problems of distribution of inventories arise. For instance, a cigarette wholesaler conducting business in the Denver area may make deliveries to Denver, Aurora, Broomfield and Englewood in an average day. Packs of cigarettes for these municipalities must be processed through meter machines. Therefore, a wholesaler must keep a sizable inventory on hand to meet orders requiring a particular stamp.

Mr. Bernard Shafner, President of the Colorado Association of Tobacco Distributors, reports that overhead costs for handling the multiplicity of stamps required by municipalities may be increased by seven or eight per cent over the cost of a single stamp. Factors increasing wholesaler's costs include: larger inventories, over-time to keep inventories adjusted, additional storage space, a break down in smooth flow of inventories, problems of credit, and inequitable distribution of business to some taxing jurisdictions.

3) At the August 2 meeting of the subcommittee, testimony revealed that local cigarette taxes have an impact on buying patterns between taxing jurisdictions and nontaxing jurisdictions, especially if the tax levy is significant. Aurora, for instance, raised their cigarette tax from three to four cents per pack, but the proportionate increase in cigarette tax collections did not materialize. Per capita receipts increased only slightly from $2.06 to $2.20, suggesting that significant "run away buying" occurred.

Problems of State-collected Locally-shared Cigarette Tax. Centralization of municipal cigarette taxes also presents a number of problems. For instance, Article X, Section 7, of the Colorado Constitution prohibits the General Assembly from levying taxes for municipal purposes: "The General Assembly shall not impose taxes for the purposes of any county, city, town or other municipal corporation, but may by law, vest in the corporate authorities thereof respectively, the power to assess and collect taxes for all purposes of such corporation." Of course, the constitution does not prohibit collection

of a local tax by the state. Two alternative approaches to a uniform program for municipal cigarette taxes appear to be feasible:

1) a constitutional amendment to revise Article X, Section 7, Colorado Constitution; or

2) establish an additional tax on cigarettes and by annual appropriation of the General Assembly distribute an equivalent amount of revenues to local governments.

Another problem concerning state-wide collection of cigarette taxes is that not all municipalities levy cigarette taxes. At present, only 20 per cent of the incorporated municipalities levy cigarette taxes. However, these cities and towns represent almost one-half of the state's population and over 70 per cent of the population in municipal areas. Although a large percentage of the state's population is located in a local cigarette taxing jurisdiction, it does not necessarily follow that an additional tax or additional revenues are needed by local governments in areas that do not have a cigarette tax.

In addition, if a tax is levied state-wide to eliminate the multiplicity of municipal taxes, persons residing in unincorporated areas also may wish to share in the allocation of the state revenue. Of course, counties are not authorized to levy cigarette taxes and municipal officials may feel distribution of revenue on some form of a population basis may not be in proportion to present point of collection. That is, many municipalities derive more revenue from cigarette taxes as presently levied and collected than they would under a state-collected and state-distributed tax program based on population.

Finally, municipal officials may object strenuously to the states preemption of a tax field which traditionally has been an optional source of local revenue. The concept of local self government may be seriously eroded by state action to allocate revenues to local governments.

Collection and Apportionment of Cigarette Taxes in Other States

Nine states have adopted some sort of state-collected locally-shared cigarette tax. The methods of distributing these cigarette taxes to local governments follow:

Florida -- Chapter 210.02, Florida Statutes (vol. 1) provides for the uniform taxation of cigarettes throughout the state. Where there is a municipal tax on cigarettes, the taxpayer (retailer) is given credit toward the state tax by the amount of locally imposed tax collected. The taxes are collected by the state beverage department, which returns to the municipalities that portion of revenues collected through sales within the corporate limits of the taxing municipality. Funds are earmarked for an extensive list of municipal improvements.

Kansas -- The state returns 37.5 per cent of net cigarette tax revenues to the county treasurers. The

county's population in proportion to the state's population is the basis for distribution. One-half of the funds returned to the counties are retained in the county general fund. The other fifty per cent of the funds returned to counties is split among municipalities according to population. The receipts which are not distributed to the counties are retained by the state and credited to the retail sales tax fund. (Kansas Statutes Annotated 6, 79-3327a)

Louisiana -- Receipts from state cigarette taxes in Louisiana are distributed in the following way:

1) state treasurer credits one million dollars to the Louisiana State University fund for construction and improvements at the school.

2) monies are distributed to municipalities according to population -- 1,000 population or less, $4.65 per capita plus nine per cent of the amount so allocated to such municipality on said per capita basis. Cities with

1,000 - 2,500	population	$4.40 plus 9%
2,501 - 10,000	population	$4.25 plus 9%
10,001 - 25,000	population	$4.00 plus 9%
25,001 - 100,000	population	$3.50 plus 9%
100,000 or over	population	$2.50 plus 9%

3) If the University fund and the municipal per capita distribution together total less than 37.5% of the cigarette tax receipts: a) parishes in which there are no incorporated municipalities will receive $1.50 per capita; b) the remainder of the 37.5% fund is to be used to equalize the per capita payments in each municipal category. State institutions are not counted as part of a municipality's population.

The remaining 62.5% of sales tax revenue is deposited in the Louisiana general fund. (Louisiana Revised Statutes of 1950, 1962 Cum. Sup. 47:869)

Maryland -- One-half of the tax received from cigarette sales goes to the general fund of Maryland, and one-half is apportioned among the counties and the city of Baltimore according to population compared with the state total. No governmental unit may receive less cigarette tax income from cigarette tax apportionment than it did in 1960 when collecting its own municipal tax on cigarettes. The population of the state of Maryland is determined twice a year by the Department of Health. This department's figures are used for the

apportionment schedule. Cities may no longer impose a cigarette tax. (Annotated Code of Maryland 7, 1964 Cum. Sup. 81-460)

Minnesota -- In Minnesota, cigarette taxes are apportioned in this manner: 1) 12.5% goes to the natural resources fund for matching Bureau of Outdoor Recreation funds for development of recreation resources; 2) the cigarette tax apportionment fund receives 25% of the revenue; 3) the remainder of the tax which is not credited to the natural resources or apportionment funds is deposited in the state general fund. Each city, village, borough, and county receives a proportionate share of the cigarette tax apportionment fund based on the population of the state compared with that of the governmental unit. County populations are arrived at by subtracting populations of incorporated areas within the county prior to determining population apportionment. (Laws of Minnesota 1963, Chap. 790 Art. IV 297.02)

Nevada -- Prior to July 1964, Nevada cigarette tax revenue was apportioned in this way:

1) Sixty-six per cent of revenues is distributed to cities and counties on the basis of population, utilizing the 1960 Federal census. County populations do not include incorporated area populations.

2) Twenty-eight and one-half per cent of monies is paid to the Nevada general fund.

3) Five and one-half per cent of revenues is distributed to the counties in relation to the tax collected on cigarette sales in each county. After July 1964, legislation was adopted crediting 2% to the state general fund and 98% apportioned among counties and municipalities on a population basis. The federal 1960 census is used. (Statutes of Nevada 1963, Vol. 2 Chap. 478)

New Mexico -- The state of New Mexico has established a county and municipal recreation fund. The distribution of the fund among counties and municipalities is based on sales tax collections in the particular local jurisdiction. One cent per pack is the tax placed in the county and municipal recreation fund. Monies must be used to plan and provide facilities for recreation activities primarily for juveniles. (New Mexico Statutes Annotated Replacement Vol. 10, 1963 Pocket Supplement 72-14-14)

North Dakota -- The 1965 Session of the North Dakota Legislature repealed section 57-36-23. The tax rate of one mill per cigarette was earmarked for county and municipal distribution. The distribution was on a per

capita basis for each governmental unit in relation to total population. County population was arrived at by subtracting populations of incorporated areas within the county from county totals. Disbursements were made semi-annually. (North Dakota Century Code Annotated Vol. II, 1965 Pocket Supp. 57-36-23)

Wyoming -- The state retains two per cent of the revenue received from cigarette taxes to cover administrative expense. The remainder of the tax is returned to the city or county in direct proportion to the amount of tax collected within the corporate jurisdiction. The Wyoming Board of Equalization computes the distribution of tax revenues each month on the basis of wholesalers' returns which designate place of sale. (Session Laws of Wyoming 1965, Chap. 95)

Alternative Proposals -- State Levied Cigarette Tax For Local Governmental Purposes

Table XII lists the revenue impact of five alternative proposals for the distribution of a state tax on cigarettes to local governmental units. Briefly, four of the five methods of distributing a state levied tax on cigarettes are based on a per capita distribution. For instance, column (3) of Table XII, provides a distribution of a three cent tax on cigarettes to municipalities and counties based on population. The second method of distributing taxes [column (4)] utilizes a two cent tax rate; the method of distribution, however, is identical to the first proposal. The third proposal allocates all revenues to incorporated municipalities on the basis of population [column (5)]. Column (6) outlines the impact of a formula distributing 90 per cent of all revenues to incorporated areas -- proposal four. The fifth proposal [column (7)] disregards population completely and bases the distribution of cigarette tax revenues according to sales tax receipts. A brief analysis of the five proposals follows. All of the proposals, with the exception of proposal number two, are based on a three cent state cigarette tax.

Proposal Number One. For the most part, a state cigarette tax of three cents per pack with the proceeds returned to the municipalities and counties (unincorporated population) on the basis of population would provide more revenue to municipalities than current municipal cigarette tax programs. The estimated revenues for 1965 collected by municipalities compared to the estimated revenues available under a proposed three cent state tax and allocated on a per capita basis reveal that Aurora would lose $20,000, Montrose $4,000, and Aspen $3,700. Considering an estimated total disbursement of $7,000,000, the loss in revenues of $30,000 to these three municipalities may not be too significant. Aurora's cigarette tax, for example, is four cents per pack while the state distribution is based on three cents per pack. Of course, some form of guarantee of minimum revenues could be utilized to insure that each municipality would receive an amount of revenue in proportion to collections under their own municipal tax.

Arguments in support of a state cigarette tax distribution to local governments on a per capita basis include:

1) each person in the state is given equal weight for distribution of revenues to his county or municipality;

2) population reflects need for governmental services; and

3) a per capita distribution is simple and economic to administer.

Proposal Number Two. Proposal number two is the same as proposal number one, but the rate of tax is reduced to two cents per pack. Since revenues are decreased by one-third, the number of municipalities currently levying cigarette taxes that would receive less revenue under the proposed program total 16. Since the tax rate on cigarettes for most municipalities is at a two-cent per pack rate, it is clear that the cigarette buying patterns in a number of municipalities presently derive more revenue than could be anticipated on a population basis. Apparently, nonresident cigarette purchases account for a substantial portion of municipal cigarette taxes. Generally, arguments supporting proposal number two are similar to those outlined in proposal number one.

Proposal Number Three. This proposal recognizes the traditional pattern of local taxation of cigarettes and provides a distribution of the monies to incorporated municipalities only on the basis of population. Obviously, county officials may oppose the suggestion because unincorporated areas are placed under an additional tax burden and receive little, if any, benefit from the tax. Of course, a substantial increase in revenues to municipalities may be noted. The mill levies (column 5, Table XII) needed to raise amounts of money under the property tax that would be equivalent to proposal number three range from 1.71 mills in Aspen to 16.12 mills in Manassa. Aspen is the only municipality which presently collects more revenue from cigarettes than would be possible under a state levy of three cents, the proceeds of which are distributed to incorporated areas only.

Proposal Number Four. Proposal number four /column (6), Table XII/ is designed to meet the objections of counties, and unincorporated areas generally, to a 100 per cent distribution of cigarette taxes to municipalities. Recognizing that revenues from penny per capita cigarette taxes in municipalities often exceed comparable one cent per capita collections state-wide, proposal number four provides greater weight to municipalities for the distribution of cigarette tax revenues. Since the total population of incorporated areas in Colorado exceeds 70 per cent, the amount of revenues to incorporated areas simply was raised to 90 per cent. Under this proposal, Denver would receive over $2,575,000 compared to present estimated revenues of $1,038,000. The cigarette taxing jurisdictions, smaller than Aspen (estimated 1965 population -- 1500) and listed in Table XII also would receive from this proposed distribution of revenue at least four mills as a property tax equivalent.

Proposal Number Five. Again, a three cent per pack tax is proposed state-wide. However, distribution is to be based on state

sales tax receipts in incorporated and unincorporated areas. Mill levy comparisons between present municipal cigarette taxes and this sales-tax receipts proposal are as follows: Municipal tax -- 2 mills or over in 26 of the 48 municipalities, and sales-tax receipts proposal -- 2 mills or over in all municipalities for which information is available. In addition 18 municipalities could exceed 4 mill equivalents from revenue under this proposal.

