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Report to the Colorado General Assembly:

COLORADO PROPERTY ASSESSMENT METHODS



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 32

November 1959



LEGISLATIVE COUNCIL
REPORT TO THE
COLGRADO GENERAL ASSEMBLY

REPORT OF
LEGISLATIVE COUNCIL COMMITTEE
ON
ASSESSMENT METHODS

Research Publication No. 32

November, 1959

COLORADO GENERAL ASSEMBLY



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LEGISLATIVE COUNCIL

ROOM 343, STATE CAPITOL
DENVER 2, COLORADO
KEYSTONE 4-1171 — EXTENSION 287

November 10, 1959

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REP. PETER H. DOMINICK
REP. GUY POE
REP. RAYMOND H. SIMPSON
REP. ALBERT J. TOMSIC

Members
42nd General Assembly

Dear Colleagues:

The Legislative Council, at its November 6 meeting, adopted the enclosed committee report on assessment methods.

The findings and recommendations in this report represent the results of a two and one-half year study conducted at your direction. I urge you to study it thoroughly as the Legislative Council will likely request the Governor to include the recommended program for correcting assessment inequalities on his call for the 1960 legislative session.

Cordially,

Charles Conklin
Chairman

CC:mrl

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TRANSMITTAL LETTER

October 27, 1959

Charles Conklin, Chairman
Colorado Legislative Council
Denver, Colorado

Dear Mr. Conklin:

Transmitted herewith is the report of the Committee on Assessment Methods of the Legislative Council pursuant to S.J.R. 42, which directed the Legislative Council to continue its study of local assessment methods and to make recommendations for improvement thereof to the second regular session of the 42nd General Assembly.

The committee was composed of:

Senator David J. Clarke, Chairman
Representative Raymond H. Simpson, Vice Chairman
Representative Ray Black
Senator T. Everett Cook
Senator Fay DeBerard
Representative James M. French
Senator Wilkie Ham
Senator Richard F. Hobbs
Representative Yale B. Huffman, Jr.
Representative Elmer A. Johnson
Representative Guy Poe
Senator Ranger Rogers

Committee meetings and hearings were held during ten days of the past year in developing the findings and recommendations included in this report. In the earlier meetings, considerable time was spent in considering the possibility of recommending the prescribing of methods of assessment in some detail for the various classes of property. This procedure was valuable to the committee

in making them fully aware of the problems involved in the assessment of property for purposes of taxation and in achieving equalization of such assessments. However, it led to the conclusion by the committee that prescribing of methods of assessment would not, in itself, result in equalization of assessments without improved administration, and that with improved administration, the prescribing of methods of assessment by statute would not be essential to the achievement of equalization. Conversely, it was concluded that it is more desirable to give broad statutory direction to an administrative department with considerable discretion in carrying out those broad directions, rather than to impose an inflexible assessment policy by statute.

The remainder of the meetings were devoted to consideration of the problems of property tax administration, and the findings and conclusions in this report are primarily concerned with these problems.

Inasmuch as the assessment of public utility property was assigned to the committee under another resolution, S.J.R. 22, this report does not concern itself with that aspect of the property assessment problem. A separate report will be submitted on public utility assessments.

The Committee on Assessment Methods wishes to express its appreciation to the County Assessors' Association, the sixty-three county assessors, the Tax Commission and the many other public officials and private citizens who have aided the committee in carrying out the assignment.

Sincerely yours,

/s/ David J. Clarke, Chairman

DJC:pca

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SUMMARY OF FINDINGS AND CONCLUSIONS

Equalization does not exist in Colorado, among counties, among other taxing districts, within joint taxing districts, among classes of property, or among properties with classes.

Equalization is required because: 1) the state constitution and laws require it; 2) the state requires a uniform county-wide levy for school purposes; 3) there are numerous inter-county taxing districts; 4) equalization among classes of property requires equalization among counties; 5) the state levies a tax on all taxable property.

Constitutional causes of lack of equalization. The state constitution requires assessment at full cash value. Attempts to legally ignore the obvious meaning of "full cash value" by the interpretation that assessment at the 1941 level of values represents assessment at full cash value have resulted in assessments which bear no uniform relationship to present-day values.

Statutory causes of lack of equalization. Colorado statutes, in general, provide a guide for the assessment of property which is broad enough to permit administrative prescription of methods of assessment which would result in reasonably equalized assessments. However, there are a few specific statutory prescriptions of methods which limit administrative discretion so as to hinder in limited areas, efforts to equalize assessments.

Statutory powers of the Tax Commission to enforce equalization of assessments are generally adequate.

Financial causes of lack of equalization. The incentive to counties to under-assess to gain competitive advantage for their taxpayers in the payment of state and county public school taxes, and the opposite incentive to maintain a high level of assessment because of levy or bonding limitations are obstacles to the achievement of equalization.

Administrative causes of lack of equalization. The primary reason for lack of equalization is found in the substantial failure of the Colorado Tax Commission to use its present powers to fulfill its statutory responsibility "of seeing that all taxable property within the State of Colorado is assessed uniformly, to the end that the burden of taxation may be fairly and equally distributed."

The Commission has failed to develop, adopt, and promulgate an over-all assessment policy, covering the entire field of assessment problems, consistent in all its parts, which, if uniformly, fully, and intelligently applied, would produce reasonably equalized assessments. Such policies as it has promulgated are such that even if applied uniformly they would not produce equalized assessments.

The Commission, instead of determining all policy itself, defers to the Colorado Assessors' Association by inviting and accepting recommendations on various subjects.

