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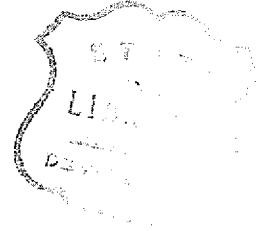
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# DEPARTMENT OF LAW



FEBRUARY 1969

DEPARTMENT OF LAW REPORT  
Colorado Committee on Government Efficiency and Economy  
617 State Services Building (892-3403)  
Denver, Colorado 80203  
February 27, 1969



Extensive reorganization of the Attorney General's office and its Inheritance Tax Division was recommended Thursday by the Colorado Committee on Government Efficiency and Economy.

The 19 recommendations, if adopted, would result in a saving of an estimated \$269,000 a year. This is the eleventh of 18 reports on all Colorado executive branch departments to be made by the Committee which was created by the General Assembly. Its reports are sent to the Governor and the Assembly.

In its appraisal of the Attorney General's office, the Committee said: "Complete reorganization of the State's system of legal services, adoption of modern law office techniques and improved accounting controls are needed to increase the efficiency and lower the cost of conducting the State's legal affairs." The Committee report went on to make recommendations on how to accomplish the changes it said are needed.

The Committee's recommendations are based on studies made during the past six months by nearly 100 business and industrial leaders.

The report pointed out that under the present system of legal services for the State, there are three classifications of lawyers: Those under Civil Service; those in the Department of Law, and those in other departments and not under Civil Service.

There are 70 to 80 lawyers working for the State "but no one knows precisely the exact number or where they are located," the report stated.

M O R E

The recommendation is that the system be reorganized so that all attorneys for the State are employed by the Department of Law and assigned to the various agencies which need legal services.

"Thorough reorganization of the entire system of legal services should create many opportunities for efficiency and economy through flexibility and coordinated direction," the report said.

In recommending adoption of modern law office procedures, the Committee said that the Department should use modern typewriters, a modern filing system and a microfilming system and install a docket control and attorney reporting system so that the Attorney General would know the status of all cases at all times.

A saving of \$30,000 a year could be made by analyzing the work load and efficiency of each lawyer. The equivalent of two attorney jobs could be eliminated, the report said.

Recommendations which would increase revenue \$900,000 one time and bring savings of \$192,000 a year were made concerning the Inheritance and Gift Tax Division.

Requiring that gift taxes be paid at the time the return is filed, coupled with improved collection effort, would result in collection of approximately \$900,000 the first year the system is installed, the report said.

Although approximately \$600,000 is collected in gift taxes each year, as it is now, the collections are received as much as a year or two after the filing.

Reorganization of the Division as proposed would result in an estimated saving of \$50,000 a year, the Committee reported.

An additional \$54,000 a year would be saved by establishing a control and a system of accounts over receipts from inheritance and gift taxes, fees, interest penalties and waivers, the report added.

The Committee also recommended that a policy should be developed to insure that sufficient assets are retained in an estate to meet the taxes.

The practice of granting a five per cent discount for payment of inheritance taxes within six months after death should be discontinued according to the report.

The date on which the taxes are due, now at the time of death, should be changed to a more realistic date, the report continued.

Also fees charged for inheritance tax administration, unchanged since 1959, should be increased to pay for actual costs, which would increase the State's revenue \$37,500, a recommendation said.

A change in the law to coordinate the State inheritance tax procedure with that of the federal government, similar to that done in collecting income taxes, would result in a saving of \$50,000 a year, the Committee estimated.

COLORADO EFFICIENCY REPORTS BOX SCORE - Feb. 27, 1969						
Report	Recommend- ations	Savings		Cumulative Recommend- ations	Cumulative Savings	
		Annual	1-Time		Annual	1-Time
Treasury	14	\$1,183,000		14	\$1,183,000	
Nat'l. Resources	19	585,500	\$2,000,000	33	1,768,500	\$2,000,000
Health	11	263,000		44	2,031,500	2,000,000
Agriculture	18	533,700		62	2,565,200	2,000,000
State	14	82,700		76	2,647,900	2,000,000
Food Services	28	1,100,000		104	3,747,900	2,000,000
Institutions	27	336,500		131	4,084,400	2,000,000
Local Affairs	21	(140,000)	-Add'l. Cost	152	3,944,400	2,000,000
Highways	49	1,233,000	857,000	201	5,177,400	2,857,000
Regulatory Agenc.	18	545,000	(22,500)	219	5,722,400	2,834,500
Law	19	264,000	910,000	238	5,986,400	3,744,500
TOTAL TO DATE	238	\$5,986,400	\$3,744,500			

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THIS REPORT IS ONE OF A SERIES OF EIGHTEEN REPORTS COVERING ALL DEPARTMENTS COMPRISING THE EXECUTIVE BRANCH OF COLORADO STATE GOVERNMENT. A CONSOLIDATED REPORT WILL BE PREPARED WHEN ALL DEPARTMENTAL REPORTS HAVE BEEN COMPLETED.

THE WORK OF THE COMMITTEE WAS PERFORMED DURING OCTOBER, NOVEMBER AND DECEMBER 1968. THIS REPORT IS BASED UPON DATA ACCUMULATED AT THAT TIME.

IT IS EXPECTED THAT MANY OF THE RECOMMENDATIONS IN THE DEPARTMENTAL REPORTS WILL BE CONSOLIDATED IN THE FINAL REPORT TO EMPHASIZE ORGANIZATIONAL AND FUNCTIONAL IMPROVEMENTS NEEDED IN ALL DEPARTMENTS.