Distribution Based on Point of Sales. An alternative proposal to the five previously mentioned is a cigarette tax distribution based on point of sale. Of course, a serious question of cost of administration of point-of-sales distribution may need to be considered. Wholesalers, for example, would have to develop sophisticated accounting procedures in order to allocate sales by area, and the Department of Revenue would be required to audit wholesalers on an annual basis to verify the accuracy of sales records. The costs involved in distributing revenues in this manner probably would be much greater than under the relatively economical tax stamp procedure and formula distribution of revenues.

TABLE XII

VARIOUS METHODS OF DISTRIBUTING PROPOSED STATE CIGARETTE TAX REVENUES TO MUNICIPALITIES LEVYING CIGARETTE TAXES

Incorporated Areas Levying Cig. Tax -- In Order of Pop. 1965	(1) Estimated Pop. 1965[1]	(2) 1965 Est. Municipal Cig. Tax Coll.[2] Amount	(2a) No. of Mills	(3) Distrib. of Cig. Tax -- 3 Cents Per Pack -- Pop. Basis[3] Amount	(3a) No. of Mills	(4) Distrib. of Cig. Tax Coll. 2 Cents Per Pack -- Pop. Basis[4] Amount	(4a) No. of Mills	(5) Distrib. of 3 Cent Per Pack Coll. -- 100 Per Cent to Incorp. Areas Only[5] Amount	(5a) No. of Mills	(6) Distrib. of 3 Cent Per Pack Coll. -- 90 Per Cent To Incorp. Areas[6] Amount	(6a) No. of Mills	(7) Distrib. of 3 Cent Tax on Basis of Sales Tax Receipts[7] Amount	(7a) No. of Mills
Denver	527,000	$1,038,586	.90	$2,007,870	1.74	$1,338,580	1.16	$2,861,610	2.48	$2,575,449	2.23	$2,732,961	2.37
Pueblo	97,000	113,250	1.07	369,570	3.50	246,380	2.33	526,710	4.99	474,039	4.49	368,949	3.49
Colorado Springs	90,000	137,244	1.04	342,900	1.84	228,600	1.73	488,700	3.70	439,830	3.33	546,592	4.14
Aurora	36,000	157,200	1.92	137,160*	1.68	91,440*	1.11	195,480	2.39	175,932	2.15	424,368	5.19
Boulder	50,250	84,326	1.03	191,452	2.34	127,635	1.56	272,857	3.33	245,571	3.00	217,877	2.66
Englewood	36,700	76,152	1.53	139,827	2.81	93,218	1.87	199,281	4.01	179,352	3.84	187,511	3.77
Grand Junction	22,400	52,644	1.49	85,344	2.41	56,896	1.61	121,632	3.44	109,468	3.10	185,993	5.26
Trinidad	10,800	14,024	1.82	41,148	5.35	27,432	3.57	58,644	7.63	52,779	6.87	31,884	4.15
Durango	11,200	26,962	1.70	42,672	2.70	28,448	1.80	60,816	3.84	54,734	3.46	46,308	2.93
La Junta	8,900	18,706	1.91	33,909	3.46	22,606	2.30	48,327	4.93	43,494	4.44	33,402	3.41
Cortez	7,000	21,630	2.49	26,670	3.07	17,780*	2.04	38,010	4.37	34,209	3.93	42,512	4.89
Broomfield	6,600	12,400	1.20	25,146	2.44	16,764	1.62	35,838	3.48	32,254	3.13	---	---
Montrose	5,400	24,702	3.24	20,574*	2.70	13,716*	1.80	29,322	3.84	26,389	3.46	43,271	5.67
Rocky Ford	5,150	11,070	1.79	19,621	3.18	13,081	2.12	27,964	4.53	25,167	4.07	25,811	4.18
Walsenburg	5,060	12,078	3.54	19,278	5.66	12,852	3.77	27,475	8.06	24,727	7.25	14,423	4.23
Glenwood Springs	4,200	---	---	16,002	2.43	10,668	1.62	22,800	3.47	20,520	3.12	34,162	5.20
Gunnison	4,100	13,796	3.67	15,621	4.16	10,414*	2.77	22,263	5.92	20,036	7.20	23,533	6.26
Delta	4,000	10,904	2.71	15,240	3.79	10,160*	2.52	21,720	5.40	19,548	4.86	27,329	6.80
Brush	4,000	8,140	1.70	15,240	3.19	10,160	2.12	21,720	4.55	19,548	9.09	18,978	3.97
Monte Vista	3,650	11,592	2.72	13,906	3.26	9,271*	2.17	19,819	4.66	17,837	4.19	28,088	6.60
Las Animas	3,500	7,624	2.97	13,335	5.20	8,890	3.46	19,005	7.41	17,104	6.67	12,905	5.03
Florence	2,850	6,004	2.60	10,858	4.71	7,239	3.14	15,475	6.71	13,927	6.04	9,109	3.95
Rifle	2,200	4,322	1.81	8,382	3.51	5,588*	2.34	11,946	5.01	10,751	4.51	---	---
Yuma	2,000	5,582	2.07	7,620	2.82	5,080*	1.88	10,860	4.02	9,774	3.62	12,905	4.78
Limon	1,950	---	---	7,429	3.25	4,953	2.17	10,588	4.64	9,529	4.17	14,423	6.32
Akron	1,890	4,486	1.96	7,162	3.13	4,800*	2.10	10,262	4.49	9,235	4.04	10,628	4.65
Steamboat Springs	2,050	6,603	2.19	7,810	2.59	5,207*	1.72	11,131	3.69	10,017	3.32	14,423	4.78
Meeker	1,655	4,878	2.60	6,305	3.37	4,203*	2.24	8,986	4.80	8,087	4.32	6,832	3.65
Center	1,600	2,852	2.47	6,096	5.69	4,064	3.79	8,688	8.11	7,819	7.30	5,312	4.96
Rangely	1,850	4,184	2.64	7,048	4.44	4,699	2.96	10,045	6.34	9,040	5.70	---	---
Holyoke	1,660	3,934	1.53	6,324	2.46	4,216*	1.64	9,013	3.51	8,110	3.16	9,869	3.84
Idaho Springs	1,500	5,410	4.06	5,715	4.28	3,810*	2.86	8,145	6.11	7,330	5.49	7,591	5.69
Pagosa Springs	1,400	3,924	3.60	5,334	4.92	3,556*	3.28	7,602	7.01	6,841	6.31	6,073	5.57
Castle Rock	1,300	3,144	1.79	4,953	2.83	3,302*	1.88	7,059	4.03	6,353	3.63	6,832	3.90
Aspen	1,500	9,434	1.99	5,715*	1.20	3,810*	.80	8,145*	1.71	7,330*	1.54	15,942	3.36
Holly	1,150	3,456	3.02	4,381	3.82	2,921*	2.55	6,244	5.45	5,619	4.91	---	---
Paonia	1,400	2,146	2.05	5,334	5.11	3,556	3.40	7,602	7.28	6,841	6.55	---	---
Naturita	1,000	1,330	3.73	3,810	7.74	2,540	5.16	5,430	11.03	4,887	9.93	---	---
Nucla	850	2,340	4.47	3,238	6.19	2,159*	4.12	4,615	8.82	4,153	7.94	---	---
Palisade	860	---	---	3,276	3.00	2,184	2.00	4,669	4.28	4,573	4.19	---	---

TABLE XII
(Continued)

Incorporated Areas Levying Cig. Tax -- In Order of Pop. 1965	(1) Estimated Pop. 1965[1]	(2) 1965 Est. Municipal Cig. Tax Coll.[2] Amount	(2a) No. of Mills	(3) Distrib. of Cig. Tax -- 3 Cents Per Pack -- Pop. Basis[3] Amount	(3a) No. of Mills	(4) Distrib. of Cig. Tax Coll. 2 Cents Per Pack -- Pop. Basis[4] Amount	(4a) No. of Mills	(5) Distrib. of 3 Cent Per Pack Coll. -- 100 Per Cent to Incorp. Areas Only[5] Amount	(5a) No. of Mills	(6) Distrib. of 3 Cent Per Pack Coll. -- 90 Per Cent To Incorp. Areas[6] Amount	(6a) No. of Mills	(7) Distrib. of 3 Cent Tax on Basis of Sales Tax Receipts[7] Amount	(7a) No. of Mills
Manassa	835	$ ---	---	$ 3,181	11.32	$ 2,120	7.54	$ 4,534	16.13	$ 4,080	14.51	$ ---	---
Walden	840	1,738	1.87	3,200	3.53	2,133	2.29	4,561	4.91	4,104	4.50	5,314	5.72
Hugo	880	1,752	1.97	3,352	3.77	2,235	2.51	4,778	5.37	4,300	4.93	---	---
Silverton	800	2,700	4.93	3,048	5.57	2,032*	3.71	4,344	7.94	3,909	7.14	1,518	2.77
Saguache	750	---	---	2,857	6.29	1,905	4.14	4,072	8.96	3,664	8.07	---	---
Telluride	775	---	---	2,952	7.56	1,968*	5.04	4,208	10.78	3,787	9.71	1,518	3.99
Ignacio	650	2,092	5.35	2,476	6.33	1,651*	4.22	3,529	9.02	3,176	8.12	---	---
Cedaredge	565	1,536	2.79	2,152	3.91	1,435*	2.60	3,067	5.57	2,760	5.01	---	---
New Castle	450	740	2.48	1,714	5.75	1,143	3.83	2,443	8.19	2,198	7.37	---	---
Silt	400	764	2.32	1,524	4.64	1,016	3.09	2,172	6.62	1,954	5.95	---	---
Artesia	350	---	---	1,333	4.97	889	3.31	1,900	14.28	1,710	12.85	---	---
Rico	350	290	2.18	1,333	10.02	889	6.68	1,900	14.28	1,710	12.85	---	---
Bayfield	345	760	3.14	1,314	5.42	876	3.61	1,873	7.73	1,685	6.96	---	---
Totals	981,565	$1,939,744		$3,739,711		$2,493,170		$5,329,879		$4,797,240		$5,175,146	

*Denotes cities which would receive less revenue from a particular method of distribution than under present municipal tax.

[1]The Colorado Gazetteer, 1965, was used for population estimates. Total state population estimated is 1,986,875. Total incorporated area population is estimated at 1,396,950 or 70.3 per cent of the state popultation. The population of incorporated areas levying cigarette taxes totals 981,565.

[2]Estimated municipal cigarette tax revenues for the year 1965 are based on the first six months of receipts for cities reporting cigarette taxes. Column 2a represents the number of mills of property tax needed to be levied to equal the estimated revenue from local cigarette taxes.

[3]Estimated 1965 state cigarette tax revenues approximates $10,525,000. The average tax for the year is 4.16 cents, and the per penny tax receipts are estimated at $2,530,520, or $1.27 per capita. Since a three cents tax yields $3.81 per person, the estimated per capita tax ($3.81) was multiplied by the municipal populations. Column (3a) illustrates the mill levy equivalent of the property tax.

[4]Distribution of revenue of two cents tax per capita was made in the same manner as in column (3). The mill levy equivalent of the property tax is contained in column (4a).

[5]Column 5 distributed revenue from a three cents tax to incorporated areas only. ($7,591,560 distributed to 1,396,950 residents in incorporated areas). On this basis, $5.43 is multiplied by the municipal population to compute estimated revenues. Again, mill levy equivalents are contained in column (5a).

[6]Distribution of 90 per cent of a three cent tax to incorporated areas is made, and the equivalent mill levy also is given in column (6a).

[7]The percentage of state sales tax receipts (1964) in incorporated area to total state receipts is used as the basis for distributing anticipated revenues from a three cents cigarette tax. The mill levy equivalent is listed in column (7a).

REPORT OF SUBCOMMITTEE ON HIGHWAY USER TAXES

Committee on State and Local Taxes,
Colorado Legislative Council

November 16, 1965

REPORT OF SUBCOMMITTEE ON TON-MILE TAX

This report arises from a study of the administration of Colorado's existing ton-mile tax. The study was commenced during the summer of 1965 under the auspices of the Colorado Legislative Council Committee on State and Local Taxes. Limitations of time and staff have prevented completion of the study, and the subcommittee recommends that the study should continue. Thus, this should not be considered to be any more than an interim report; it lays out the results of the study to date, makes some recommendations for some minor statutory changes, and also sets out questions remaining to be answered.

Colorado's "ton-mile tax" is a tax on the total weight of a vehicle and its cargo multiplied by mileage traveled within Colorado. The tax imposed per ton mile is 8/10ths of 1 mill on empty vehicle weight and 2 mills per ton mile on cargo weight. Several important categories of vehicles are exempt from taxation, such as all trucks weighing less than 4500 pounds when empty, farm trucks, and trucks used exclusively within ten miles of an incorporated municipality.