It has failed to enforce the use by county assessors of the policies it has issued and to require the achievement by assessors of equalized assessments. Its staff of field men do not have positive direction in the supervision, instruction, and inspection of assessors in their assessment of property. Such activities are, therefore, ineffective. The Commission is inadequately informed of the condition of the assessments in the counties. And its actions to enforce better practice have been too limited in scope.

While it is hampered by the fact that some assessors are not sufficiently qualified to perform their duties, the Commission could develop a more effective training program to improve those qualifications. While many assessors are handicapped by having too few personnel, poorly-paid, and inadequate office space and equipment, the Commission could invoke its power to require that the assessors be provided with sufficient help. While the Commission itself is inadequately staffed to fully accomplish its mission, it could make more effective use of its present staff, and be more aggressive in seeking adequate appropriations and reclassification of its staff to implement a well-formulated program.

Civil service status of the Commissioners is probably a contributing factor toward the ineffective performance of the Commission.

Committee Recommendations

Administrative recommendations. The committee recommends to the Tax Commission that:

- 1) The Commissioners should act as a policy making Commission toward the development of a comprehensive and consistent assessment policy, an efficient staff operating procedure, and an effective enforcement policy.
- 2) The Commission should delegate to a director of appraisals the responsibility for research and execution of its policies.
- 3) It should reorganize its staff for more effective administration.
- 4) It should reconcile conflicting or inconsistent policies where none exist, and undertake such research as is possible with the staff available to it.

5) It should provide formal courses of training for county assessors and its own field men.

6) It should utilize real property sales data as a means of diagnosing faults in assessment methods and their application.

7) It should undertake to have the more serious assessment faults corrected each year, making recommendations to the State Board of Equalization to that end, as needed.

8) It should undertake to obtain completion of the re-appraisal program.

9) It should take steps for the removal of incompetent employees, as needed.

10) It should work with the Civil Service Commission for the reclassification of its staff positions.

11) It should submit to the General Assembly a positive program for legislative reform, and request necessary appropriations therefor.

12) It should undertake to obtain for county assessors adequate budgetary support by persuasion, or if necessary, by invoking its powers to require the hiring of help for assessors.

Constitutional recommendation. The committee recommends elimination of the "full cash value" requirement from the constitution.

Legislative recommendations. The committee recommends legislative action to:

1) Require the Tax Commissioners to act as a commission by majority vote.

2) Create a Division of Appraisals, headed by a Director of Appraisals, who would be responsible to the Tax Commission for the execution of its policies.

3) Clarify the duties and powers of the Tax Commission, as presently provided, and specifically authorize the Commission to engage in research, to conduct a school for assessors, to bring action to compel assessors to comply with its orders, to review the actions of county boards of equalization, and to recommend to the State Board of Equalization changes in the assessment of specific property as well as of classes of property.

4) Specify in general terms that it shall be the duty of the county assessor to assess in accordance with provisions of law and Tax Commission instructions, consistent with law.

5) Remove all statutory references to the full cash value requirement, substituting therefor the requirement of just and equalized assessments.

6) Provide that assessments of merchandise and manufactures shall be based on the average investment of the year preceding the assessment, rather than the current year.

7) Provide that the present statutory provision for assessment of certain specified types of producing mines according to annual production shall not preclude the consideration of annual production in the assessment of any other mineral interests in lands.

8) Continue the Legislative Council Committee on Assessment Methods and require the Tax Commission to report to it after January 1, 1960, every three months on the progress made in implementing the recommendations included in this report.

9) Continue the sales ratio study under the administration of the Legislative Council.

Appropriation recommendation. The committee recommends to the Joint Budget Committee its favorable consideration of prompt requests by the Tax Commission for supplemental funds necessary to implement the recommendations set out in this report.

Additional Committee Recommendations. The committee also recommends favorable consideration of additional recommendations suggested to it by assessing officers and others, as follows:

1) to change the assessment date to January 1st;

2) to amend present laws to clarify the exceptions to the assessment date with reference to property moved into and out of the state, and inter-county movement of livestock;

3) to provide for imposition of a penalty upon taxpayers who fail to file a return of taxable property after due notification, or who file a fraudulent, incomplete, erroneous, or misleading return;

4) to provide that a taxing district being newly organized may not levy a tax for the current year unless it notifies the county assessor of its intention prior to May 1st;

5) to correct an error in Section 137-3-7, C.R.S. 1953, which still contains a reference to March 1 as the assessment date;

6) to repeal obsolete sections 137-3-18 and 137-3-27, C.R.S. 1953, relating to the taxation of intangible personal property.

Alternate recommendations. The committee also recommends the following:

1) Exemption, by constitutional amendment, of the Tax Commissioners from Civil Service status, followed by provision for appointment of the Commissioners by the Governor, with the consent of the Senate, to staggered terms of six years.

2) Repeal of the section of the constitution which provides for boards of equalization, followed by reestablishment by statute of county boards of equalization, designation of the Tax Commission as the final administrative authority in equalization, and provision of an appeal procedure from the county boards of equalization to the Tax Commission.

REPORT OF LEGISLATIVE COUNCIL

COMMITTEE ON ASSESSMENT METHODS

The amendment to Article X, Section 3 of the Colorado Constitution adopted in November, 1956, precipitated considerable action on the part of the Colorado General Assembly in the field of property assessment.

The 41st General Assembly made two assignments to the Legislative Council on property assessment problems. The first, H.J.R. 31 (1957) and S.J.R. 12 (1958), directed the Council to conduct a study on the relationship between sales prices and assessed values for all properties sold each year in the State of Colorado. The second assignment directed the Council to study the methods and procedures used by the State Tax Commission and the 63 county assessors in determining values placed on property for tax purposes. The latter included the assessment of public utility properties as well as all locally assessed properties.