## SUMMARY OF RECOMMENDATIONS

<u>No.</u>		<u>Page</u>	<u>Action Required*</u>	<u>Annual Net Cost or Saving</u>
LW 1	REORGANIZE STATE'S SYSTEM OF LEGAL SERVICES	12	Legis.	Cost/Saving Indeterminate
LW 2	REVIEW COMPENSATION AND EMPLOYMENT STATUS OF STATE ATTORNEYS	13	Admin.	Cost/Saving Indeterminate
LW 3	USE MODERN LEGAL OFFICE PROCEDURES	14	Admin.	Saving \$12,000
LW 4	MODERNIZE TELEPHONE SERVICE	15	Admin.	Saving \$3,000
LW 5	INSTITUTE REPORTING SYSTEM	15	Legis.	Saving \$30,000
LW 6	HIRE YOUNG LAWYERS TO ASSIST EXPERIENCED ONES	16	Admin.	Cost/Saving Indeterminate
LW 7	REORGANIZE THE INHERITANCE TAX DIVISION	18	Admin.	Saving \$50,000
LW 8	ESTABLISH SYSTEM OF ACCOUNTS FOR RECEIPTS DUE	20	Exec.	Increased Revenue \$54,000
LW 9	REQUIRE GIFT TAX PAYMENT AT TIME OF FILING	21	Legis.	One-time Increased Revenue \$900,000
LW 10	ASSURE PROMPT COLLECTION OF TAXES AND FEES	21	Legis.	One-time Increased Revenue \$15,000
LW 11	ESTABLISH SYSTEM OF ACCOUNTS FOR ESCHEAT ESTATES	22	Admin.	Cost/Saving Indeterminate
LW 12	REQUIRE RETENTION OF SUFFICIENT ASSETS TO SATISFY TAX	23	Admin.	Cost/Saving Indeterminate
LW 13	REQUIRE INDEPENDENT ADVANCE REVIEW OF ALL WAIVERS	24	Legis.	Cost/Saving Indeterminate
LW 14	REVISE INHERITANCE TAX PROVISIONS	24	Legis.	Cost/Saving Indeterminate
LW 15	REVISE FEE SCHEDULES TO COVER COSTS	25	Legis.	Increased Revenue \$37,500
LW 16	COLLECT INTEREST ON PAST-DUE FEES	25	Legis.	Increased Revenue \$5,000

## SUMMARY OF RECOMMENDATIONS

<u>No.</u>		<u>Page</u>	<u>Action Required*</u>	<u>Annual Net Cost or Saving</u>
LW 17	COORDINATE INHERITANCE TAX WITH FEDERAL SYSTEM	25	Const.	Saving \$50,000
LW 18	COORDINATE GIFT TAX SYSTEM WITH FEDERAL SYSTEM	26	Legis.	Saving \$15,000
LW 19	REVISE ANALYST DUTIES	27	Admin.	Saving \$7,500 One-time Cost \$5,000
TOTAL NET ANNUAL SAVING/INCREASED REVENUE				\$264,000
TOTAL NET ONE-TIME INCREASED REVENUE				\$910,000

## \*DEFINITIONS OF ACTION REQUIRED

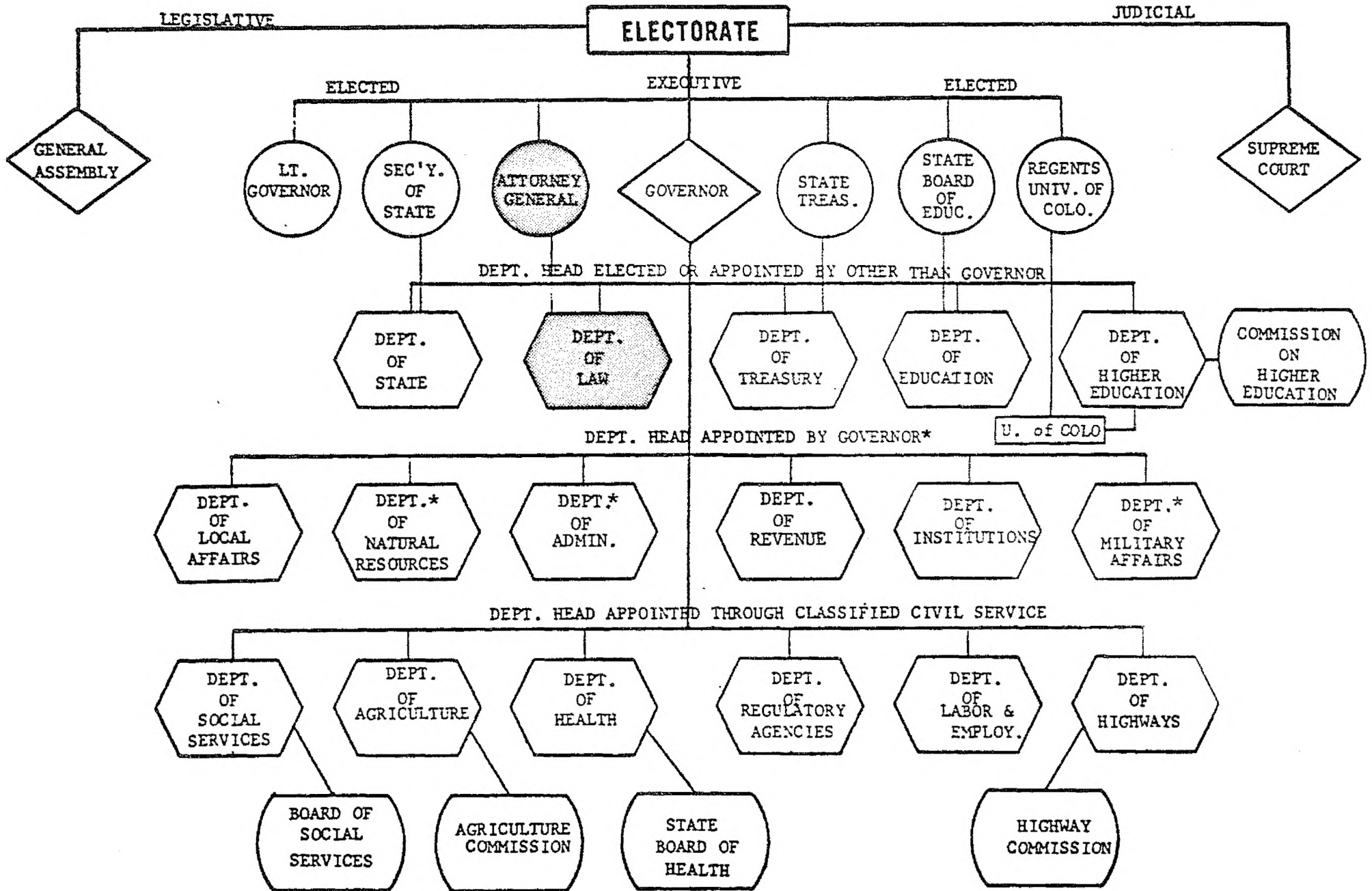
Administrative. The recommendation may be implemented by action of a division or section director, by directive or rule from a department executive director, or by action of a board or commission. In the absence of implementation at this level, it would be necessary to request executive action.