All receipts from the ton-mile tax are dedicated to Colorado's highway users fund. The relative importance of the tax is indicated by the following:

Ton-mile tax net receipts annually	$8,000,000 to $9,000,000
Total highway user fund net receipts annually	$68,000,000
Contribution of ton-mile tax to highway user fund	Roughly - 13%

The ton-mile tax is relatively difficult to administer since collections depend upon accurate reporting of the following information with respect to every separate trip by every truck subject to the tax:

1. The weight of the truck when empty.
2. The weight of the cargo.
3. The mileage traveled.
    a. When empty
    b. With a load of given weight.

Under Colorado's Motor Vehicle Inspection Station Law (which is not a part of the ton-mile tax statute), all trucks operating in Colorado are subject to being stopped and checked for compliance with a great variety of statutory and regulatory requirements. Checking may be performed at 17 motor carrier inspection stations (commonly called "ports of entry") which are located on main highways, at temporary ports of entry that are established from time to time at other locations, and also by officers of the State Patrol whenever

there is reason to suspect the existence of a violation of any statute or regulation.

After being checked no truck is permitted to proceed without a clearance certificate which sets forth the weight and distance particulars for the trip and no clearance certificate is issued for a truck subject to the ton-mile tax until the operator either has paid the tax for the trip in question or else has shown that a satisfactory arrangement for its payment has been made.

The statute imposing the ton-mile tax contemplates that truckers will make arrangements to pay taxes directly to the Revenue Department on a regular basis rather than separately with respect to each trip every time a clearance certificate is issued. Pursuant to this authority, truckers establish gross ton mile (G.T.M.) accounts with the Department of Revenue. Roughly 91.9 per cent of all gross ton-mile tax receipts are received by the Department in connection with the filing of required ton-mile tax returns. Approximately 7.5 per cent is collected at ports of entry, and the balance, 0.6 per cent, is collected by the State Patrol.

As a practical necessity, estimated weights generally are used in arriving at the tax to be paid with respect to any given trip. However, about 14.9 per cent of the trucks passing through ports of entry are actually weighed. Also, the law provides that under prescribed circumstances average weights agreed upon with the Department of Revenue may be used in lieu of actual figures. In the case of approximately 7800 accounts yielding 40 per cent of the total ton-mile tax revenue, payments are made on the basis of negotiated weights.

Ports of entry are operated by the Revenue Department. Without ports of entry truckers could evade the ton-mile tax very easily by simply failing to file returns. Existence of the ports at strategic locations forces truckers to show payment of the tax in order to get clearance to proceed. The port system is also a useful auditing device since the information obtained at the ports can be checked against the information in tax returns that are filed directly with the Revenue Department in Denver.

Considerable misinformation has existed concerning the closing of certain ports of entry. Actually the location and number of ports of entry have remained substantially the same since enactment of the tax in 1955. The only ports that have been closed since enactment of the tax include the port at Poncha Springs and the one on the north lane at Monument. These closings were necessitated by a statute passed by the legislature which placed a 40-hour maximum on the number of hours which any state employee might be required to work during any week. Port of entry officers had previously been working a 48-hour week and this new statutory requirement resulted in a closing of the ports considered to be least useful to the system.

The study did not reveal any major deficiencies in the administration of the existing law. In particular, there has been no laxity on the part of state officials in enforcing the collection of taxes. Ton-mile tax collections in August of 1965 were the greatest ever and collections over the 6 months from March through August 1965 are running .94% above the same months of 1964.

Attached to this report are nine appendices which deal with specific aspects of the ton-mile tax as follows:

I. Pertinent Statutes and Regulations

II. Receipts and Cost of Collection

III. Burden of the Tax, Exemptions, and Evasions

IV. Methods of Collection and Auditing

V. The Port of Entry System and the State Patrol

VI. Enforcement Powers and Procedures

VII. Objections and Alternatives to Ton-Mile Tax

VIII. Other Studies of Ton-Mile Tax

IX. Recommendations of Subcommittee

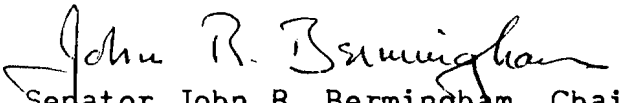
THE SUBCOMMITTEE MAKES THE FOLLOWING RECOMMENDATIONS:

1. The minor and technical changes set forth in Appendix IX should be submitted to the Governor with a request that they be included in his call for the 2nd regular session of the 45th General Assembly.

2. The Revenue Department should be requested to develop the statistical information as specified in Appendix IX. It should also consider the practicability of certain suggestions for improved administration.

3. The Legislative Council should continue its study of Colorado's ton-mile tax but broaden the inquiry to include the desirability and value of the tax itself. Any further study of the ton-mile tax should attempt to answer the questions set forth in Appendix IX.

Respectfully submitted,



Senator John R. Bermingham, Chairman
Senator Richard F. Hobbs
Representative M. Keith Singer

Denver, Colorado
November 8, 1965

APPENDIX I

PERTINENT STATUTES AND REGULATIONS

A. The Ton-Mile Tax

Section 13-3-23 of the Colorado Revised Statutes, 1963, is a lengthy section with many subsections that impose various motor vehicle taxes and fees. Subsection (4) deals with trucks, truck tractors, trailers and semitrailers. It is in this subsection, 13-3-23 (4) that registration fees are set for "metro", "city", and other types of truck license plates, the ton-mile tax is imposed and various exemptions are specified.

The Ton-Mile Tax is imposed by a portion of subsection (f) of Section 13-3-23 (4). The tax is imposed "for each one ton of weight, vehicle and cargo, moved for a distance of one mile on the public highways of this state." The tax is imposed in two parts -- 8/10ths of one mill per ton mile on the empty weight of the vehicle and 2 mills for each ton mile of cargo.

In addition to Section 13-3-23 (4) (f), in which is found most of the statutory law pertaining to the ton-mile tax, there are several other sections of the motor vehicle laws that are pertinent. Subsections (11), (12), and (15)(b) of Section 13-3-23 and Section 13-3-27 deal with exemptions for special mobile equipment, county vehicles, vehicles being used on highway construction and trucks on occasional trips. The enforcement powers of the Revenue Department are set forth in Section 13-3-24 and taxpayers' records and statements in connection with payment of the tax are covered by Sections 13-3-25 and 13-3-26.

General procedures applicable to various taxes administered by the Revenue Department, including ton-mile taxes, concerning hearings, refunds, interest, collections, limitations, etc., were spelled out in H.B. 1389 which became Chapter 302, Laws of 1965.

B. Motor Carrier Inspection Stations

The port of entry system is created under Article 19 of Chapter 13 of the Colorado Revised Statutes. The term "port of entry" does not appear in the statutes but is a holdover from earlier statutory law.

Sections 13-19-1 through 10 cover the creation and operation of the Motor Carrier Inspection Stations.

C. Ton-Mile Tax Rules and Regulations

In order to provide practical assistance to taxpayers and to establish uniform instructions for employees of the Department of Revenue in the administration of the ton-mile tax, the Department of

Revenue issued rules and regulations pertaining to the tax effective June 1, 1964. Copies of these rules and regulations may be obtained in pamphlet form from the Revenue Department. To incorporate recent statutory and regulatory changes, a revision is being prepared and should be available shortly.

The Revenue Department has also prepared a very complete manual for use by all port of entry officers.

D. Truck Classifications and Registration Fees

There are four different classifications of trucks -- state, metro, city and farm and two different trailer classifications depending upon weight. Farm trucks are completely exempt from the ton-mile tax and metro and city trucks are exempt so long as they stay within their respective geographical limits. If either a city or metro truck travels outside its geographical limit, it becomes subject to the ton-mile tax.

Registration fees for the various classifications are specified in Section 13-3-23 (4) and are summarized as follows:

Farm trucks. Farm trucks having an empty weight of 4,000 pounds or less are charged a fee of $7.00; for farm trucks having an empty weight of 10,500 pounds or less, the fee is $7.00 plus $.45 per 100 pounds over 4,000 pounds; and for farm trucks having an empty weight of over 10,500 pounds, the fee is $36.25 plus $1.05 per 100 pounds over 10,500 pounds.

City trucks. Trucks used exclusively within the limits of a city, city and county, or incorporated town and having an empty weight of 4,000 pounds or less are charged a fee of $7.00; for city trucks having an empty weight of 10,500 pounds or less, the fee is $7.00 plus $.75 per 100 pounds over 4,000; and for city trucks having an empty weight of over 10,500 pounds, the fee is $55.75 plus $1.75 per 100 pounds over 10,500 pounds.

Metro trucks. Trucks used exclusively within a radius of ten miles of a city, city and county, or incorporated town must pay a registration fee which is 125% of the fee for a similarly sized city truck.

State trucks. All other trucks having an empty weight of less than 4,000 pounds are charged a registration fee of $8.75; for state trucks having an empty weight over 4,000 and under 4,500 pounds, the fee is $8.75 plus $.75 per 100 pounds over 4,000 pounds; and for state trucks having an empty weight of over 4,500 pounds, the fee is $17.50.

Trailers and semi-trailers. All trailers and semi-trailers

must be registered. The registration fee for trailers and semi-trailers having an empty weight of over 1,200 pounds is $5.00 and $2.00 for those less than 1,200 pounds.

E. The Pro-Rate Section

Pursuant to an interstate compact (Chapter 13, Article 3, CRS 1963) an agreement has been entered into by approximately 17 states, including most of those in the West, in order that trucks operating in these states will share in the registration fees of each of them in proportion to the mileage traveled in each.

Within the Revenue Department a section known as the "Pro-Rate" Section is responsible for the administration of this agreement.

Colorado trucks that register through this section do not obtain their license plates from county offices as do all other Colorado vehicles.

F. Specific Ownership Tax

In addition to the ton-mile tax and registration fees that must be paid by truckers, there is the specific ownership tax that must be paid by all motor vehicle owners, and which is based upon the value of their vehicle and its age. The statutory provisions pertaining to the specific ownership tax are set forth in Sections 13-3-3 through nine.

G. The Change in the Ton-Mile Tax Statute in 1955

Prior to 1955 a ton-mile tax existed in Colorado but applied solely to the cargo -- at the present rate of two mills per ton mile. No tax was applied to the empty weight of the vehicle, however. The tax of 8/10ths of a mill per ton mile on empty weight of the vehicle was first imposed in 1955.

The other major change in the law that came into effect in 1955 was that the Revenue Department was designated as the agency responsible for administration, collection and enforcement of the gross ton-mile tax. Prior to that time the ports of entry duty had been handled by the State Patrol and the collection and record keeping functions were handled by the Public Utilities Commission.

APPENDIX II

RECEIPTS AND COST OF COLLECTION

A. Receipts

Receipts from the ton-mile tax, along with other highway users taxes, first flow into the Highway Users Tax Fund. The other taxes are: motor fuel taxes; annual registration fees on drivers, motor vehicles, trailers and semi-trailers; passenger mile taxes on common carriers; and taxes on special fuels. After certain deductions have been made from the fund for expenses, the balance is apportioned between the highway department of the state (65%), the counties (26%), and the cities (9%):

HIGHWAY USERS TAX FUND - 1964

(Millions of Dollars - Calendar Year)

Receipts		
Motor Fuel Taxes - net	$ 45.1	
Motor Vehicle Licenses	8.5	
Ton Mile Tax	8.7	
Miscellaneous	.9	
		$ 63.2
Less Deductions		
Administration	$ 2.6	
Cost of License Plates	.4	
Port of Entry Appropriation	.7	
Highway Patrol	4.5	
		8.2
Total to be Apportioned		$ 55.0
Disbursements		
State Highway Dept. (65%)	$ 35.7	
Counties (26%)	14.3	
Cities (9%)	5.0	
Total Apportioned		$ 55.0

These figures and those following, pertaining to the Highway Department, are based on the Department's Annual Report for calendar year 1964.

The State Highway Department receives income from its allocation from the Highway Users Tax Fund, from the federal government, and from certain minor miscellaneous sources. The State Highway Department expends these funds on construction and maintenance of

the interstate and state highway systems within Colorado:

COLORADO DEPARTMENT OF HIGHWAYS - 1964

(Millions of Dollars - Calendar Year)

Receipts		
U.S. Government	$ 57.0	
Highway Users Tax Fund	35.7	
Miscellaneous	1.3	
		$ 94.0
Disbursements		
Construction	$ 73.7	
Maintenance	12.6	
Other	4.8	
		$ 91.1
Increase in Balance on Hand		2.9
		$ 94.0

The figures obtained from the Highway Department do not jibe with those obtained from the Revenue Department, partly because of the obvious difference between calendar and fiscal years and partly because of items in transit. Nevertheless, the difference between the $63,200,000 total Highway User Fund receipts reported by the Highway Department for calendar year 1964 and the $68,113,891 reported by the Revenue Department for 1964-65 and $65,956,923 for 1963-64 needs to be explored.