As a result of the first assignment the Legislative Council Committee on Assessment Methods made two reports to the 42nd General Assembly on sales ratios.

The second assignment resulted in a staff report to the 42nd General Assembly on assessment methods in Colorado. Lack of time prevented the committee from completing the public utility phase of the assignment and also prevented the committee from arriving at recommendations on local assessment methods.

The 42nd General Assembly directed the Legislative Council to continue its study of property assessment problems. Four resolutions were passed directing the inquiry: 1) S.J.R. 21 -- calling for a continuation of the sales ratio study for a second year and directing the Council to report on a consolidated two year ratio study; 2) S.J.R. 22 -- directing the Council to complete the public utility assessment study; 3) S.J.R. 27 -- instructing the Council to study substitute means for taxing income producing personal property in lieu of the property tax; and 4) S.J.R. 42 -- directing the Council to continue its study of local assessment methods and to make recommendations for improvement thereof to the second regular session of the 42nd General Assembly.

In view of the similarity of subject matter, the Legislative Council appointed one committee to conduct the four above listed studies.

The sales ratio studies will be submitted to the General Assembly as separate reports, as will the public utility study. The personal property study will not be completed before 1961.

This report consists of the findings and recommendations of the committee regarding local assessment methods and is based upon the report of the Committee on Assessment Methods issued as Legislative Council Research Publication No. 28 and additional data presented to the committee during the calendar year 1959 by the Tax Commission, the county assessors, and others.

COMMITTEE FINDINGS

Equalization Does Not Exist in Colorado

Equalization of property tax assessments does not exist in the State of Colorado among counties, among other taxing districts, within joint taxing districts, among classes of property or among properties within classes. Absolute or perfect equalization of assessments will never be achieved; it remains, however, as a goal which is in our constitution. Toward that goal, until it is changed by the people, the legislature, the courts, assessors and administrators are definitely committed.

Two sources are cited in support of the above finding: 1) the sales ratio reports,¹ and 2) the report of this committee on assessment methods.²

The committee agrees that its entire report is conditioned by the fact that the sales ratio study is only two years old. Our conclusions based on sales ratio studies are subject to change if future data produce different trends.

The sales ratio studies relate to sales of real property; such studies do not, therefore, reveal whether inequities exist in the assessments of public utility properties, merchandise, machinery and equipment, oil and gas properties, producing mines, and so forth. As to such classes of property, we find that utilities are assessed at 37.5% of values determined by the State Tax Commission; merchandise is assessed at about 50% of its average inventory value; machinery and equipment are assessed at about

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1. Legislative Council Research Publications No. 27 and 29, Sales Ratio Study - Parts One and Two, July 1, 1957 to June 30, 1958; and additional reports to be published for the year July 1, 1958, to June 30, 1959, and the two-year period, combined, July 1, 1957, to June 30, 1959.
 2. Legislative Council Research Publication No. 28, Colorado Property Assessment Methods, December, 1958.

40% of cost; oil and gas leaseholds are assessed at 87.5% of gross production; producing mines are assessed at not less than 25% of gross production. It is recognized that "cost", "gross production", etc., may not be the same; yet, allowing for some variations in valuation, it appears that the percentages of assessment of such classes of property are not within a reasonable tolerance. Furthermore, reference to Research Publication No. 28 will show that there are wide variations among the counties in the assessment of such classes of property. It will also show that substantial inequities exist because the 1941 base used in the reappraisal manual is outdated, the depreciation tables need revision, and the 1934-43 basis for determining income from agricultural lands is outdated. X

Equalization is Required

There are five basic reasons why assessments on all taxable property in the state must be equalized.

- 1) The state constitution and laws require such equalization.
- 2) The state requires a uniform county-wide levy for school purposes, after which state tax money is distributed to local school districts.
- 3) The existence of numerous inter-county taxing districts makes necessary the equalization of assessments among counties.
- 4) The fact that assessments on public utilities, assessed by the Tax Commission, and on livestock, merchandise, and machinery and equipment, assessed according to uniform percentages or schedules of value, are subject to little inter-county variation, requires that in order to have intra-county equalization, all property assessments must be equalized.
- 5) The state levies a tax on all taxable property within the state.

Many critics of equalization attempts contend that, if the state would relinquish the property tax to local governments, and distribute state school aid in a different manner, the need for inter-county equalization would be eliminated. This is not the case. Your committee finds that equalization of property tax assessments is a necessity regardless of state activity in levying a property tax, or in financing schools, and that the state has the responsibility for achieving equalized assessments.

Why We Do Not Have Equalization

There are innumerable causes for inequality of assessments in Colorado. However, your committee finds that there are four general areas in which these causes may be grouped: 1) constitutional; 2) statutory; 3) financial; and 4) administrative.

Constitutional. The state constitution, in Article X, Section 15, requires all property to be assessed at its full cash value. This is a common requirement in practically all states and is just as commonly ignored. The term "full cash value" is subject to many definitions and interpretations. It is in the attempts to interpret the term so as to legally ignore its obvious meaning that the difficulty lies. In Colorado, the Tax Commission has defined "full cash value" as being the level of values prevailing in the year 1941. However, difficulties arise in trying to use theoretical values of twenty years ago resulting in many and varied inequities. The assessments that result bear no uniform relationship to present-day values.

Statutory. The assessment of property is governed by statutes in two ways: 1) in the methods of assessment which are prescribed by statute, or those which are not prescribed; and 2) in the duties and powers specified for the county assessors, the Colorado Tax Commission, and the county and state boards of equalization.