Executive. The recommendation should be implemented through a directive in the form of an Executive Order or written statement signed by the Governor, or through the Governor's attaching his signature to a departmental directive indicating his approval. Traditionally, most internal organization changes within a department or division have required some form of approval action from the Governor as Chief Executive of the State.

Legislative. The recommendation would require action by the General Assembly in the form of an Act or specific piece of legislation, including, in some cases, the definition sections in appropriation bills. In the absence of action by the General Assembly, it appears that such legislative changes may be enacted through following the initiative procedures as set forth in the State Constitution.

Constitutional. The recommendation would require an amendment to the Colorado State Constitution initiated through the General Assembly by resolution or through following the constitutional procedures established for initiative.

# ORGANIZATION OF STATE GOVERNMENT IN COLORADO



\*Pursuant to Supreme Court Decision December 1968, the Governor may appoint only the Executive Directors of the Department of Administration and the Department of Natural Resources and the Adjutant General. The Executive Directors of the Departments of Local Affairs, Revenue and Institutions are subject to Civil Service appointment.

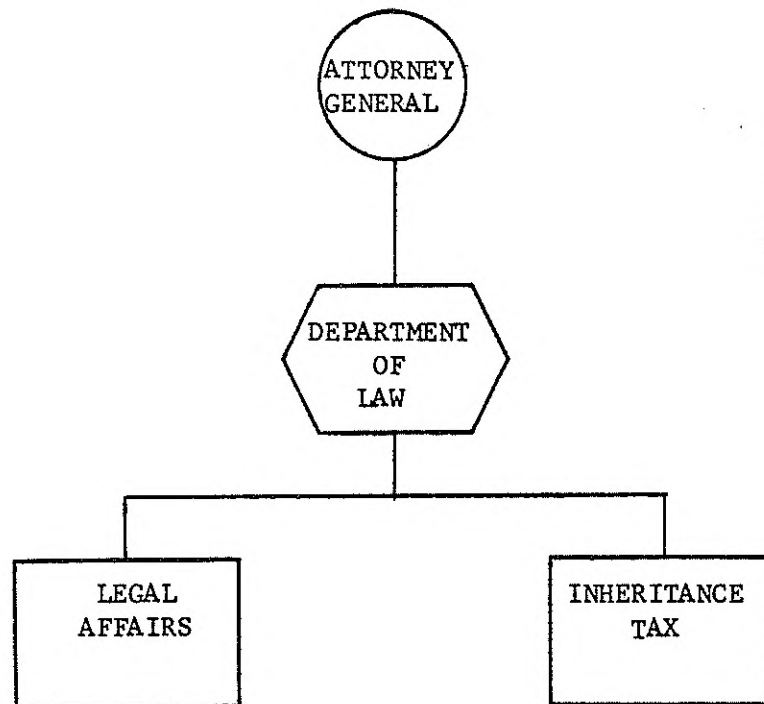


# DEPARTMENT OF LAW

## PRESENT ORGANIZATION

JANUARY 1969

1968-69 FTE\* Empl.  
Authorization - 58.0



### BUDGET DATA

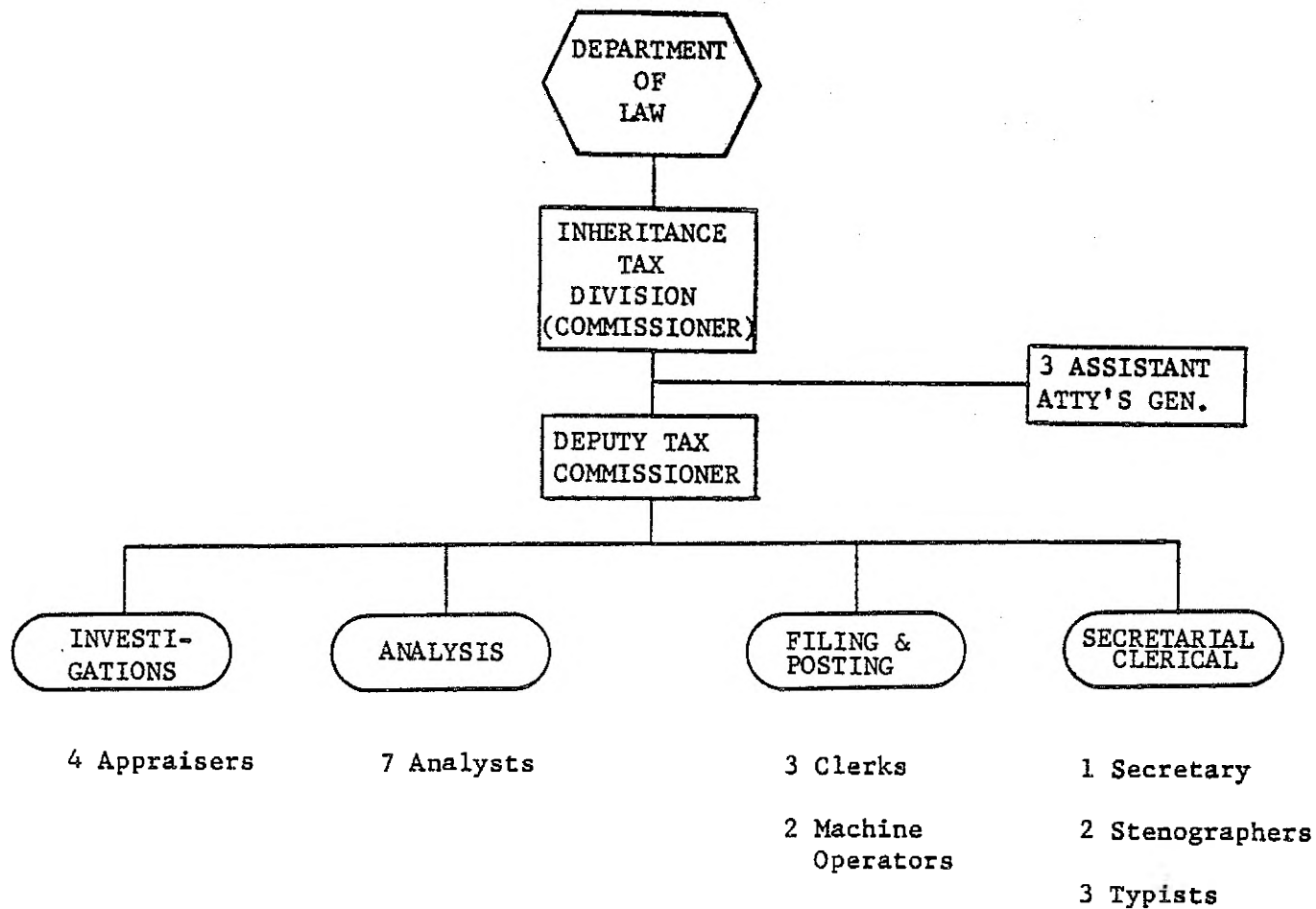
Actual Expend.	Estim. Expend	Agency Request
<u>67-68</u>	<u>68-69</u>	<u>69-70</u>
\$536,809	\$595,667	\$738,341