The receipts from the ton-mile tax constitute roughly 13% of the total Highway User Fund receipts. This share has been gradually decreasing as is shown by the following figures. These figures also show the fluctuating annual growth of total ton-mile tax receipts.

Year	Ton-Mile Tax Receipts	Per Cent Increase Over Prior Year	Total Highway User Taxes	Ton-Mile Receipts as Per Cent of Total
1956-57	$ 6,301,869		$ 46,725,302	13.49%
1957-58	7,219,301	14.56%	49,421,798	14.61
1958-59	7,594,906	5.20	51,655,402	14.70
1959-60	7,766,360	2.26	55,874,731	13.90
1960-61	7,775,819	.12	57,264,934	13.58
1961-62	8,035,223	3.34	60,607,555	13.26
1962-63	8,461,606	5.31	61,641,408	13.73
1963-64	8,631,995	2.01	65,956,923	13.09
1964-65	8,696,422	.74	68,113,891	12.77

The decline in the rate of the annual increase justifiably has caused concern. Nevertheless, it is interesting to note that increases have occurred despite over a 10% decrease in the number of trucks processed at ports of entry in the past two years:

Year	Trucks Processed
1962-63	2,279,018
1963-64	2,129,517
1964-65	2,005,408

Monthly receipts since July 1, 1963, are as follows:

Month	1963-64	1964-65	1965-66
July	$ 782,670	$ 781,985	$ 749,109
August	765,431	764,117	863,180
September	748,536	813,143	
October	813,877	847,539	
November	707,084	742,509	
December	783,046	712,358	
January	670,818	684,697	
February	609,462	608,981	
March	677,757	645,411	
April	647,771	690,975	
May	685,764	680,473	
June	756,155	724,770	
Total	$8,648,371	$8,696,958	

Time has not permitted a reconciliation of totals of the monthly figures with the annual figures shown on the preceding page; both sets of figures were submitted by the Revenue Department.

Returns for the past six months listed above total .94% above the corresponding six month period a year earlier.

B. Reasons for Variations in Monthly and Annual Returns

Among the reasons given for variations in the tax returns in the ton-mile tax from month to month and from year to year are: seasonal changes; closing and opening of ports; piggyback operations of railroads; truck traffic by-passing Colorado; economic conditions generally; poor administration of the ton-mile tax; evasion of the tax. The 1965 floods definitely affected the June and July receipts.

In trying to explain the variations, the closing of ports of entry can definitely be ruled out as a substantial factor. The ports are discussed in detail in Appendix V. It is there shown that the only closings since 1955 have been the Poncha Springs-Salida port

and the port on the northbound lane at Monument. Both of these took place shortly after the start of fiscal year 1963-64. The Poncha Springs port had produced $5,479 in cash in 1962-63 at a cost of $18,146. The receipts at Monument dropped $3,272 between 1962-63 and 1963-64; during the same period expenditures at Monument dropped $22,408. Trucks processed at the Poncha Springs port had been just 1% of the total number processed at all ports of entry during 1962-63. The closing of one lane at Monument was decided upon since such a large portion of trucks processed on one lane were also being processed on the other lane on the reverse trip. The closings in 1963 were prompted by a legislative prohibition against state employees working more than 40 hours per week.

No evidence was seen to support any charges that there is any laxity in enforcement of the tax or any increase in evasions. Changes in the rate of growth of total receipts remain unexplained.

C. Receipts at Ports, at Revenue Dept., and from State Patrol

The following table is included to dramatize the fact that most payments are sent directly to the Revenue Department in Denver rather than being made in the field. The details of collection methods and negotiated accounts are discussed in Appendix IV.

Total Ton-Mile Tax Receipts 1964-65

Payments Direct to Revenue Department:			
Negotiated Accounts	$3,478,568		40.0%
Non-negotiated Accounts	4,513,026		51.9
Total Direct		$7,991,594	91.9%
Payments at Ports of Entry:		653,403	7.5
Payments to State Patrol:		51,425	0.6
Total		$8,696,422	100.0%

D. Cost of Collection

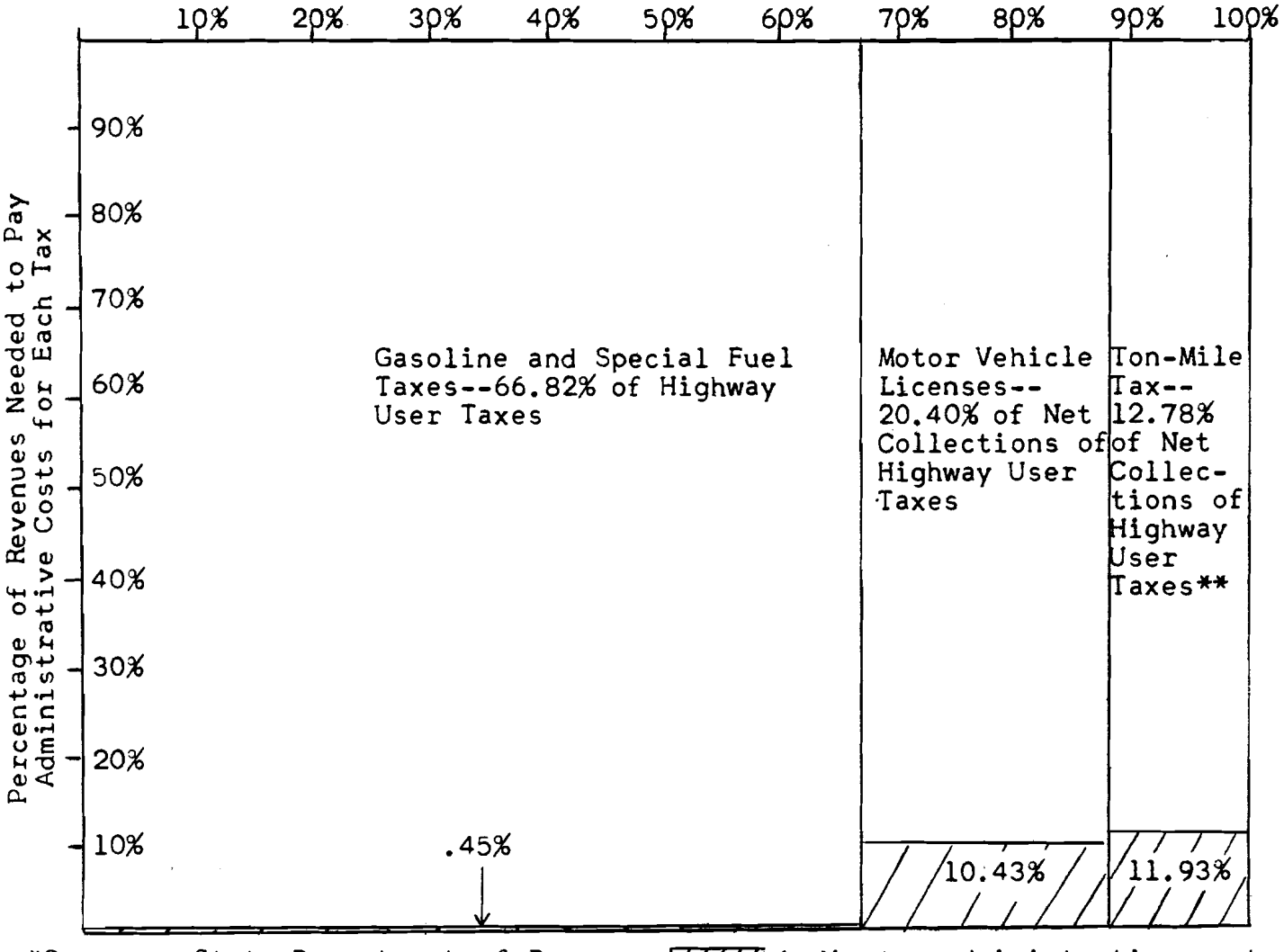
The cost of administering ton-mile tax statutes is notorious. Nevertheless, Colorado does seem to collect its taxes considerably more efficiently than other states.

The chart on the following page illustrates the relative importance of the various taxes that are earmarked for the Highway Users Fund and the estimated collection costs of these taxes.

No precise figure on cost of administration of the ton-mile

COLORADO HIGHWAY USER TAXES*

Percentage of Net Collections Colorado Highway User Taxes--By Type of Tax



*Source: State Department of Revenue; ////// indicates administrative costs.
**Administrative Expenses Include Port of Entry Costs.

	Gas and Spec. Fuel	Motor Vehicles	Ton-Mile	Total
Net Collections:	$49,395,942	$13,900,999	$8,696,422	$68,113,890
Expenditures:	206,374	1,449,607	1,037,826	3,903,431

tax is available, but the figure $1,037,826 is considered a good approximation. This is the total of $693,103, which is the Port of Entry Division budget plus $344,723, which is the Ton-Mile Tax Section budget. State Patrol expenses are not included, but these are offset by the work performed at ports of entry on non ton-mile tax matters. The estimated cost of $1,037,826 is 11.93% of the total 1964-65 receipts of $8,696,422.

In Appendix V it is shown that the $653,403 collected at ports of entry was collected from approximately one-third of the trucks processed and yet it comprises only 7.5% of the total receipts. One-third of the estimated total cost is $345,942. Rough as these figures may be, they are accurate enough to clearly indicate an extremely high collection cost for tremendous numbers of vehicles.

No methods of reducing expenditures were apparent that would not have more than correspondingly reduced receipts. The possibility of locating ports of entry on median strips was explored, but both the state and federal highway departments oppose this practice for reasons of safety. The extent to which revenues might be increased by increased expenditures for mobile ports or an enlarged auditing staff was not determined.

APPENDIX III

EXEMPTIONS, BURDEN OF THE TAX AND EVASIONS

A. Exemptions

The following exemptions are specified in Section 13-3-24 (4) (f), Section 13-3-24 (4) (h), Section 13-3-24 (12) and Section 13-3-24 (15) (b):

1. Vehicles having an empty weight of 4500 pounds or less.
2. Vehicles owned by a farmer or rancher and used principally for transporting produce to market or place of storage, or for transporting feed, supplies, or produce required in the operation of such farm or ranch.
3. Vehicles used exclusively within the limits of a city, city and county, or incorporated town.
4. Hearses and ambulances.
5. Vehicles especially constructed for towing, wrecking and repairing and not otherwise used for transporting cargo.
6. State, county and city vehicles used in the construction of highways.
7. Vehicles operated upon the public highways, used exclusively within a radius of ten miles of the limits of a city, city and county, or incorporated town.
8. Farm tractors, farm implements and farm tractors and farm trailer or wagon combinations.
9. Any trailer or wagon having an empty weight of 1200 pounds or less.
10. Special mobile equipment.
11. Vehicles owned by a county and operated on official business.

The major exemptions, both numerically and economically, are trucks weighing 4500 pounds or less, farm trucks, and city and metro trucks.

B. Burden of the Tax

In 1964 the numbers of trucks registered under the four available classifications were as follows:

State	167,146
Metro	62,188
City	239
Farm	5,281
Total Trucks	234,854

The ton-mile tax section has recently obtained a listing of all trucks registered at county offices with state plates that weigh 4300 pounds or more. Roughly 63,000 trucks were shown in this run. Of these, approximately five per cent were estimated not to be covered by gross ton-mile tax accounts. Of this five per cent,

some of the trucks quite properly need not have been covered by gross ton-mile account, whereas other trucks should have been. These 63,000 vehicles do not include those that are licensed through the "pro-rate" section, (see Appendix I). The pro-rate section does not have specific figures available on the number of Colorado trucks it has licensed but has estimated the number to be on the order of 10,000. A rough estimate, then, of the number of trucks subject to the tax is 70,000 to 73,000, which is fewer than one-third of the total number of trucks licensed.

Among the trucks that are subject to the tax the burden falls most heavily on the large trucks. The Colorado Motor Carriers Association, using Revenue Department figures, has estimated:

20% of the tax is paid by 9 companies;
40% of the tax is paid by 1% of the trucks;
81% of the tax is paid by 15% of the trucks.

The Revenue Department concedes these figures are probably correct.