At present, methods of assessment prescribed by statute are limited in extent and are very general in application. In general terms, the statutes restate the requirement that assessment and equalization shall be at full cash value. They provide further that, in determining such value, market value shall be the guide, and that fair voluntary sales of comparable property, the value of use, the capability of use, the value of capital stock and bonds in the case of public utility companies, and the cost of reconstruction may be considered in determining market value and, therefrom, full cash value. It is well established in the field of appraisal that the consideration of these criteria of value is basic and essential to good appraisal. There is nothing in these statutory prescriptions that would limit an assessor in making an appraisal, nor that would limit the Tax Commission in prescribing more detailed methods of assessment for the instruction of the county assessors. It should be possible for the Tax Commission, as the body specifically charged by law with the supervision of the assessment of property for the purpose of equalization, to develop and prescribe policies of assessment which will result in reasonably equalized assessments.

Methods of assessment could be prescribed in much more detail by statute. However, your committee believes it desirable to give broad statutory direction to an administrative department (as in present statutes) with considerable discretion in

carrying out those broad directions, rather than to impose an inflexible assessment policy by statute. Furthermore, experience under existing statutes leads your committee to the conclusion that rewriting the statutes will not, of itself, bring about equalization. Conversely, equalization can be substantially accomplished under present laws with a few specific changes.

There are a few specific prescriptions presently in the statutes which in some of their provisions are unworkable, or limit, or obstruct the Tax Commission in its efforts to achieve uniform assessments.

Sections 137-3-25 and 137-3-26, C.R.S. 1953, which prescribe the method of assessing merchandise and manufactures, specify that the average investment during the fiscal year for which the tax is to be levied shall be taken as the measure of value. This is an impossibility, inasmuch as the average during such fiscal year cannot be ascertained at the time of the assessment.

Article 137-5, C.R.S. 1953, which prescribes the method of assessing producing mines, as defined therein, on the basis of annual production, specifies that the method shall apply only to mines bearing gold, silver, lead, copper or other precious or valuable minerals and that it shall not apply to mines of iron, coal, asphaltum, quarries and lands valuable because they contain other metals, minerals, or earths. Your committee finds no objection to the method prescribed in this article for the property for which it is prescribed. However, it is a limitation upon the duties of the Tax Commission to have a statutory provision that precludes the consideration of annual production in the appraisal of any type of property.

Regarding statutory duties and powers of the Tax Commission, your committee finds that, with one exception, they are adequate, if fully used, for the Tax Commission to enforce equalization of assessments. The one exception cited is that the Tax Commission, after the county boards of equalization have acted, has no authority to recommend, or the State Board of Equalization to order, changes in the assessment of individual properties, but such recommendations and orders must be limited to changes in the assessment of entire classes of property in a county.

Financial. It pays counties to under-assess. This is one of the main obstacles to the achievement of equalization. Competitive under-assessment among counties is simply good financial practice in the eyes of taxpayers benefiting from under-assessment.

The taxpayers of a county with a low rate of assessment are paying less than their share of the state property tax levy. They are also paying less than their share of the 12-mill county-wide levy for school purposes.

The opposite tendency is found, in some counties, when it is felt desirable to maintain high assessed valuations in order to produce a desired amount of revenue or to maintain a desired level of bonding power in the face of levy or bonding limitations.

Administrative. Although the constitutional, statutory and financial problems referred to above contribute to the lack of equalization, the primary reason for the inequalities of assessment that exist is the substantial failure of the Colorado Tax Commission to assume its responsibilities and carry out its functions. In other words, under the present constitutional and statutory provisions, and despite the financial incentives of competitive under-assessment, far better equalization could be realized if the present powers of the Tax Commission were used.

In the Administrative Code, Section 3-7-2, C.R.S. 1953, it is "declared to be the policy of the general assembly that the department of taxation..." (headed by the Colorado Tax Commission) "shall be charged expressly with the duty of seeing that all taxable property within the State of Colorado is assessed uniformly, to the end that the burden of taxation may be fairly and equally distributed." Charged with that clearly stated responsibility, and having been provided with broad powers of enforcement which your committee finds to be adequate, the Tax Commission has, nevertheless, failed to fulfill its responsibility and to use its powers.

In what ways has the Commission failed? First, there is the failure, as a policy-making body, to develop, adopt, and promulgate an over-all assessment policy, covering the entire field of assessment problems, consistent in all its parts, which, if uniformly, fully, and intelligently applied, would produce reasonably equalized assessments.

The Commission has not issued instructions for methods of assessment in sufficient detail for all classes of property, leaving some classes subject to assessment by the assessor without any guides or standards from the Tax Commission. For example, while the statutes prescribe in broad outline a formula for determining the gross proceeds and net proceeds of a producing mine for assessment purposes, there are many problems in accounting methods left unresolved by the statutes, such as the determination of gross value of production under various circumstances, what specific expenses are deductible and at what point they are deductible, and how certain deductible expenses should be determined. The Tax Commission has not issued adequate instructions on this subject.

Adequately detailed instructions on how to determine and allow properly for depreciation and various types of obsolescence of improvements or personal property have never been issued. Instructions in the real estate appraisal manual for the appraisal of some types of construction are inadequate.

Those instructions and recommendations regarding methods of assessment which have been issued are such that even if they were applied uniformly they would not produce equalized assessments. The following are but a few illustrations of this *situation*. With the use of the depreciation tables provided in the appraisal manual, sales ratios are progressively lower for older buildings, indicating that the tables do not accurately reflect the true loss of value from age.