\*FTE means Full-Time Equivalent of all full-time and part-time positions authorized for 1968-69

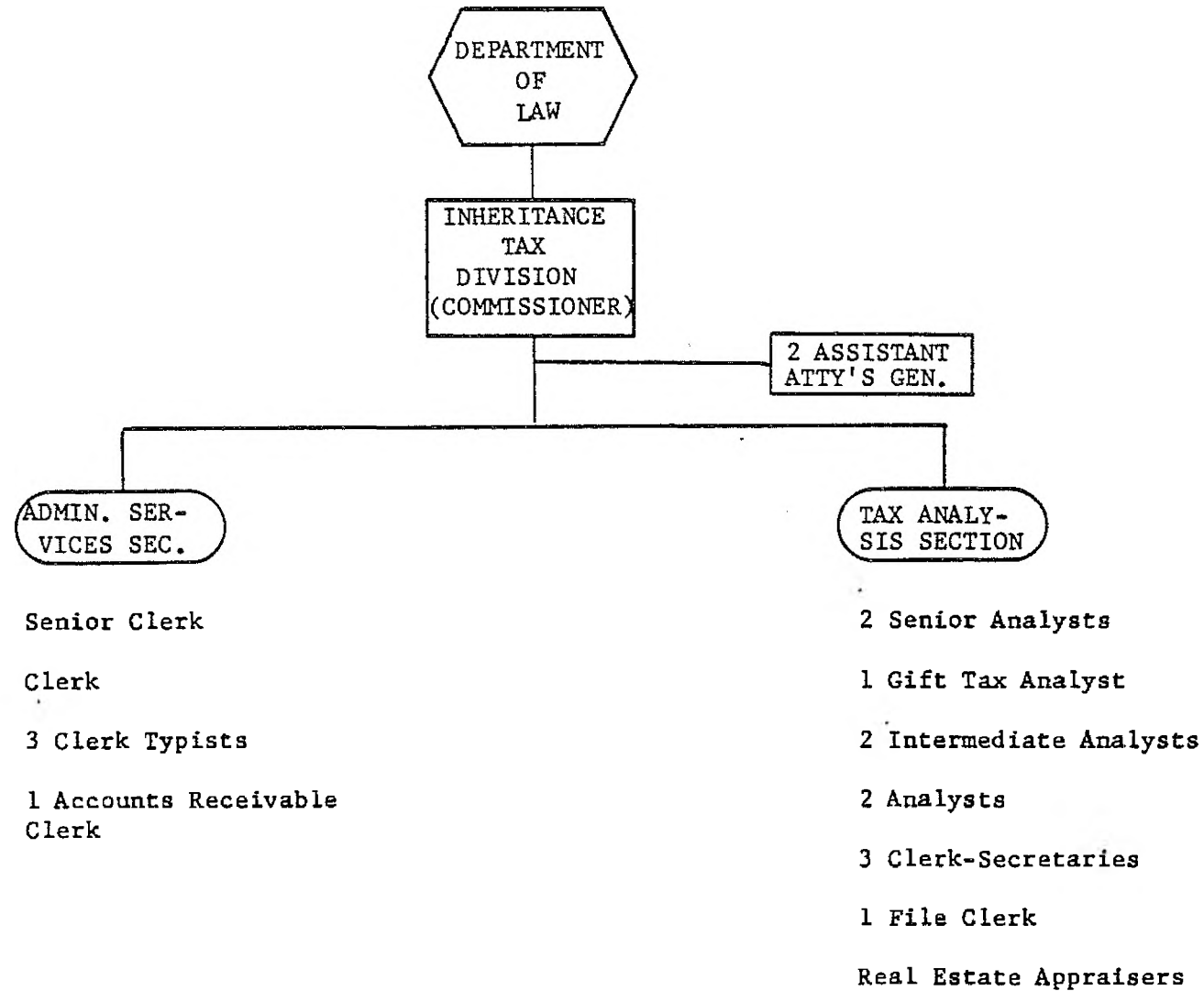
# INHERITANCE TAX DIVISION

## PRESENT ORGANIZATION

JANUARY 1969



**INHERITANCE TAX DIVISION  
PROPOSED ORGANIZATION**



DEPARTMENT OF LAW

I. ATTORNEY GENERAL'S OFFICE

SUMMARY OF ACTIVITIES

The office was created in 1876 by Section 1, Article IV, State Constitution.

The functions and powers of the office are in part to:

1. Act as legal counsel and advisor to every department, institution and agency of the State.
2. Prosecute and defend in all courts all actions and proceedings, civil and criminal, in which the State is a party.
3. Perform various duties relating to legal matters, including, or as the Attorney General may assign, serve on numerous boards and commissions.

PRESENT OPERATING METHODS

The State of Colorado employs approximately 70 to 80 lawyers, but no one knows precisely the exact number or where they are located. The reason for this, as is apparent from examination of the chart on the following page, is that the State's system of legal services involves three groups of attorneys:

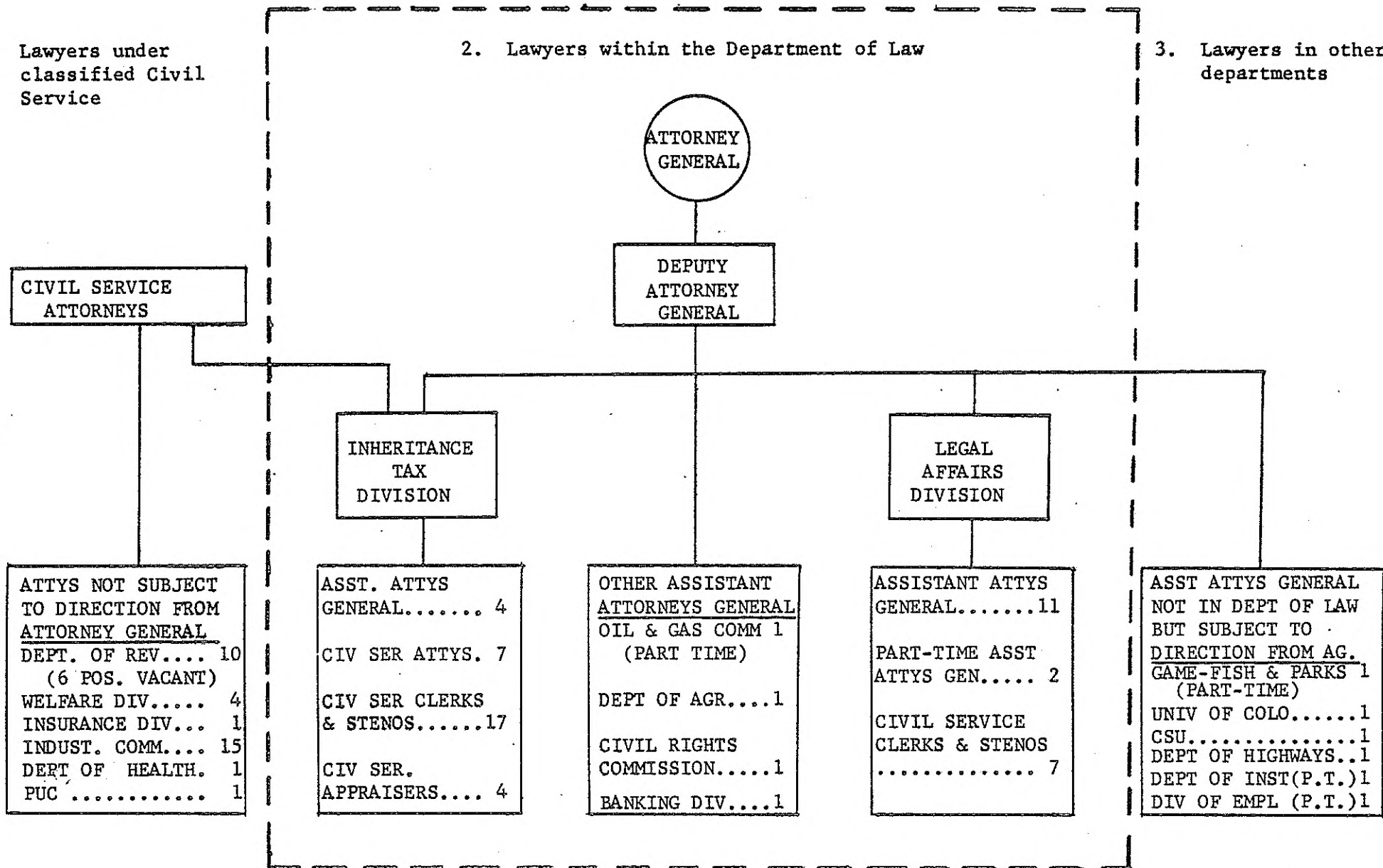
1. Lawyers under classified Civil Service
2. Lawyers within the Department of Law
3. Lawyers in other departments

ATTORNEYS EMPLOYED BY THE STATE - THREE CATAGORIES

1. Lawyers under classified Civil Service

2. Lawyers within the Department of Law

3. Lawyers in other departments



1. The lawyers under classified Civil Service - not subject to direction from the Attorney General

The lawyers covered by Civil Service are scattered through various departments as follows:

<u>Department or Division</u>	<u>Positions Filled</u>	<u>Positions Vacant</u>
Department of Revenue	4	2
Division of Welfare	4	
Insurance Division	1	
Industrial commission	15	
Public Utilities Commission	1	
Department of Health	1	
Inheritance Tax Division	<u>7</u>	<u>          </u>
	33	2

These lawyers are "house counsel" who report directly to their department heads. Apart from their initial appointment by the Attorney General, and excepting the seven lawyers under Civil Service in the Inheritance Tax Division, these lawyers have no connection whatsoever with the Department of Law or the Attorney General. Their salaries and expenses are paid out of the funds of the department to which they are assigned. Attorneys who are not Assistant Attorneys General (those under classified Civil Service) cannot disseminate official decisions or opinions for the Department of Law or for the State of Colorado. They prepare documents and give legal advice as needed for their departmental operations, but do not engage in litigation (since, unless made a special assistant by the Attorney General for a particular purpose, they cannot represent the State in a court of law).

2. Lawyers within the Department of Law - some under Civil Service, others not (Assistant Attorneys General)

The lawyers within the Department of Law include the Attorney General, one Deputy Attorney General, about 20 Assistant Attorneys General, and seven attorneys under classified Civil Service. The Attorney General is chief legal counsel for the State. For assistance in the performance of his duties, he appoints and assigns duties to the various lawyers within the Department.

The Department is divided into the Division of Legal Affairs and the Inheritance Tax Division. The Division of Legal Affairs is located in the State Capitol where the Attorney General and the Deputy Attorney General maintain their offices. The Inheritance Tax Division is located in the State Office Building.

In addition, four Assistant Attorneys General are within the Department of Law for payroll purposes, but physically maintain their offices in the departments to which they are assigned:

Department of Agriculture	1
Civil Rights Commission	1
Banking Division	1
Oil and Gas Commission	1 (part-time)

In the Division of Legal Affairs are 11 full-time Assistant Attorneys General and two part-time Assistant Attorneys General. They perform varying legal services. For example, one assistant has overall supervision of criminal cases assigned to various assistants, represents the Secretary of State's office, and represents the Liquor Enforcement Division under the Department of Revenue. Another handles litigation for the Department of

Revenue, the insurance commissioner, the racing commission, the auditor and controller, and assists in criminal cases.

The Division has an administrative officer who is in charge of the administration of the office and six principal clerk-stenographers. The administrative officers' functions include the following:

- a. Signs for the Attorney General and Deputy Attorney General with defined restrictions.
- b. Handles all purchasing, personnel, timekeeping and other functions.
- c. Handles special appropriations assigned to the Attorney General's office by the legislature for payment of funds.
- d. Routes cases received in the office and correspondence to the various Assistant Attorneys General, unless an unusual or special item.