C. Comparison with Other States

According to a study of 1964 taxes prepared by the Bureau of Public Roads of the U. S. Department of Commerce (see Appendix VIII), Colorado places a heavier tax burden on large trucks than does any other state. The total state road user and personal property taxes on a Diesel powered, four-axle tractor semi-trailer combination in private use weighing over 55,000 pounds, are more than double the taxes imposed in a majority of states and one-half again as much as the maximum imposed in all but six other states. The following chart is reproduced from that 1964 Bureau of Public Roads report and shows state road-user and personal property taxes on a 72,000-pound diesel-powered, five-axle, tractor-semitrailer combination in private use:

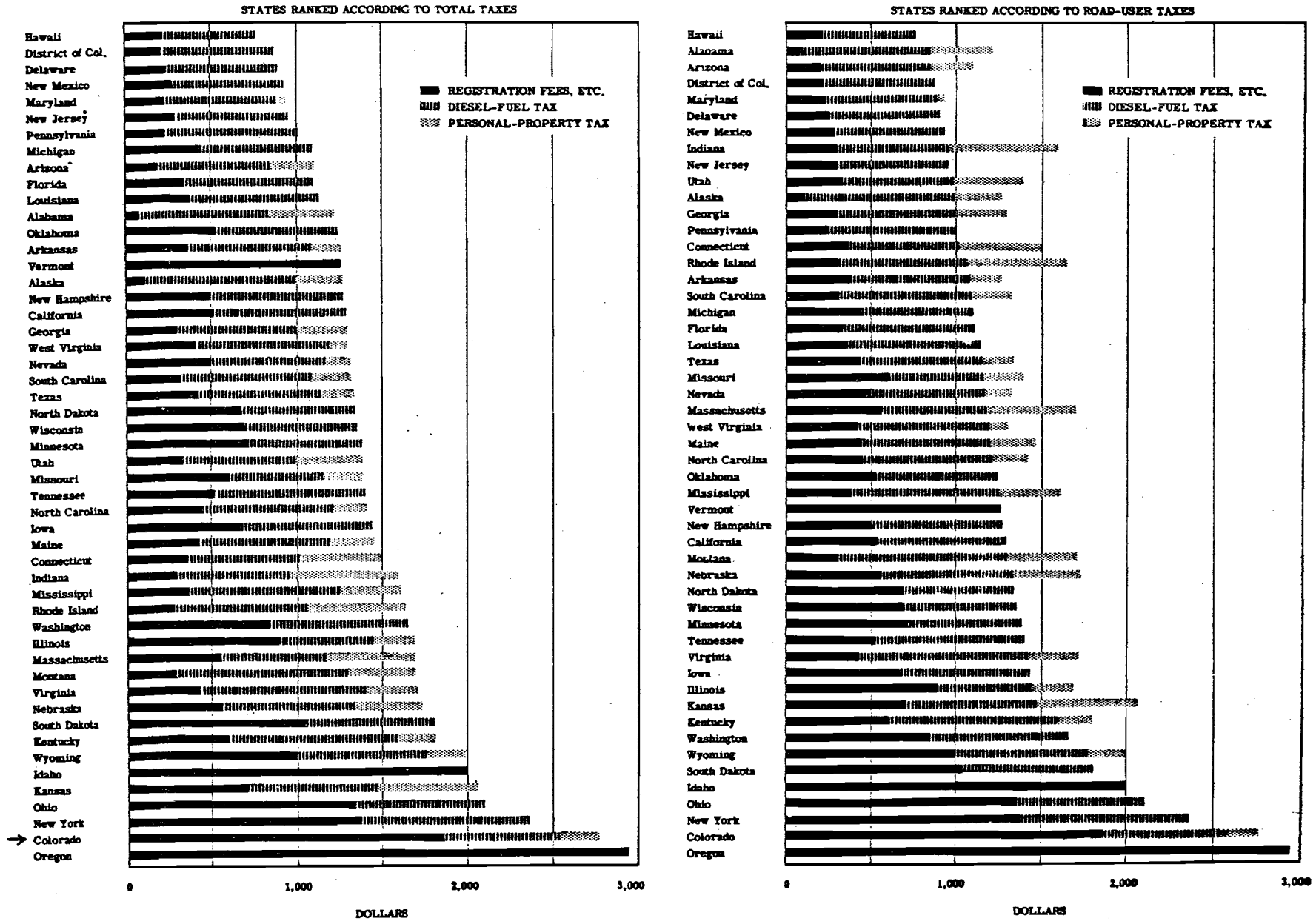


Figure 29.—State road-user and personal-property taxes on a 55,000-pound diesel-powered, four-axle tractor-semitrailer combination (No. 10), in private use.

D. Comments on Major Exemptions

Since one-third of all trucks processed produce only 7.5% of the revenue and at the other end of the scale 15% of the trucks produce 81% of the revenue, it appears that net receipts would not be appreciably increased by lowering the maximum weight for exempt trucks so as to increase number of trucks subject to the tax.

The exemption for all city and metro trucks was intended to relieve delivery trucks from burdensome record keeping. The use of trucks for carrying concrete mixers and other heavy mobile equipment was not nearly as common as it is today. The 1960 study by the Legislative Council recommended that all trucks weighing 7500 pounds or more, net, should be licensed as state vehicles and required to pay the ton-mile tax.

Similarly there are now many extremely large vehicles that use the state highway system that are exempt because they are classified as farm or ranch vehicles. This exemption was recently considered by the Colorado Supreme Court in the case of Weed vs. Monfort Feed Lots, Inc., 402 P. 2d. 177 (April 5, 1965). In this case it was held that the feed lot business did not qualify as ranching or farming for exemption purposes. There is considerable feeling that the legislature should enact a statute defining ranch and farm for exemption purposes.

E. Evasions

An operator can evade the ton-mile tax by avoiding ports altogether and not filing any returns, or by filing returns but improperly reporting (1) the weight of the truck, (2) the weight of the load, (3) the mileage per trip, and (4) the total mileage traveled by truck during the year.

Evasion exists, undoubtedly, but there is a concensus among Revenue Department officials, the State Patrol, and industry that the resulting loss of revenue is not great. No great loss of revenue occurs if small trucks evade the tax since the collection costs as to these trucks are relatively so high. Most large truckers are believed to report and pay their taxes faithfully. Trucks that are evading the tax and by-passing ports of entry sooner or later are checked by a mobile port or by the State Patrol. Audits performed by the Ton-Mile Tax Section (See Appendix IV) bring to light evasions carried on by means of improper returns.

It is extremely difficult to estimate the amount of evasion with any precision since the existence of any precise figures would, as a practical matter, prompt the Revenue Department to put an end to the evasion with respect to which the figures were precise.

APPENDIX IV

COLLECTING AND AUDITING

A. Gross Ton-Mile Tax Section

The Gross Ton-Mile Tax Section of the Taxation Division of the Revenue Department exists for the purpose of receiving, processing and auditing Gross Ton-Mile Tax returns.

The section is composed of 32 employees with an annual budget of $344,723, which is approximately 33.2% of the overall Ton-Mile Tax collection cost as shown in Appendix II-B. Twenty employees are engaged in the routine work of receiving and processing returns. There are twelve auditors engaged on a full-time basis in auditing work. About 20% of their time is spent in the field.

B. Records to be Kept

The statutes and regulations require every operator to keep complete and accurate records which will reflect:

(1) The miles a vehicle travels, empty or loaded, highway routes traveled; and

(2) The weight of all cargo carried, by trip.

These records must be kept for a period of four years and should include freight bills, weigh bills, bills of lading, load sheets, driver's logs, or any other information which would cover any trip on the highways of the state.

C. Reporting of Tax Liability

The following three pages illustrate the three basic forms that must be filed by operators and taxpayers:

(1) The Gross Ton-Mile Tax Return. This return lists each unit which has been operated in Colorado during the report period, the empty weight of the vehicle multiplied by .0008, the miles traveled within Colorado, and the product of the last two items which is the tax on the empty weight of that vehicle.

(2) Cargo Detail. This form is set up quite differently from the basic return. A separate column is provided for each unit and then a separate line is provided for each day of the month. For large operators this form may continue for many pages.

(3) Equipment List. This form is supposed to be filed at least once a year and brought up to date any time an operator's equipment is changed. The list should list every specific unit that is subject to the Gross Ton-Mile Tax. Unfortunately,

DO NOT WRITE IN THIS SPACE

GROSS TON MILE MONTHLY TAX RETURN

SEND TO:

DEPARTMENT
OF REVENUE

STATE CAPITOL
ANNEX

DENVER 2, COLO.

SHOW BELOW CHANGE OF OWNERSHIP NAME AND/OR ADDRESS

16. NEW BUSINESS DATE
MO DAY YR.

17. DISCONTINUED DATE
MO DAY YR

RETURN THIS COPY

Does this return include ton mile tax on vehicles owned by others? If yes, give name and address of owner

IMPORTANT: IF TRUCK IS NOT USED, MARK "NOT USED"

At whot address ore ton mile records kept?

IMPORTANT: COMPLETE VERIFICATION AND SIGNATURE SECTION ON THE BOTTOM OF THIS FORM.

(54-1)

USE ACCOUNT NUMBER FOR ALL REFERENCE | LIABILITY INFORMATION: COUNTY, CITY, RATE CARD, COMMO, TYPE, LIABILITY DATE | REPORT DATE: MO, DAY, YR | DUE DATE: MO, DAY, YR

T

SCHEDULE D

(1) TAXPAYERS UNIT NO.	(2) MOTOR OR I.D. NUMBER	(3) Dept. of Rev Unit No	(4) TRUCK OR TTR. LICENSE NO.	(5) WGT/RT FCTR OF VEHICLE (WGT. OF VEHICLE IN TONS X .0008)	(6) MILES VEHICLE TRAVELED IN COLO. DURING MONTH	(7) VEHICLE TAX (5) X (6)
						$

Number Vehicles Operated in Colorado This Month

TOTALS, THIS PAGE..(col 6 & 7) $

TOTALS FROM ATTACHED GTM IA's (If Any)...(col 6 & 7) $

TOTAL MILES TRAVELED IN COLORADO

1. TOTAL VEHICLE TAX $
2. CARGO TAX = Total net ton miles of cargo from Schedule A (2 mills) x .002 TOTAL CARGO TAX $
3. PASSENGER MILE TAX FROM SCHEDULE P (If Applicable) $
4. TOTAL GROSS TON MILE TAX (Total of Lines 1, 2, and/or 3) (7) $
5. PENALTY (1% per month) (1) $
6. TOTAL AMOUNT DUE (Total lines 4 and 5) $

I/we declare under the penalties of perjury, that this return and the schedules attached hereto, is a true, correct and complete return, made in good faith for the period covered, pursuant to the law and regulations issued thereunder.

SIGNED TRADE NAME BY NAME

DATE TITLE

GTM-2 150M 8-62

TYPE OF PUC PERMIT AND NUMBER

Common Carrier [redacted]

Contract Private ____________

Commercial Proprietary ____________

SCHEDULE A – TON MILE CARGO DETAIL

This schedule must accompany monthly gross ton mile report Form GTM-1 unless negotiated flat fee is used. Separate schedule –A– must be completed for each type of permit.

Name [redacted] Account No. C-T 48551 Month May 1963

FROM	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
TO	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
(A) MILES	4	130	77	147	60	40	170	103	175	24
DATE	Wgt. Lbs.	Wgt. Lbs.	Wgt. Lbs.	Wgt. Lbs.	Wgt. Lbs.	Wgt. Lbs.	Wgt. Lbs.	Wgt. Lbs.	Wgt. Lbs.	Wgt. Lbs.
1		20250								
2	15040	20100	[illegible]							
3				21160						
4			[illegible]							
5		23430								
6		[illegible]		[illegible]						
7					17460	15420				
8			20570		17110	[illegible]	[illegible]			
9						17750	25060			
10			24130			21420				
11				15540						13540
12									21040	
13						20550	[illegible]	22910	23440	
14										
15		[illegible]	[illegible]			15040	24110			
16							32960		26160	
17			14450	[illegible]	22130	14220				
18	19550			21650	22390					
19					27470					
20										
21										
22					24500				20590	
23				21510			20720		[illegible]	
24										
25										
26										
27										
28							[illegible]		[illegible]	11510
29					[illegible]					
30										
31										
TOTAL (B) LBS.	[illegible]	107150	136770	126000	157510	113000	160800	[illegible]	131900	25350
LB. (C) MILES	[illegible]	14293500	[illegible]	17645140	9513400	4520000	34352000	2359730	23257500	608400

Total Lbs. Miles (Total Line C) ____________ / 2,000 = ____________ Total Monthly Ton Miles of Cargo

Enter this amount in Line 2 Tax Return Form GTM-1

INSTRUCTIONS – READ CAREFULLY

Carrier will show in Blank spaces at the top of each column opposite "From" and "To" the various points between which hauling is performed during the month, and opposite "Mile" the actual distance between said points, and will enter daily the total number of pounds hauled under the respective captions, including miles within the city.