Appraisals of agriculture land, even when made under close Tax Commission supervision, have resulted in poorly equalized assessments among different types of agricultural land, indicating the possibility of faulty instructions for assessing this class of land.

Although the statutes, as amended in 1957, require that lands used for agricultural purposes be assessed as a unit with the improvements located upon them, the Tax Commission, so far as the committee has been able to determine, has not revised its instructions to comply with the intent of the statutory change which was made in 1957.

The commission recommends for some farm machinery and equipment that it be assessed at 50% of the value listed in a trade association equipment manual. For most other machinery and equipment it recommends assessment at 40% of cost during most of its useful life, regardless of age, so that similar items of different ages would be assessed at the same amount. However, for machinery and equipment in factories and mills, a method of conversion of actual cost to 1941 cost, less depreciation for actual age, is used.

Although the statutes prescribe that merchandise be assessed according to the average investment during twelve months, the Tax Commission recommends that the average of the beginning and ending inventories for the year be used.

Assessment of town and city lots at 40% of market value according to commission policy, if actually done, would result in a higher ratio for this class of property than the average ratios for other classes which have been determined.

The commission, instead of determining policy itself, defers to the Colorado Assessors' Association, inviting it, or its advisory committee, to submit recommendations on various subjects, which are then issued as the recommendations of the commission. This participation of the assessors in matters of policy is proper and would be desirable if they functioned only in an advisory capacity, with the commission actually making the decisions.

The commission has a group of salesmen called consultant assessors. It is axiomatic in the business world that a good salesman must have a good product to sell. The consultant assessors do not have a consistent policy to sell; consequently, some are doing "make work" in county assessors' offices. In fact, there have been numerous instances called to the attention of your committee which indicate the consultant assessors are selling different products, again reflecting the lack of an over-all assessment policy.

Where the commission has formulated a relatively sound policy, for example in the real estate appraisal manual, the record indicates general acceptance and a reasonable degree of compliance by county assessors. In this instance, even the defects of the manual are reflected rather uniformly in results from county to county.

There exists today in Colorado a vacuum in assessment policy. The county assessors are hungry for such a policy and the General Assembly is anxiously awaiting its development.

Too much time of commission personnel is dissipated in assisting some assessors by doing work which is actually an assessor's responsibility, while the true function of the commission is inadequately performed. Consultant assessors have been found to spend considerable time in some counties constructing plat books, maintaining property ownership records, assisting clerically in the preparation of abstracts, making appraisals of new construction, and so forth. A major part of the time of the industrial appraisal engineer is spent in making appraisals for the assessors of counties having large industrial properties, instead of assisting the assessors to make such appraisals and demonstrating how they should be made.

Tax Commission supervision of county assessors is ineffective. This is evidenced, not only by sales ratio results, but also, and principally, by variations in actual assessment practice and failures to apply Tax Commission methods which have been reported to your committee. Tax Commission inspection of the work of assessors and analysis of resulting assessments is inadequate. The commission either is not adequately informed of or takes insufficient cognizance of non-conforming practices and non-uniform results. The information which the commission demands of the assessors in the form of the annual abstract of assessment, while it does serve a purpose, is insufficient and should be revised in order to enable the commission to determine whether assessments are equalized. The commission has admitted that it is in no position to recommend changes in the assessment of most counties because it is inadequately informed.

In spite of well-known and suspected defects and shortcomings in assessment policy promulgated to the assessors, the commission has done little in recent years to improve any part of that policy. For instance, the unsatisfactory results obtained from the use of the depreciation tables, previously referred to, have been known almost since the tables were first put to use. Yet, little has been done to correct the fault.

The commission has done little to enforce better practice. In the last 18 years it has recommended to the State Board of Equalization changes in the valuations of only nine counties: one in 1954, six in 1956, one in 1958, and one in 1959, some of them being the same counties, a total of seven separate counties being involved.

There exists now a great need for instruction of county assessors in the duties of their offices. This is a continuing need, even with well-qualified assessors of long experience, for new problems will arise, new laws will be adopted, and new policies will be developed, in all of which county assessors will need to be instructed. Lack of adequate instruction is one of the basic causes of failure to achieve equalization, and failure of the Tax Commission to provide adequate instruction is one of its more serious failures. There is also a great need for better instruction of consultant assessors, or assessment supervisors, as much of the instruction of county assessors depends upon them.

While the Tax Commission is primarily responsible for lack of equalization, there are other contributing factors.

County assessors, when first elected, may not be well-qualified to perform the duties of their offices. There is little provision for training them in their duties. They are left to acquire the necessary knowledge largely through their own efforts. While the Tax Commission has no control over the selection of assessors, it could do much more than it does to provide instruction for those selected.

Many of the assessors are handicapped in the performance of their duties by having too few assistants, by having too small a budget to pay adequate salaries, and by lack of office space and equipment. There is statutory power in the commission (Section 35-8-4, C.R.S. 1953) to provide a remedy for assessors caught in this position, and with aggressive leadership it could exercise considerable influence toward the improvement of the situation.

The commission itself has an inadequate staff to fully accomplish its mission. The development of an over-all assessment policy, that, if properly applied, will produce reasonably equalized assessments, requires extensive research concerning

appraisal and assessment methods and property values, constantly pursued to keep up with value trends and the development of different types of property. Such a policy cannot be devised without the accumulation and analysis of facts. The time that can be spent on such basic research by the commission, as now staffed, is completely inadequate.

On the other hand, the commission appears to have more consultant assessors than are necessary for the performance of its function of instruction, supervision and inspection. Some of them are not qualified to perform the duties assigned to them. Those who are qualified are less effective in the performance of their duties than they would be if they had positive direction, a comprehensive and consistent assessment policy to convey to the assessors, and a training in such policy.