From time to time, situations arise in which the experience of an attorney in a specialized private practice is needed. Funds are available for this purpose. The attorney retained is designated a Special Assistant Attorney General for the particular case or problem.

3. Lawyers in Other Departments - subject to direction from the Attorney General (Assistant Attorneys General)

Twelve Assistant Attorneys General, although employed by other departments are subject to direction from the Attorney General:

University of Colorado	1
Colorado State University	1
Department of Highways	6
Game, Fish and Parks Division	1 (part-time)



Colorado General Hospital	1 (part-time)
State Hospital - Pueblo	1 (part-time)
State Training Homes at Wheat Ridge and Grand Junction	1 (part-time)

The salaries and expenses of these Assistant Attorneys General are paid out of the fund of the department to which they are assigned.

#### APPRAISAL OF CURRENT OPERATIONS

Complete reorganization of the State's system of legal services, adoption of modern law office techniques and improved accounting controls are needed to increase the efficiency and lower the cost of conducting the State's legal affairs.

#### RECOMMENDATIONS

##### Recommendation LW 1

##### REORGANIZE STATE'S SYSTEM OF LEGAL SERVICES

Provide overall coordination and supervision of the State's system of legal services by reorganizing it so that all attorneys are employed by the Department of Law, even though some attorneys are in the operating departments and given project assignments by the director of the operating department.

Legislative Action . . . . . Cost/Saving Indeterminate

The present system of providing attorneys to handle the State's legal affairs does not provide for cohesive direction of the legal service. The differences outlined in the preceding "Present Operating Methods" section of this report contain gross inconsistencies for which no justification has been found.

It is difficult to perceive any logic in the State's present three-way system of attorneys. There appears to be no reason why Welfare Department attorneys should be under Civil Service, while Highways Department attorneys are not. Also, there appears to be no reason why Welfare and Highways Departments attorneys are not within the Department of Law, while the Department of Agriculture and Civil Rights Commission attorneys are in the Department of Law. Thorough reorganization of the entire system of legal services should create many opportunities for efficiency and economy through flexibility and coordinated direction.

Recommendation LW 2

REVIEW COMPENSATION AND EMPLOYMENT STATUS OF STATE ATTORNEYS

Review salary structure for all attorneys in the State government. Review the apparent inconsistencies in the State's present policy of having about one-half of the attorneys appointed as Assistant Attorneys General, and the other half employed under the classified Civil Service.

Administrative Action . . . . . Cost/Saving Indeterminate

A full-scale study of compensation for all of the State's attorneys should be undertaken. There appears to be disparity in appointive versus Civil Service salaries for professional services. For example, the starting salary under Civil Service is \$7,200 and can go as high as \$18,000 a year in the Department of Revenue. The Attorney General's salary is now \$14,000 per year, but goes to \$18,000 in 1971. The current range for Assistant Attorneys General is \$7,800 to \$11,700 per year.

When Assistant Attorneys General are hired, they are instructed that while on the staff, they may carry on a private practice, but cannot handle

criminal cases of other cases that would possibly conflict with the activities of the Attorney General's office. Some full-time Assistant Attorneys General do maintain separate offices for the private practice of law. Some Assistant Attorneys General are considered as being part-time employees of the State. In other instances private practitioners or Civil Service lawyers in other departments are designated "Special Assistant Attorney General" for certain limited purposes.

Recommendation LW 3

USE MODERN LEGAL OFFICE PROCEDURES

Implement modern legal office procedures in the administration of the Department of Law.

Administrative Action . . . . . Saving \$12,000 a year

An organization familiar with modern law office techniques, or perhaps a committee or persons assigned by the Bar Association, could cooperate with the Attorney General in developing a system of modern legal office procedures. Specifically, a docket control system would be desirable whereby the Attorney General would be aware of the status of various matters. Other management techniques would involve the filing system, assignment of cases to personnel and the assignment of assistants.

The development of a law office procedure manual also would be of benefit to the Department. Manuals in existence now in industry could be made available and modified to the Department's needs.

Up-to-date office equipment and systems should be utilized:

1. Dictating machines or similar type equipment would provide for more effective production from both professional and clerical employees.
2. A copying system meeting the needs of the office should be readily available.

- 3. Modern typewriters, calculators, and other office equipment should be acquired.
- 4. A modern filing system should be adopted to handle the documents that must be maintained.
- 5. A microfilming system must be established to reduce the files that are presently overflowing into the hallways.

Recommendation LW 4

MODERNIZE TELEPHONE SERVICE

Revise the present telephone system with installation of call-director service.

Administrative Action . . . . . Saving \$3,000 a year

The present telephone system for the Attorney General's office and the Division of Legal Affairs is inadequate, with two basic systems in operation. Lawyers cannot answer all phone calls received in the State Capitol office. They must go down the hall if the call cannot be readily transferred, or else the calling party must be asked to call again on a different number. Having one telephone number would increase the time efficiency of all lawyers in the State Capitol office. Savings are based on an estimated improvement in efficiency (per cent of salaried time) by reducing the amount of time spent answering phones.

Recommendation LW 5

INSTITUTE REPORTING SYSTEM

Institute immediately a reporting system for all Assistant Attorneys General.

Legislative Action . . . . . Saving \$30,000 a year

The time of each lawyer should be accounted for on a daily basis. The system would be useful in analyzing the efficiency of each lawyer as well as determining his work load. In addition, a status report system on a bi-weekly basis would keep the Attorney General better informed on the progress of various matters. The reports would consist of an analysis of each case being handled, with a report on the work performed since the last report. The reporting system would help in avoiding delays and missing legal time limitations and appointments. It is expected that such a system can be developed easily and quickly using systems already developed by other states and with assistance from the Colorado Bar Association. The savings are based upon the estimate that the increased output of existing personnel would be equal to the addition of two attorneys.

Recommendation LW 6

HIRE YOUNG LAWYERS TO ASSIST EXPERIENCED ONES

Establish a program for hiring young lawyers to assist in the Attorney General's office.

Administrative Action . . . . . Cost/Saving Indeterminate

Under present operations, Assistant Attorneys General must perform the complete function of research, preparation and execution of cases handled.

A program for using young lawyers to help the more experienced ones, as is done in private law firms, would relieve the senior attorneys from the burden of routine and time-consuming research. The program could be designed in such a manner so that lawyers under the program would not start as Assistant Attorneys General, but could be promoted into that classification after gaining experience.