Mileage used must be shown in whole numbers; fractions of miles of less than one-half to be dropped and one-half or more to be considered one mile. "Lb. Miles" are determined by multiplying the total pounds, Line "B," by the miles shown at the top of each column, Line "A," and cross foot to arrive at "Total Lb. Miles." Ton Miles are determined by dividing "Total Lb. Miles" by 2,000 at bottom of schedule.

GTM-4

SCHEDULE E - EQUIPMENT LIST OF GROSS TON MILE VEHICLES

YEAR 1965

GTM No. _____ DATE: _____

NAME: _____

ADDRESS: _____

Each truck, each tractor, and each trailer must be listed separately, with the correct empty weight for each. Empty weight is defined as the weight of any motor vehicle or trailer, including the operating body and accessories, as determined by weighing on a scale.

COLORADO OR OTHER STATE LICENSE NO.	COMPANY UNIT NO.	YEAR	MAKE	IDENTIFICATION NO. (Motor or Chassis No.)	WEIGHT (In Pounds)

no penalty is provided in the statute for failing to file this form and approximately 40% of the GTM accounts have not filed this form.

D. GTM Accounts

The statute imposing the Ton-Mile Tax contemplates that truckers will make arrangements to pay taxes directly to the Revenue Department on a regular basis rather than separately with respect to each trip every time a clearance certificate is issued. Pursuant to this authority, and after posting a bond or depositing cash as required by the statute, truckers establish Gross Ton-Mile (GTM) accounts with the Department of Revenue. Roughly 91.9% of all Gross Ton-Mile tax receipts are received by the Department in connection with the filing of required Ton-Mile Tax returns with respect to Gross Ton-Mile Accounts. Approximately 7.5% is collected at ports of entry and the balance, 0.6%, is collected by the State Patrol.

No truck is permitted to proceed after a check at a port of entry or by the State Patrol unless a clearance certificate has been issued. A clearance certificate will be issued only if the trucker has paid the tax in cash or shown the checking authority a letter from the Revenue Department certifying that the trucker has posted a surety bond or made a cash deposit to guarantee payment of the tax. Samples of a clearance certificate and a "G.T.M. letter" are reproduced on the following two pages.

Monthly reporting for ton-mile tax liability is required of all large trucking enterprises. Quarterly reporting is permitted if the tax liability is $40 per month or less and annual reporting is permitted truckers if their tax liability is $20 or less.

At the present time there are approximately 13,000 Gross Ton-Mile Tax accounts maintained with the Revenue Department. Any given account may cover simply a single truck or it may cover an entire fleet of 500 or more maintained by an interstate carrier and some of those trucks may never even operate within the State of Colorado. The regulations require that truckers keep an up-to-date list of equipment with the Revenue Department, but this is not done by many operators. Consequently, the Revenue Department is unable to give any sort of figure as to the number of trucks that are covered by Gross Ton-Mile accounts.

However, the Revenue Department has made up a list of all trucks licensed on a statewide basis and whose basic weight was shown to be 4300 pounds or more. About 63,000 trucks were included on this list. The Ton-Mile Tax Section has been reviewing this list to determine whether or not the particular vehicle is covered by a Gross Ton-Mile account. This work must be done manually and is obviously tedious. A little more than five percent of the trucks are not covered by Gross Ton-Mile accounts. Where there is no legitimate reason for the truck not being covered, the Revenue Department takes appropriate action.

COLORADO DEPARTMENT OF REVENUE

PORT OF ENTRY CLEARANCE

ORIGINAL

TO DEPARTMENT OF REVENUE
TON MILE SECTION
140 WEST 6th AVE., DENVER, COLO.

G 36821

GTM 18
REV 8-63

ORIGINAL TO COLORADO DEPARTMENT OF REVENUE FOR AUDIT

PO - 16371

G.T.M. #

SPECIAL FUEL # 00032 TRACTOR UNIT NO. 5730 2ND TR LIC.

STATE NM LIC. PK889 STATE Col. LIC ST 23703

TRAILER UNIT NO. 9661 TRAILER WEIGHT 13000 TRAILER UNIT NO. TRAILER WEIGHT

TARE WT. 27000 CARGO WT. 34000

ORIGIN Gallup DEST. Denver

TARE MILES 398 CARGO MILES 398

COMM. FRT MANIFEST 467874

ROUTE 550 - 160 - 87

OWNER

ADDRESS

LEASE	LETTER	EXPIRATION DATE

OWNER

ADDRESS

DRIVER'S SIG.

REMARKS

1984 JUN 24 PM 6 43

OFFICER James NO # 7

PORT

LOCATION

DATE

TIME

1008-D

MARKINGS ✓

CAB CARDS ✓

MOORE BUSINESS FORMS, INC. M

COLO. DEPT. OF REV. PORT OF ENTRY 8A CLEARANCE

313 Rev. 10/59

THE STATE OF COLORADO
DEPARTMENT OF REVENUE
STATE CAPITOL ANNEX
DENVER

In reply refer to:
140 W. 6th Avenue
GTM No._____

This is to certify that the above-named company and/or individual has posted a cash deposit or surety bond to guarantee payment of Ton Mile Tax as required by law. This deposit or surety bond may not be applied against monthly tax.

Account number GTM_____ has been assigned.

It is required that a copy of this letter be carried in the cab of each unit in order to clear the Ports of Entry or State Patrol. Failure to carry this identification will result in tax being collected by the Ports of Entry or State Patrol on a trip basis and no credit will be allowed on monthly returns.

It is also required that PUC number, the empty weight of the truck(s) and your GTM account number be painted on both sides of the truck(s) in contrasting colors in letters not less than 2½ inches high.

The present deposit or bond may be subject to increase at a later date depending on tax liability.

Very truly yours,

DEPARTMENT OF REVENUE

By R. E. Barton
R. E. Barton, Supervisor
Ton Mile Tax Section

Note:
If additional copies of this bond letter are needed, this letter may be used as authority to have as many photostatic copies made as may be needed.

In addition to the trucks that are referred to in the previous paragraph, all of which are licensed at county motor vehicle registration offices, a certain number of trucks are licensed through the "pro-rate" section (see Appendix I). This section is unable to give a specific figure of the number of trucks so licensed, but estimates the number to be approximately 10,000.

By combining the estimates of the Ton-Mile Tax Section and the Pro-Rate Section it would appear that the 13,000 GTM accounts cover 70,000 to 73,000 trucks.

Theoretically every non-exempt domestic truck is covered by a GTM Account. Trucks that should be covered by a GTM Account but are not covered are evading the tax. The Ton-Mile Tax Section reported a recent incident where an operator of four trucks in northern Colorado was discovered to have been evading the tax for a period of seven years. A GTM Account number has now been established for this operator, and the Revenue Department is attempting to collect back taxes with appropriate penalties.

E. Negotiated Accounts

To simplify the accounting for small operators, Section 13-3-23 (4)(f) provides that under prescribed circumstances negotiated weights agreed upon with the Department of Revenue may be used in lieu of actual figures for each truck and cargo. Mileage is then applied to the negotiated weight. In the case of approximately 7800 of the 13,000 accounts, payments are made upon the basis of negotiated weights. This 60% of the accounts using negotiated weights yields 40% of the total Ton-Mile Tax Revenue.

At the time of the Ton-Mile tax study by the Legislative Council in 1959, it was reported that 1800 accounts, or 20% were negotiated, and the committee recommended that an effort be made to increase this number at that time. It is quite apparent that this recommendation was followed.

Difficulties have arisen in the administration of negotiated accounts, however, and the number of truckers using negotiated accounts is beginning to drop. The problems arise in that after a negotiated weight is agreed upon a trucker will tend to carry a heavier cargo than the one covered by negotiation. This is revealed when the truck clears the port of entry and is weighed and is charged for the excess weight.

The large trucking concerns do not use negotiated accounts. They prefer to have their own accountants report separately as to each trip.

F. Auditing of Accounts

The Revenue Department attempts to audit each GTM account at least once every three years. In most instances this is done by checking the clearance certificates that have come in from ports of entry against the returns which have been filed by the operators with the Revenue Department. In some of the cases the auditors go out to the offices of the truckers and audit the underlying records. Field audits consume roughly 20% of the time of the auditing staff.

G. Enforcement

See Appendix VI for a discussion of enforcement powers and procedures of the Gross Ton-Mile Tax Section.

APPENDIX V

THE PORT OF ENTRY SYSTEM AND THE STATE PATROL

A. The Port of Entry System, List of Ports, History, and Map

The Port of Entry System exists by virtue of sections 13-19-1 through 10, Colorado Revised Statutes 1963. Its function is "To facilitate enforcement of the laws of the State of Colorado concerning motor carriers and the owners and operators of motor vehicles." The port of entry system has existed in its present form since 1955 when it was placed under the supervision of the Revenue Department. The port of entry system was originally created under the Public Utilities Commission. From 1935 to 1955 the ports were maintained at permanent locations and operated by the State Patrol. Since 1955 the Revenue Department has operated the Port of Entry System.

The main functions of ports of entry are (1) issuance of clearance certificates so that trucks can proceed after they show satisfactory evidence that the ton-mile tax has been or will be paid, and (2) checking weights and compliance with a great variety of regulations. The broad scope of the duties of a port of entry officer is illustrated by the job description on the next page which has been prepared by the Civil Service Commission.

The port of entry division of the Revenue Department is composed of 109 employees with an annual budget of $693,103, which is approximately 66.8% of the overall ton-mile tax collection cost as shown in Appendix II-B. 106 employees are stationed at the various ports of entry; only the chief of the port of entry division and two other employees are located in the Denver office.

On the page following the job description is a table that lists all permanent port locations that have existed since 1955, the date each port was opened and the date each port was closed if it were closed. Next follows a map showing the location of these ports of entry.

The northbound lane of the port at Monument and the Poncha Springs port are the only ports of entry that have ever been closed. The closings were necessitated by a statute requiring that state employees work no more than 40 hours per week (Session Laws of 1963, Ch. 34) and the Revenue Department had to cut its program or ask for a supplemental appropriation. The Poncha Springs port had been opened only in 1962 in order to intercept Monarch Pass traffic and it was closed in 1963 because its cost of operation relative to the number of trucks processed did not seem to justify its continuance. The northbound port at Monument was opened in 1957 and closed in 1963, because such a high percentage of the trucks that stopped at this port were also processed at the southbound port on the same round trip. The cost of keeping both ports open on both lanes to process trucks not otherwise processed at some other port of entry was not justified, (see Appendix II)

COLORADO STATE CIVIL SERVICE COMMISSION

PORT OF ENTRY OFFICER
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Definition

Under general supervision, processes trucks and other commercial vehicles through a Port of Entry; and does related work as required.

Typical Tasks

Reviews permits, cab cards, and visually inspects each commercial carrier required to clear through Port of Entry to determine if vehicle is correctly classified; inspects load, reviews manifest, and weighs commercial vehicles, checking net weight with gross weight to determine proper amount of gross ton-mile tax due; computes tax according to established formula; measures with electric gauge the motor fuel carried by interstate trucks for road consumption to determine if amount is within the 20 gallon reciprocity agreement with the state in which the vehicle is registered; measures, in like manner, motor fuel being carried into and out of the State of Colorado by commercial vehicles; inspects manifest to aid in determining proper amount of motor fuel tax due; checks the registration and bondage of certain commercial vehicles to determine if they are up-to-date and in accordance with law, and if there is reciprocity in licensing with the state in which the vehicles are registered; issues and collects money for fuel permits at the port; issues time permits for interstate truckers to allow them to cross the State of Colorado; cooperates with the State Patrol, the Department of Agriculture and other agencies to facilitate the arrest or detention of vehicles carrying stolen goods through the port; performs traffic counts and other surveys as directed by supervisors.