The committee recognizes that the commission needs a larger budget in order to be adequately staffed for the performance of its duties. The commission uses the lack of an adequate appropriation as an excuse for its failures. But it has not been aggressive in requesting a larger appropriation. During the last three years, it has requested no significant increase in its appropriations. In the 1957 budget request it did ask for the addition of several assessment specialists, but it was turned down. The General Assembly should share the blame for this. However, as the commission has had no policy to sell to the assessors, likewise, it has had no policy to sell to the General Assembly. An increased budget request for a thorough reorganization and expansion of the commission staff, coupled with the presentation of a positive program for the accomplishment of equalization, would likely have been given favorable consideration. On the other hand, a mere request for more money to add more employees to an ineffectual agency with a vague statement of what was to be done with them, has been, and will probably continue to be, turned down.

Any worthwhile staff reorganization likewise requires a reclassification of staff positions with better job specifications and salary scales in order to bring higher quality. This, of course, is controlled by the Civil Service Commission, as well as by the availability of appropriations. However, if the Tax Commission were to approach the Civil Service Commission with a well developed program calling for a well-defined staff reorganization and if it persistently pushed for the necessary reclassification, it might be accomplished.

As previously mentioned, the commission has made few recommendations to the State Board of Equalization. In the last eighteen years it has recommended changes of the assessments of only seven of the sixty-three counties, two of them twice. One reason stated for not being more aggressive in

making recommendations is that the Board of Equalization would turn them down. Yet, only once in the eighteen years have the recommendations been turned down. This was in 1956 when the commission recommended increases in the valuations on farm improvements in six counties and the recommendations were disallowed. The Board stated that an adequate case for such increases was not presented. One of the counties had already corrected the practices of which the commission was complaining and on which the recommendations were based. The Board, in that year, also questioned whether the assessments in this many of the counties should be changed without attention to the assessments of the other fifty-seven.

Civil service status of supposedly top policy making positions is not conducive to aggressive action. Although civil service status was undoubtedly extended to these positions to eliminate timidity on the part of the officeholders, it has not done so. The apparent effect is to seal into office those who seem to be pleasing no one while completely ignoring constitutional and statutory duties.

COMMITTEE RECOMMENDATIONS

After considering the lack of equalization, the need for equalization, the state's responsibility for its accomplishment, and the causes for the existing lack of equalization, your committee submits the following recommendations to the Tax Commission and to the General Assembly.

Administrative Recommendations

The causes for the shortcomings of Tax Commission administration which have been found by your committee are many and varied. Some of them are such that they could be eliminated in whole, or in part, by the commission itself within the existing statutory framework and at the existing level of appropriations. The committee therefore makes the following twelve recommendations to the Tax Commission.

1. The commissioners should act as a policy-making commission. All policy decisions regarding methods of assessment, staff direction, and enforcement actions should be made by the commission and such decisions should be recorded and issued in writing. A major part of the time of the commissioners should be spent in such joint activity. This course should be pursued aggressively toward the development of a comprehensive and consistent assessment policy, an efficient staff operating procedure, and an effective enforcement policy.

2. The commission should delegate to a director of appraisals the responsibility for research which is basic to the development of good policy and to the execution of the policies which are adopted, in the field of the supervision of assessment at the county level.

3. The commission should completely reorganize its staff for more effective administration. The field men should be closely directed under a carefully planned operating procedure in the performance of instruction, supervision, and inspection. They should not be permitted or directed to perform any work which is the responsibility of the county assessors, except to a limited extent for the purpose of demonstrating methods of assessment. All counties should receive the attention of these field men, for while not all counties may need much in the way of instruction or supervision, all county assessors should be subjected to careful inspection.

The services of the industrial appraisal engineer should be directed more toward providing instruction in, demonstration of, assistance with, and inspection of the appraisal of industrial properties, rather than presenting the county assessors with complete appraisals. His time should be directed as much as possible to research activities, as well.

4. The commission should review the entire field of assessment methods, and where extensive research is not necessary, reconcile conflicting or inconsistent policies, and adopt policies in areas where none have previously been adopted. It should analyze the extent of research needed in other matters and undertake such research as can be accomplished with its limited staff.

5. It should provide for a course of training for county assessors by organizing a formal school of instruction, which should have four specific courses. First, there should be an introductory course for all newly-elected assessors to introduce them to the duties of their offices and provide them with the basic information which they need as an introduction to their offices. It should be held as soon as possible after each quadrennial election.

Second, there should be a basic course of instruction to be given once to every county assessor, designed to bring all assessors up to a satisfactory standard of understanding of their duties and responsibilities and of the principles involved in property appraisal, and to instruct them thoroughly in all Tax Commission policies, in order that they may be competent to perform or supervise the performance of the quality of assessment necessary for the achievement of equalization.

Third, there should be an advanced course conducted annually to give such additional training as may be deemed necessary and to provide instruction in new laws, rules, regulations, and manual procedures and the solutions to new problems, and to convey to assessors what it is currently essential to accomplish in the field of assessment.

Fourth, there should be a separate course conducted annually for assessment supervisors. These men should participate in the other courses to whatever extent is desirable. Further, they should be given additional training to bring them to a higher degree of understanding than is expected of assessors in order to qualify them for the performance of their functions of instruction, supervision and inspection. Also, they should be thoroughly indoctrinated with Tax Commission policy in order that they may effectively carry out that policy.