## II. INHERITANCE TAX DIVISION

### SUMMARY OF ACTIVITIES

The Inheritance Tax Division has responsibility for administration and assessment of both inheritance and gift taxes, as provided by law.

### PRESENT OPERATING METHODS

The Division, which is located in the State Office Building, contains approximately 35 employees including the Inheritance Tax Commissioner, three Assistant Attorneys General, appointed by the Attorney General, seven attorneys (analysts) covered by Civil Service, four appraisers and 17 other clerical personnel, all covered by Civil Service. There are also 97 non-Civil Service employees who examine safe-deposit boxes as needed at various places around the State.

Staffing and assignment of work load is under the direction of the chief deputy commissioner and administrative officer. This officer reviews each filing when it is received to determine if the inheritance is large enough for a tax to be due, or if merely a fee is due for issuing releases; assigns taxable estates to an analyst for completion, and has responsibility for the balance of the clerical staff for work assignments and other administrative requirements for the office.

In fiscal year 1967-68, the Division collected \$10.3-million in inheritance taxes; \$599,000 in gift taxes, and \$834,000 was collected for the old age pension fund, for a total of \$11.7-million. Expenses of the Division for the same period amounted to \$247,000.

The Division estimates collections of \$9.5-million in inheritance tax, \$500,000 in gift taxes and \$800,000 for the old age pension fund in fiscal 1969-70.

APPRAISAL OF CURRENT OPERATIONS

This Division is poorly organized and poorly administered and it appears that this has been the case for a number of years. Filings are handled many times by more persons than is necessary. There is a total lack of records as to amounts due. There was a 200 per cent turnover in analysts during the past two years.

RECOMMENDATIONS

Recommendation LW 7

REORGANIZE THE INHERITANCE TAX DIVISION

Restructure the organization of the Inheritance Tax Division to make it more efficient and reduce the staff.

Administrative Action . . . . . Saving \$50,000 a year

The present organization of the Division includes four sections grouped according to type of administrative activity. This does not provide sufficient coordination of these activities to perform the functions necessary to efficiently accomplish the assigned purpose of the Division. The proposed organization chart presents an operating structure which incorporates the administrative activities into two functional sections. This proposal would make possible the reduction of staff by at least five and provide operating procedures which would cut other administrative costs.

Under the recommended reorganization the following changes should be made:

1. The chief analyst would examine initial filings to determine if they were fee or taxable inheritances.
2. Fee assessments would be performed by a clerk in the Administrative Services Section.
3. Taxable filings would be assigned by the chief analyst to one of the six analysts, according to their abilities and the apparent difficulty of the assessment problem.
4. Taxable filings would be processed by a clerk-stenographer who could perform routine checks and make requests for additional information or documents.
5. Assignments for appraisal would be made by the chief analyst.
6. Notices of assessment would be prepared by administrative clerk-typists.
7. The file clerk would process all files received and keep a current status report on all files.
8. The senior clerk would be responsible for retrieval of files and assign correspondence related to the files to the clerk-typists.
9. The administrative officer would be responsible for approving fee assessments, supervising the work load assignments and other administrative functions.
10. Fee or tax assessments would be processed by the accounts receivable clerk.



- 11. The chief analyst would make recommendations to the Inheritance Tax Commissioner for waiver of interest or penalties.
- 12. Collection and enforcement would be assigned to the Department of Revenue. Payments would be made direct to the Department of Revenue, as collections would not be made in the Inheritance Tax Division. (This would eliminate the cashier assigned to the Division.)

Recommendation LW 8

ESTABLISH SYSTEM OF ACCOUNTS FOR RECEIPTS DUE

Immediately establish control and a system of accounts, over receipts from all existing and future inheritance and gift taxes, fees, interest, penalties and waivers.

Executive Action . . . . . Increased Revenue \$54,000 a year

For several years the State Auditor has emphasized that the accounting records for inheritance and gift taxes have been inadequate. The most recent comment (1966 audit report) from the Auditor says: "The records of the Division are inadequate to properly account for the certified assessments, changes therein, compromises, penalties, interest, refunds and final settlements, cash collections and outstanding accounts receivable related to Inheritance and Gift Taxes administered by the Division. . . . Since the basic accounting records are lacking, we are unable to apply generally accepted auditing procedures to the certification and ultimate collection of these revenues."

There are no accounting controls over the Division's activities. There appears to be no accounting method designed to properly bill, collect and

receipt for taxes and fees. Accounting systems and procedures already exist in the Department of Administration which could be adopted by the Inheritance Tax Division at little cost. If these unpaid receipts can be identified and collected annual interest amounting to \$54,000 should be earned.

Recommendation LW 9

REQUIRE GIFT TAX PAYMENT AT TIME OF FILING

Immediately require taxpayer to pay the gift tax at the time of filing the Colorado gift tax return.

Legislative Action . . . . .One-time Increased Revenue \$900,000

Gift taxes should be collected at the time of filing the gift tax return. As it is now, payments are not made until after an analysis has been completed. Many times this is well over a year after the return is filed, with no change in the amount due. If payment were required with the filing of the return, and if analysis or subsequent events indicate a deficiency the additional amount would then be assessed and collected.

It appears that collection of gift taxes is between one and two years behind. Based on recent annual collections of \$600,000, and assuming a year and a half as the average delay in collections at present, the recommended procedure could result in prompt collection of \$900,000.

Recommendation LW 10

ASSURE PROMPT COLLECTION OF TAXES AND FEES

Establish a system that would ensure prompt collection of taxes and fees which have been properly assessed, but not paid.

Legislative Action . . . . .One-time Increased Revenue \$15,000

The Division collects payments that are sent to it, but the statutes impose no responsibility on the Division to collect past-due assessments and it makes no such effort. Neither does the Division report unpaid taxes to the Attorney General (who has a duty to collect them under 134-4-58, 63 CRS) nor does the Division report them to the Department of Revenue for collection. Consequently they go uncollected.

The Inheritance Tax Division should be required to report promptly to the Department of Revenue all inheritance and gift taxes due as soon as the assessment of such taxes has been made within the Inheritance Tax Division. The Department of Revenue should then be required to promptly proceed to collect such taxes. Implementation of this proposal will depend upon establishment of a better system of accounting, as previously recommended. When finally determined, the assessment notices should be recorded and sent to the Department of Revenue, entered as an account receivable and, if not paid, turned over to the Collection and Enforcement Division of that Department. If the collection process reaches litigation, then the Department of Law would be involved in the legal aspect of the collection function.