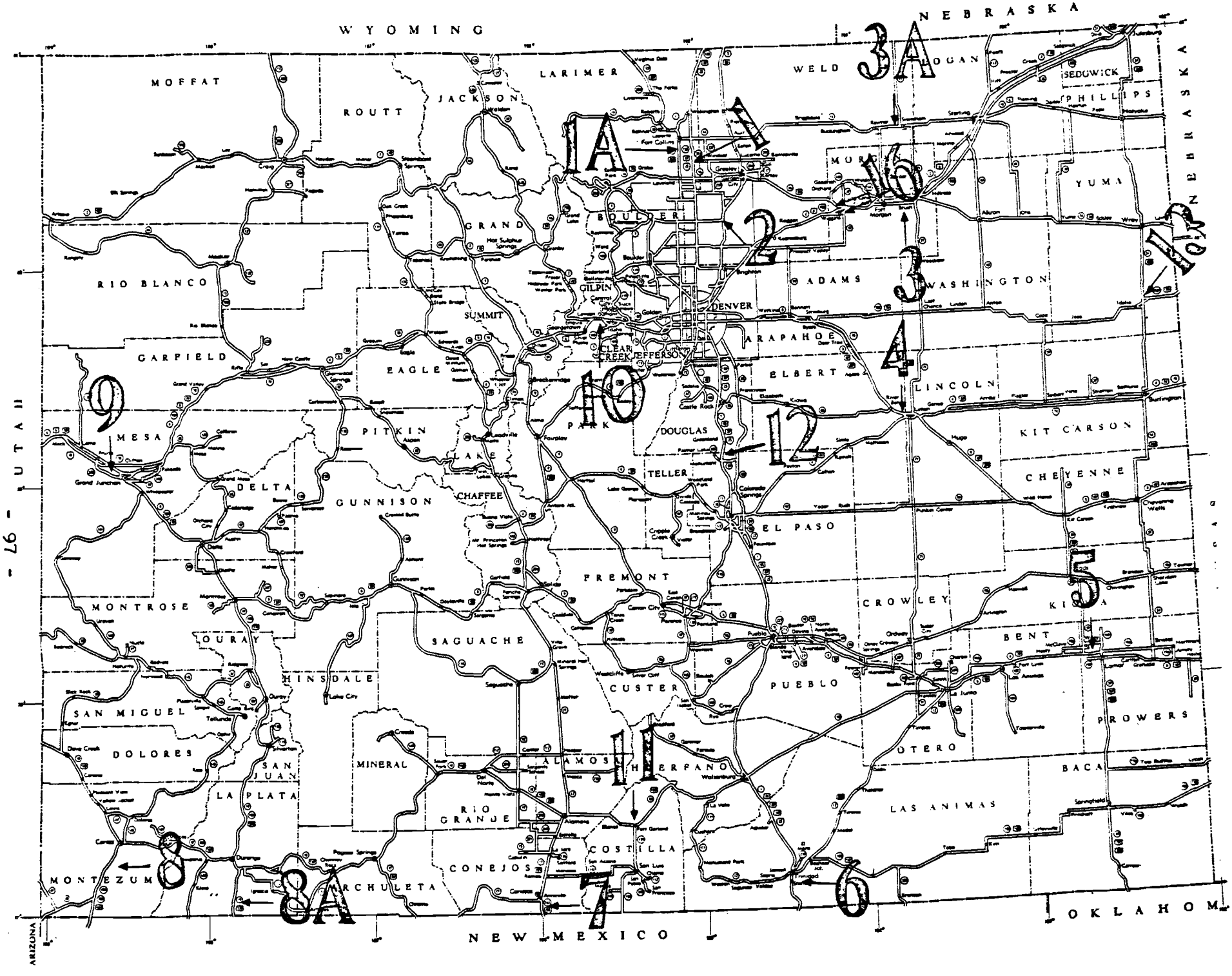
Employment Standards

Any combination of training and experience equivalent to completion of the twelfth grade and three years of progressively responsible experience involving the demonstrated application of good public relations techniques.

COLORADO PORTS OF ENTRY
BY OPENING DATE

Port Number	Location	Date Opened	Date Closed
1	Fort Collins	1955	
2	La Salle*	1955	
3	Brush	1955	
4	Limon	1955	
5	Lamar	1955	
6	Trinidad	1955	
7	Antonito	1955	
8	Cortez**	1955	
9	Grand Junction***	1955	
10	Idaho Springs	1955	
11	Fort Garland	1956	
12	Monument	1957	North-bound 1963
13	Idalia	1958	
8-A	Bondad	1959	
3-A	Stoneham	1961	
15	Poncha Springs	1962	1963
16	Fort Morgan	1962	
1-A	Fort Collins	1962	

*Moved to Platteville - New Bldg.
**Moved Several Miles 666
***Moved West - New Bldg.


WYOMING
NEBRASKA
UTAH
ARIZONA
NEW MEXICO
OKLAHOMA
MOFFAT
ROUTT
JACKSON
LARIMER
WELD
LOGAN
SEDGWICK
PHILLIPS
YUMA
RIO BLANCO
GRAND
BOULDER
GILPIN
SUMMIT
CLEAR CREEK
JEFFERSON
DENVER
ADAMS
WASHINGTON
ARAPAHOE
ELBERT
LINCOLN
GARFIELD
EAGLE
PARK
DOUGLAS
KIT CARSON
MESA
PITKIN
LAKE
TELLER
CHEYENNE
DELTA
GUNNISON
CHAFFEE
EL PASO
FREMONT
CROWLEY
MONTROSE
OURAY
SAGUACHE
BENT
HINSDALE
CUSTER
PUEBLO
SAN MIGUEL
PROWERS
DOLORES
SAN JUAN
MINERAL
ALAMOSA
HUERFANO
OTERO
BACA
LA PLATA
RIO GRANDE
LAS ANIMAS
COSTILLA
CONEJOS
MONTEZUMA
ARCHULETA
1A
1
2
3A
3
4
5
6
7
8
8A
9
10
11
12
16
17
97

Mr. Hugh Weed, who was Director of the Revenue Department at the time this study was commenced, expressed opposition to a suggestion that more permanent ports are needed. He indicated that the location of the permanent ports is under more or less continuous review as information comes in from mobile ports and as economic activities vary from year to year. Final determinations as to locations and opening and closing of ports are made by the Director. By and large the initial selection of port sites was good. Mr. Weed believed an increased use of mobile ports would benefit the administration of the ton-mile tax and favored an increased appropriation for this purpose.

The inventories at the various ports consist of simple buildings (some have not even had toilet facilities), personal property valued at between $500 and $2500, and scales. The 1960 Legislative Council report recommended that each permanent port be furnished with electronic scales, and most ports have now been so equipped. Scales are currently being installed at Lamar and at the second Fort Collins port. The port system does have some mobile scales, but use of these is cumbersome and time-consuming.

B. Port of Entry Statistics

As previously indicated in Appendix II, only 7.5% of the total receipts is collected at ports of entry. Except for the very small amount collected by the State Patrol, the balance is paid directly to the Revenue Department in Denver. The money collected at ports is collected from the trucks that cannot show a "G.T.M. letter" as evidence that the tax will be paid directly to the Revenue Department. (G.T.M. letters are discussed and illustrated in Appendix IV). Approximately one-third of the trucks processed do not have such letters. These facts indicate that one-third of the trucks produce only 7.5% of the revenue.

In 1964-65 $653,403 was collected at ports of entry. The cost of maintaining the ports was $605,839 for salaries and other port expenses, plus $52,600 for the cost of the port headquarters in Denver, or a total of $668,469. The Revenue Department urges taxpayers to make payments directly to Denver, and it is of no particular significance that the total of all receipts at ports of entry is no greater than the port system's budget.

Statistics for specific ports of entry are set forth on adjoining pages. Receipts collected at mobile ports are lumped together with receipts at the permanent ports out of which the mobile ports operate. No breakdown is available. Undeclared weight means the difference between the declared weight for a truck prior to weighing and the actual weight shown by actual weighing.

PORT OF ENTRY STATISTICS - FISCAL YEAR 1964-1965

Number of Port and Location		Trucks Processed	Collections	Expenditures	Collections Per Truck Processed	Expenditures Per Truck Processed
1	Fort Collins	219,304	$ 56,262	$ 43,794	$ .26	$ .20
2	Platteville	192,566	26,084	51,404	.14	.27
3	Brush	97,272	24,760	28,161	.25	.29
3A	Stoneham	38,232	14,342	12,609	.38	.33
4	Limon	159,583	60,068	43,334	.38	.27
5	Lamar	138,494	134,169	46,593	.97	.34
6	Trinidad	70,241	48,009	36,905	.68	.53
7	Antonito	33,589	16,063	11,728	.48	.35
8	Cortez	97,731	48,870	39,876	.50	.41
8A	Bondad	40,569	9,010	12,650	.22	.31
9	Grand Junction	124,430	26,171	46,678	.21	.38
10	Idaho Springs	120,235	15,688	38,170	.13	.32
11	Fort Garland	68,190	33,204	39,157	.49	.57
12	Monument	218,199	26,055	44,337	.12	.20
13	Idalia	25,655	29,758	18,236	1.16	.71
1A	Fort Collins	74,709	6,241	13,294	.08	.18
16	Fort Morgan	286,399	78,641	78,913	.27	.28
	Average-Totals	2,005,408	$ 653,403	$ 605,839	.33	.33

PORT OF ENTRY STATISTICS - FISCAL YEAR 1964-1965

24-Hour Basis	Number of Men	Trucks Weighed	Trucks Weighed as % of Trucks Processed	Undeclared Weight	Undeclared Weight per Truck Weighed	Vehicles Cleared Per Man Per Working Day	Type of Scales
Yes	9	1,703	.77%	578,200	340 lbs.	106	Mechanical
Yes	9	59,157	30.72	31,704,757	536	93	Electronic, 4 Portable
No	4	8,550	8.79	2,319,377	271	106	Electronic
No	2	6,191	16.19	1,533,451	248	83	Mechanical
Yes	7	24,356	15.26	17,495,120	718	99	Electronic
Yes	8	---	None	---	None	75	None*
Yes	6	169	.24	209,270	1,238	51	5 Portable
No	2	58	.02	---	None	73	4 Portable
No	5	27,021	27.65	11,267,728	417	85	Electronic
No	2	3	None	6,000	2,000	88	None*
Yes	7	25,425	20.43	20,681,281	813	77	Electronic, 4 Portable
Yes	6	3,486	2.90	3,096,622	888	87	Electronic
Yes	6	25,179	36.92	8,336,750	331	49	Electronic
Yes	9	21,508	9.86	23,040,022	1,071	105	Electronic
No	3	---	None	---	None	37	4 Portable
No	2	---	None	---	None	162	None
Yes	13	95,432	33.32	39,209,178	411	96	2 Electronic
	100	298,238	14.87%	159,477,756	535	87	

*Electronic scales being installed in 1965-66

Immediately below are shown certain totals for the past three years:

	1962-63	1963-64	1964-65
Trucks Processed	2,279,018	2,129,517	2,005,408
Money Collected	$ 660,679	$ 648,775	$ 653,403
Trucks Weighed	216,130	303,961	298,238
Undeclared Weight	174,476,000 lbs.	166,473,000 lbs.	159,478,000 lbs.
Per Cent of Trucks Weighed	9.5%	14.3%	14.9%

C. Mobile Ports

Mobile ports of entry (sometimes called roving ports, and sometimes just roadblocks) are operated as often as the personnel situation will permit. As previously mentioned, it is not possible to give any dollar figure for the amount of money collected at the mobile ports, as the collections are lumped together with collections at the permanent ports out of which the mobile ports operate. The following table indicates the extent of the mobile port operations:

Home Port	Month	Number of Times Mobile Ports Operated	Number of Locations of Mobile Ports	Total Contacts
Antonito	August	13	5	533
	September	19	8	524
Cortez	August	0	0	0
	September	1	1	10
Fort Morgan	August	1	1	53
	September	4	3	114
Grand Junction	August	7	1	1354
	September	6	1	1000
Brush	August	21	5	1985
	September	25	10	2410
Lamar	August	18	1	476
	September	13	1	292
Platteville	August	33	13	2669
	September	19	10	1567
Total	August	93	26	7070
	September	87	34	5917

The locations of mobile port operations are adjusted as the flow of traffic varies with economic and seasonal activity. In addition, semi-permanent mobile port operations are sometimes established to check traffic at points beyond the reach of regular permanent ports. An example of this is the mobile port that has been operated this year on Kenosha Pass. In this case a separate record of collections has been kept:

Month	Truck Contacts	Total Collections	Collection Per Contact
August	1312	$ 5861.57	$ 4.47
September	674	3054.54	4.53

The collection per contact at the Kenosha Pass mobile port operation--$4.50--is more than 13 times as great as the average collection per contact at permanent ports--$.33.

D. The State Patrol

Among their other duties, officers of the State Patrol are required to check trucks for suspected violations of the ton-mile tax law, issue clearance certificates, and collect ton-mile tax payments. Cooperation between the State Patrol and the Revenue Department seems to be very good.

During 1964-65 the State Patrol collected $51,424.87 in ton-mile taxes. This sum was collected from trucks not covered by G.T.M. letters. Additional figures will have to be obtained from the Patrol before its collections per contact can properly be compared with the $4.50 average mobile port collection.

Whether or not the operation of the port of entry system should be returned to the State Patrol is a question frequently asked. There are problems with every answer, since the question involves whether Revenue Department employees should also be law enforcement officers or whether the State Patrol should operate as a tax collector.