The advice and assistance of the institutions of higher learning should be sought toward the development of curriculum and methods of instruction based on sound professional principles of education. Instructors should be recruited from among Tax Commission personnel and assessors to the extent that they are qualified to instruct particular subjects, and should also be recruited from among educators and professional people in the fields of appraisal, accounting, and so forth, to the end that the quality of instruction shall be high.

Attendance by county assessors at county expense, and assessment supervisors at state expense, should be mandatory. According to demand and subject to necessary limitations of meeting space, attendance of key personnel of assessor's offices should be permitted.

6. It should make use of sales data which is available to it in the diagnosis of possible faults in methods of assessment and in application of methods, and by field investigation, verify the faults indicated and determine what corrective action should be taken, either in policy changes or in enforcement action. Although, under present procedures, this data is not immediately available to the commission, it is available immediately after the publication of reports by the Legislative Council, not only in the form of the published ratio data, but also in the form of the raw data upon which the ratio results are based. Even earlier, the raw data is available at its source in the counties.

7. It should undertake annually to determine the counties which are most seriously in error in the assessment of various classes of property, endeavor to have the errors corrected, and then, if necessary, recommend changes to the State Board of Equalization with a well-documented report in support of such

recommendations. If it is, due to limitations beyond its control, unable to make such recommendations in the case of all counties where needed, it should select the most serious cases for such actions.

8. It should concentrate supervisory efforts in attempting to obtain completion of the reappraisal program in those counties where it has not been fully completed.

9. It should bring charges under Civil Service regulations for the removal of such employees as do not or cannot adequately perform their duties, or will not follow commission directives, so that they may be replaced with more competent personnel, or take such other action as will accomplish that result.

10. It should work with the Civil Service Commission for the reclassification of its staff positions.

11. It should adopt a positive program to submit to the General Assembly for legislative reform in the field of property assessment and Tax Commission authority, and request necessary appropriations therefor.

12. It should pursue a course of selling its program to boards of county commissioners, as well as to county assessors, endeavoring to persuade the commissioners to provide adequate support for the county assessors' offices in terms of competent employees, and adequate working space and equipment. When persuasive efforts fail, the commission should invoke its powers under Section 35-8-4, C.R.S. 1953, to require action.

Constitutional Recommendation

Repeal of full cash value requirement. Your committee recommends that a proposal be submitted to the electorate to amend Article X, Section 15, of the constitution, as follows: "...The state board of equalization and the county board of equalization shall equalize to the end that THE ASSESSMENTS ON all taxable property in the "state" shall be assessed at its full cash value SHALL BE JUST AND EQUALIZED..."

Legislative Recommendations

Your committee recommends that legislation be enacted to implement the following recommendations.

Organization of commission. Your committee recommends amendment of Section 137-6-8, C.R.S. 1953, as follows: "A majority of such commission shall constitute a quorum to transact business, and any vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the commission so long as the majority remains. Any investigation, inquiry or hearing which this commission is authorized to hold or undertake may be held or undertaken by or before any one member of the commission. All investigations, requires, hearings and decisions of the commission and every order made by the commissioner, when approved and confirmed by the commission and so shown on its record of proceedings, shall be deemed to be the order of the commission."

Division of Appraisals. Your committee recommends legislation to create within the Department of Taxation, under the Colorado Tax Commission, a Division of Appraisals, headed by a Director of Appraisals, who would be appointed under civil service and would be responsible to the Tax Commission for the execution of its policies with reference to supervision of local assessment. Said director would report to the Tax Commission and would make recommendations concerning matters of policy and rules, regulations, manuals, orders and instructions.

Specification of duties and powers of Tax Commission. Your committee recommends amendment of Section 137-6-12, C.R.S. 1953, to clarify the duties and powers of the Colorado Tax Commission, as follows:

a) To supervise the assessment by county assessors of all taxable property in the state except public utility operating property to the end that assessments of all taxable property in the state shall be just and equalized.

b) To engage in such research concerning property values and methods of appraisal and assessment as is necessary to determine the methods which are most suitable for the achievement of equalized assessments.

c) To formulate, adopt, and issue such rules, regulations, manuals and instructions to its employees and county assessors, consistent with law, as will insure equalized assessment of all property and compliance with all laws relating to the assessment of property.

d) To instruct its employees and county assessors in the laws relating to the assessment of property, its rules, regulations, manuals and instructions, as well as the principles of appraisal, accounting, public relations and office management, which are applicable to the assessment of property, by organizing and conducting quadrennial courses of instruction for newly-elected assessors, annual courses for all employees and assessors, and continuous in-service instruction as needed.

e) To supervise the work of county assessors to see that all assessments are made in conformance with law and its rules, regulations, manuals and instructions and to assist county assessors with local problems in connection with the application thereof.

f) To inspect the work of the county assessors and analyze the assessments made by them in order to determine whether assessments are made in compliance with law and its rules, regulations, manuals and instructions and are equalized.

g) To require county assessors to report to it such information at such times and in such form concerning the assessment of property as it requires for the performance of its duties.

h) To order county assessors to comply with the law and its rules, regulations, manuals and instructions and to make such changes in assessed valuations as it deems necessary for equalization; and to bring action to compel any county assessor to comply with any such order.

i) To review the actions of county boards of equalization and recommend to the State Board of Equalization that any or all of such actions be approved or disapproved.

j) To recommend to the State Board of Equalization, changes which it deems should be ordered in any or all of the assessments of any or all of the counties, specifically, or by classes of property as defined by it, in the interest of equalization.

k) To require any assessor to appear before it at any of its meetings and to examine such assessor, under oath, concerning the assessment of his county.

l) To appear in any court or tribunal in any proceeding in which an abatement or refundment of taxes is sought.