Recommendation LW 11

ESTABLISH SYSTEM OF ACCOUNTS FOR ESCHEAT ESTATES

Immediately establish controls and a system of accounts over all estates with respect to which no heirs are known and which are believed to be subject to escheat to the Public School Fund.

Administrative Action . . . . . Cost/Saving Indeterminate

This recommendation entails contacting executors and administrators to close estates. The law provides (153-14-14, 63 CRS) that if no heirs

are known, the entire estate of the decedent falls into the Public School Fund. A substantial number of such estates are believed to exist, but there is no accounting of them at the present time.

Once there is proper accounting with respect to these estates, the Collection and Enforcement Division of the Department of Revenue should carry out the collection. It is presently staffed to handle this function.

Recommendation LW 12

REQUIRE RETENTION OF SUFFICIENT ASSETS TO SATISFY TAX

A written policy should be developed with respect to issuance of releases of the lien for the payment of inheritance taxes. This is needed to assure retention and control over sufficient unreleased assets to satisfy the ultimate tax due.

Administrative Action . . . . . Cost/Saving Indeterminate

The law imposes a lien on all property of a decedent in order to assure collection of the tax that ultimately is determined to be due. In order that bank accounts will not be "frozen", so that securities may be sold, and for other conveniences for the heirs, the statutes provide for releases of the liens on specified portions of the taxable property.

However, there is no written policy now to guide Division employees as to when it is appropriate to issue or withhold release of specific assets. There is no accounting control to determine whether the liens are retained on sufficient assets to assure full payment of the tax. Without accounting it is impossible to determine whether there have been losses to the State.

Recommendation LW 13

REQUIRE INDEPENDENT ADVANCE REVIEW OF ALL WAIVERS

The power of the Inheritance Tax Commissioner to waive interest and penalties should be subject to an advance independent review.

Legislative Action . . . . . Cost/Saving Indeterminate

The Inheritance Tax Commissioner is authorized by statute to waive interest and penalties under certain circumstances. A review of waivers made by the Inheritance Tax Commissioner is subject to review by the Attorney General, but this is not current practice. Also, the amounts and other related information pertaining to waivers is not being compiled and made available for analysis by other State officials. An independent review and listing of all waivers should be carried out by a Deputy Attorney General. This review would not in any manner constitute an appeal procedure pertaining to the waiver. The listing would also be available for review and comment by the State Auditor.

Recommendation LW 14

REVISE INHERITANCE TAX PROVISIONS

Eliminate the five per cent discount, modify the interest provision and establish a realistic due date.

Legislative Action . . . . . Cost/Saving Indeterminate

The present law provides that the inheritance tax is due on the day of death. If not paid within a year, ten per cent interest attaches. If paid within six months after death, a five per cent discount is available. This five per cent annual discount for a six-month period is equivalent to a ten per cent annual discount rate. Both the due date and the discount rate are unrealistic, and should be revised.

Recommendation LW 15

REVISE FEE SCHEDULES TO COVER COSTS

Revise the present fee schedules for inheritance taxes to cover costs of administration.

Legislative Action . . . Increased Revenue \$37,500 a year

If transfers of property of a deceased person are too small to entail an inheritance tax, a certificate is issued showing that the estate is free from any tax liability. Fees are assessed and collected for the issuance of these certificates, but the fee schedule has not been changed since 1959. It presently does not cover cost of administration. Some statutory fees are as low as one dollar. A minimum fee of \$25 (except for very modest estates) appears to be appropriate.

Recommendation LW 16

COLLECT INTEREST ON PAST-DUE FEES

Amend the statute to institute an interest penalty on fees past-due more than 60 days.

Legislative Action . . . Increased Revenue \$5,000 a year

There are no interest or penalty provisions for unpaid fees. The accounts receivable files indicate a significant number are unpaid. Imposition of interest or a penalty would bring in only a minimal amount of funds but would provide an incentive to pay and thus aid in the collection of fees.

Recommendation LW 17

COORDINATE INHERITANCE TAX WITH FEDERAL SYSTEM

Change the present system of inheritance tax so that it can be coordinated with the Federal estate tax.

Constitutional Action . . . Saving \$50,000 a year

It is estimated that approximately 40,000 cases are handled each year. There are about 13,000 new cases in addition to further processing necessary on approximately 27,000 previous cases. Filings related to open accounts would be reduced significantly and administrative costs reduced, if the system were changed to an estate tax. The law could provide that a copy of the Federal estate tax return must be filed with the State of Colorado. If a Federal estate tax is due, the State's estate tax would simply be related to the Federal tax. Other procedures would, of course, have to be adopted for smaller estates so that the total amount of revenue collected under an estate tax would not be any less than the amount now collected under the inheritance tax.

Recommendation LW 18

COORDINATE GIFT TAX SYSTEM WITH FEDERAL SYSTEM

Change the present system of gift taxation so that it can be coordinated with the Federal gift tax.

Legislative Action . . . . . Saving \$15,000 a year

Just as changing the inheritance tax to a tax conforming to the Federal estate tax would reduce the Division's administrative costs, conforming the State's gift tax to the Federal gift tax could produce further administrative savings. No loss of revenue would result. Such a change would permit cooperation with the Federal Tax Division similar to the Federal-State income tax cooperation. There would be substantial savings in reduction of work of processing the returns.

Recommendation LW 19

REVISE ANALYST DUTIES

The job qualifications and duties for analysts should be reviewed critically, new job descriptions prepared and duties revised accordingly.

Administrative Action . . . . . Saving \$7,500 a year  
One-time Cost \$5,000

The present duties of an analyst do not require that he be a law school graduate. Nevertheless the Department requires that he be a lawyer. Many of the present functions of the analyst could be performed by personnel trained for such purposes.

Under present operating conditions, the work assigned by the administrative officer to the analyst gives him little authority or responsibility. Under Civil Service his pay is low and advancement is slow. It takes approximately six months to train an analyst before he can be effective in the operation of the Division. Turnover is high, 200 per cent in the past two years.

The job of the analyst should be critically reviewed to make him more useful to the Division. Duties assigned to the analyst should be revised to include:

1. Assign routine functions to clerk-stenographers before files are turned over to the analyst.
2. Follow the files assigned to him to completion.
3. Recommend lien releases with approval of the chief analyst.
4. Handle correspondence connected with the files in his possession.