APPENDIX VI

ENFORCEMENT POWERS AND PROCEDURES

Section 13-3-24 CRS 1963 gives the Revenue Department enforcement powers with respect to the ton-mile tax. However, civil and criminal penalties are often considered insufficient.

The Revenue Department always tries to collect penalty assessments when they are due. Section 13-3-25(1)(b) provides a penalty of one per cent a month on delinquent taxes. If no return has been filed, Section 13-3-25(2) permits the department to estimate the tax and add a 10% penalty. Section 13-3-25(3) authorizes a 50% penalty on fraudulent returns.

No penalty exists, however, if an operator fails to file a list of his trucks or fails to keep the list up to date, nor is there anything that requires truckers to establish G.T.M. accounts even though they may be subject to the tax.

The ports of entry are dependent upon the State Patrol for enforcement of the ton-mile tax statute. Port officers have no power to make arrests or issue citations.

APPENDIX VII

OBJECTIONS AND ALTERNATIVES TO TON-MILE TAX

A. Objections

Some of the most frequently heard objections to Colorado's truck taxes are summarized and commented upon below:

1. Only a small number of trucks are paying the tax. This is supported by the estimate in Appendix II that fewer than one-third of Colorado's trucks are subject to any ton-mile tax.

2. The tax is especially unfair to operators of large trucks. This seems to be true--40% of the tax is paid by 1% of the trucks, and the tax on large trucks is highest in the nation; yet only about half of the taxes paid by these trucks are spent on the major highways where most of these trucks travel.

3. The high tax on big truckers drives them away from Colorado. While no attempt was made to prove or disprove this statement, it is obvious that the high tax on big truckers must at least have this tendency.

4. The tax bears no relation to construction costs or wear and tear on highways. This is correct to the extent that a 10,000 pound truck with a 16,000 pound load must pay almost half again as much tax as a 20,000 pound truck with a 6,000 pound load; yet the total weights are the same. The extent to which the mileage-weight tax theory is sound in general was not considered.

5. The tax is costly to administer. This objection is certainly well taken. Other types of truck taxes can produce an equal amount of revenue at less cost.

6. The nature of the tax is such that there are many opportunities for evasion. This is true, although the revenue loss through evasion is considered to be relatively small.

7. The tax requires an inordinate amount of record keeping. This is certainly true with respect to small operators whose trucks are subject to the tax. It is not true with respect to the major lines that keep detailed operational records regardless of the tax.

8. Reciprocal agreements between states are difficult to work out with a state that imposes a ton-mile tax, since the taxes due are based upon mileages that cannot be known in advance. This is correct.

9. The exemptions of heavy trucks licensed with farm, city or metro plates are not justified, and the use of the city classification is no longer justified:

Total Truck Registrations
By Year By Use
1955 - 1964

Year	State (1)	City (2)	Metropolitan (3)	Farm (4)
1955	97,151	4,338	49,228	4,302
1956	100,731	1,674	49,332	5,821
1957	108,036	998	50,920	5,800
1958	111,833	722	53,080	5,552
1959	119,079	584	55,447	5,539
1960	121,852	495	57,006	5,548
1961	134,948	377	58,761	5,393
1962	144,011	322	60,133	5,447
1963	155,678	293	61,585	5,397
1964	167,146	239	62,188	5,281

B. Alternative Forms of Taxation

Three basic types of taxes are generally imposed upon trucks, with considerable state to state variation in the special truck tax category:

Registration fees

Fuel Taxes

Special motor carrier taxes based on:
- Mileage
- Ton-mileage
- Axle-mileage
- Gross receipts
- Use fees
- Empty weight
- Average gross weight

It is interesting to note that there are only six states that are utilizing mileage taxes significantly, and that at least twelve states have repealed ton-mile and mileage taxes that once were used:

States Currently Using Ton-Mile Taxes	States That Have Repealed Ton-Mile Taxes	
Colorado	Alabama	New Mexico
Idaho	Georgia	Oklahoma
New York	Iowa	Tennessee
Ohio	Kansas	Utah
Oregon	Kentucky	West Virginia
Wyoming	Minnesota	Wisconsin

Fourteen other states do have mileage or ton-mile taxes, but these are considered insignificant since they collect an average of only $500,000 per year per state.

APPENDIX VIII

OTHER PERTINENT STUDIES

Several other "studies" are pertinent to the present study of Colorado's ton-mile tax:

1. 1960-Interim Committee of the Legislative Council studied the ton-mile tax.
2. 1962-Administration-Industry ton-mile tax study committee.
3. 1963-Highway Legislative Review Committee.
4. Federal Government studies.
5. Industry Studies

1960 Legislative Council Study

This study concentrated on the administration of the ton-mile tax and made a number of findings and recommendations. Of the six recommendations, several have been substantially adopted by the legislature or the revenue department, but several recommendations remain unacted upon. These should be reviewed.

1962 Administration-Industry Ton-Mile Tax Study Committee

In the summer of 1962, prompted by a suggestion from the Colorado Motor Carriers Association, Governor McNichols appointed a committee to review the ton-mile tax. The objectives of this committee were to suggest ways of streamlining the administration of the ton-mile tax without creating an inequitable burden for any class of a commercial highway user and with no loss of revenue.

Among those who participated in the ensuing conferences were Robert Theobald from the Department of Revenue, Robert Livingston of the State Highway Department, Charles T. Haines of the Ton-Mile Tax Division, and Mr. Fred Sievers of the Colorado Motor Carriers Association. Mr. Fred Meyers of the Western Highway Institute in San Francisco assisted in the preparation of statistics. Mr. Hugh Weed replaced Mr. Theobald after the administration change in January 1963.

The Committee's recommendations were outlined in a letter to Governor Love dated February 5, 1963 from Mr. Hugh Weed. In this letter it was reported that the Committee felt that sufficient statistical evidence existed to support the following recommendations for changes in the existing commercial vehicle laws:

> (1) Apply a graduated flat fee equivalent of the ton-mile tax plus registration fee to all commercial vehicles below 30,000 pounds gross vehicle weight except those classified as special mobile equipment for farm vehicles.
>
> (2) Replace present ton-mile tax which has one rate for cargo and another weight for tare weight of vehicles, by a graduated single mileage tax based on the gross vehicle weight of all vehicles over

30,000 pounds with authority for the Department of Revenue to assign a gross vehicle weight as declared by the operator. These vehicles will pay the maximum flat registration fee plus a mileage tax.

(3) Limit farm plates to vehicles under 30,000 pounds.

(4) Amend Section 4 (4) of the present statute to require the owner or operator to post cash or bond in the amount of three times the Department of Revenue estimate of monthly tax, but in no event less than $100.00

Late in the 1963 Legislative Session, H.B. 462 was introduced. This was a 25-page bill which would have rewritten the laws pertaining to registration fees and gross ton-mile tax. The proposals of the study committee or modifications of these proposals were included in H.B. 462. The bill died in the House Rules Committee, possibly because of an awareness of Section 120-13-45 C.R.S. 1963, which required that the Highway Legislative Review Committee be constituted.

The Highway Legislative Review Committee

Section 120-13-45, C.R.S. (1963) was enacted in 1953. This Section reads as follows:

"The legislature shall review all highway legislation annually. Not less than five years from the effective date of this article, and every five years thereafter, the governor shall appoint a committee, not to exceed fifteen in number, which shall consist of eight members of the general assembly, together with seven nonlegislative members from such highway advisory groups as the governor shall select, but which members shall be determined by him to adequately represent the entire state. The committee shall review the legislation enacted in this article, and shall make such recommendations to the governor and to the general assembly for such additional legislation as they shall deem necessary to correct any inequities arising out of the passage of this article."

The present committee was appointed in 1963 and held a series of meetings in 1963 and 1964. Representative William Gossard of Craig is Chairman, and Mr. Millard Kham of the State Highway Department is its Secretary. No report has been made to date since the Committee's activities were suspended in 1964 pending completion of the U.S. Bureau of Public Roads Study "Estimating Highway Needs 1965-1985". This study was completed in July of 1965 and the Highway Legislative Review Committee commenced meeting again in October of 1965.

Federal Studies

In addition to the U.S. Bureau of Public Roads study, "Estimating Highway Needs 1965-1985," the Bureau of Public Roads issued in 1964 a study entitled "Road-User and Property Taxes on Selected Motor Vehicles". This is a 56 page report containing detailed statistics and charts comparing road-user taxes in the various states.

Industry Studies

The Western Highway Institute, 130 Montgomery Street, San Francisco, California, has participated in numerous studies. The Colorado Motor Carriers' Association has prepared a pamphlet on Colorado's ton-mile tax.

APPENDIX IX

RECOMMENDATIONS OF SUBCOMMITTEE

A. Unanswered Questions

The primary function of this report is to pull together a picture of Colorado's Ton-Mile Tax as it now exists. It is regretted that this report was not available at the commencement of the subcommittee's work so that the subcommittee could have immediately proceeded to seek answers to the truly paramount questions that exist about this tax:

1. In what way should Colorado's truck taxes be revised so that the burden of the tax would fall equitably across the entirety of the trucking industry with a minimum of red tape and with no loss of revenue?

2. Why has the number of trucks processed at ports of entry dropped more than 10% in two years and why has the rate of increase in total receipts been slowing?

3. To what extent do operators route their large trucks around Colorado as a result of the tax on large truck operations being highest in the nation?

4. To what extent is reciprocity denied between Colorado and other states as a direct result of Colorado's Ton-Mile Tax and to what extent do other states retaliate and penalize Colorado based trucks as a result of lack of reciprocity?

5. In addition to the foregoing, a number of minor questions need answers:

   a. What is the cost of mobile port operations such as the mobile port at Kenosha Pass?

   b. Should the number of ports operating on a 24-hour basis be reduced so as to free more men for mobile port operations?

   c. What specific changes in the law are desired by the Revenue Department in order to facilitate administration of the present tax?

   d. In the light of the statistics developed in Appendix V, what are the policies of the Revenue Department concerning the distribution of manpower among the various ports, the weighing of trucks, and the use of mobile ports?

   e. What percent of the G.T.M. accounts are truly audited in depth rather than being merely checked against clearance certificates and for mathematical accuracy?

   f. How do the efforts, activities and results of the State Patrol's enforcement of the ton-mile tax compare

with those of mobile port operations by the Revenue Department?

The Legislative Council should obtain solid answers to these questions during 1966.

B. Suggestions to the Revenue Department

The subcommittee respectfully suggests that the Department of Revenue consider the practicability and desirability of the following recommendations:

1. Statistics should be continually and readily available showing:

   a. Collections from mobile port operations. At the present time collections are lumped together with collections from the permanent ports out of which the mobile ports operate.

   b. Number of vehicles subject to the ton-mile tax. Neither the ton-mile tax section nor the pro-rate section is able to supply these figures with breakdowns between Colorado and foreign trucks.

   c. Money collected at ports specifically attributable to trucks discovered to be carrying undeclared weight and the number of such vehicles.

   d. The breakdown of number of trucks that make tax payments at ports of entry into those that pay the flat $5.00 fee for occasional trips and those that pay the true ton-mile tax.

   e. Ratios such as those shown in the last three columns of the table of port of entry statistics included in Appendix V. It is thought that these figures might be helpful as management tools.

2. The discrepancy between the Highway Department and Revenue Department figures for total 1964-65 Highway Users Fund receipts should be explained; the former's figure was $63.2 million whereas the latter's was $68.1 million.

3. As possible improvements in administrative procedures:

   a. Restrict the coverage of G.T.M. letters to vehicles specifically listed in these letters, such vehicles being the same vehicles that operators have listed in their equipment lists. Adoption of this procedure would force truckers to inform the Revenue Department as to what trucks

they have operating in the state. This information, in turn, would provide the desired information on the number of trucks subject to the ton-mile tax.

b. Tax reporting forms should be reviewed with the trucking industry to determine whether or not simpler forms could be developed.

c. Use of a separate plastic card for each separate truck (similar to an ordinary plastic credit card) should be explored, such card to carry pertinent ton-mile tax, special fuels tax and P.U.C. information.

C. Proposed Changes in the Law

Regardless of the possibility of basic changes in the form of truck taxation, some changes are presently needed in the existing law and the need for these changes is very clear:

1. The exemption of the very large farm and metro trucks is not justified and should be ended.

2. The "city" classification should be abolished.

3. The terms "farmer" and "rancher" should be defined.

4. Penalties should be stiffened, particularly as to overweight loads and failures to comply with statutory requirements.

5. The requirement that every permanent port must operate on a 24-hour basis should be deleted.

6. Trucks passing within two miles of a port should be required to clear that port.