Duties of county assessor. Your committee recommends legislation to provide that it shall be the duty of each county assessor annually to list and assess all the taxable property in his county except public utility operating property in accordance with provisions of law and Tax Commission rules, regulations, manuals, instructions and orders, consistent with law.

Removal of full cash value requirement. Your committee recommends legislation to amend all sections of the statutes wherein appear the words "full cash value" or "true value" by substituting therefor the requirement of just and equalized assessments, namely, Sections 137-3-1, 137-3-40, 137-3-41, 137-3-17, 137-6-12, 137-6-31, 137-6-32, 137-7-5.

Assessment of merchandise. Your committee recommends legislation to amend Section 137-3-25, and 137-3-26, C.R.S. 1953, to provide that assessment of merchandise and manufactures shall be based on the average amount invested during the calendar year preceding the assessment instead of during the fiscal year for which the tax is to be levied, the latter being an administrative impossibility.

Assessment of mines. Your committee recommends legislation to amend Section 137-5-9, C.R.S. 1953, to remove the limitation contained therein that the manner of assessment prescribed in Section 137-5-4 for assessment of producing mines according to annual production shall apply only to "mines and mining claims bearing and producing gold, silver, lead, copper or other precious or valuable metals or minerals" and shall not apply to "mines of iron, coal, asphaltum, quarries and lands valuable because containing other metals, minerals or earths," and to substitute a provision that nothing contained in article 137-5 shall be construed to preclude the consideration of annual production in the assessment of any mineral interests in lands.

Continuation of committee. Your committee recommends that the Legislative Council Committee on Assessment Methods be continued and that the Tax Commission be required to report to it after January 1, 1960, every three months on the progress made in implementing the recommendations included in this report.

Continuation of sales ratio study. Your committee recommends that the sales ratio study be continued under the administration of the Legislative Council.

Appropriation Recommendation

Your committee recommends to the Joint Budget Committee its favorable consideration of prompt requests by the Tax Commission for supplemental funds necessary to further the purposes set out in this report.

Additional Committee Recommendations

Your committee recommends favorable consideration of the following additional recommendations, which have been suggested to the committee by assessing officers and others as desired reforms in the field of assessment.

Assessment date. Your committee recommends legislation to change the assessment date to January 1st.

Exceptions to assessment date. Your committee recommends legislation to amend present laws to clarify the exceptions to the assessment date with reference to property moved into and out of the state, and inter-county movement of livestock.

Penalty on taxpayer. Your committee recommends legislation to provide for the imposition of a penalty upon taxpayers who fail to file a return of taxable property after due notification, or who file a fraudulent, incomplete, erroneous, or misleading return, which cannot be abated or refunded except on a showing that it was erroneously or illegally imposed.

Deadline for organization of new taxing district. Your committee recommends legislation to provide that a taxing district of any kind which is being newly organized may not levy a tax for the current year unless it notifies the county assessor of its intention to do so prior to May 1st, submitting a description of the boundaries of the district.

Oath of taxpayer. Your committee recommends the correction of an oversight in 1957 legislation by amending Section 137-3-7, C.R.S. 1953, which provides for an oath to be shown to by a taxpayer filing a return, to substitute therein the words "on the assessment date" in lieu of "on the first day of March."

Repeal of obsolete statutes. Your committee recommends legislation for the repeal of Section 137-3-18, C.R.S. 1953, Additional return of nontaxable securities, and 137-3-27, C.R.S. 1953, Taxation of special franchises, which no longer have any application since the exemption of intangible personal property from the property tax.

Alternate Recommendations

In addition to the recommendations for legislation action submitted on the preceding pages, your committee submits the following for consideration. The preceding recommendations are considered as essential to the achievement of the goal of equalization. The following are considered to be desirable to facilitate the achievement of that goal.

Civil service exemption. Your committee recommends that a proposal be submitted to the electorate to amend the State Constitution to exempt the members of the Colorado Tax Commission from the provisions of Article XII, Section 13, of the constitution, providing for appointments to the classified civil service, by adding the Colorado Tax Commission to the list of commissions excepted from the classified civil service of the state.

Appointment of members of tax commission. If the members of the Tax Commission should be exempted from civil service, your committee recommends the following legislation, providing for appointment of the three members of the Colorado Tax Commission by the Governor with the consent of the Senate for staggered terms of six years, each member to hold office until his successor shall qualify, not more than two of the same political party, and any vacancy on the Commission to be filled by the Governor, with the consent of the Senate, for the unexpired term. Such appointments should be made as follows: first, appointment of one member for a two year term, one member for a four year term, and one member for a six year term, and thereafter, biennially, one member for a six year term.

Abolition of boards of equalization. Your committee recommends that a proposal be submitted to the electorate to amend the State Constitution repealing Article X, Section 15, thereof, providing for a state board of equalization and county boards of equalization and their duties. Repeal of this section would also take care of the preceding recommendation for removal of the full cash value requirement from the constitution, leaving the only reference to assessment in the constitution that contained in Article X, Section 3, which provides that "All taxes...shall be... assessed...under general laws, which shall prescribe such methods and regulations as shall secure just and equalized valuations for assessments of taxes upon all property, real and personal, located within the territorial limits of the authority levying the tax;..."

Statutory replacement of boards of equalization. If boards of equalization should be abolished by Constitutional amendment, your committee recommends legislation to reestablish county boards of equalization by statute, to designate the Tax Commission as the chief administrative authority in equalization, and to provide for an appeal procedure from county boards of equalization to the Tax Commission.

MINORITY DISSENT

We cannot reconcile the committee recommendations (in respect to the Tax Commission itself) with the findings of fact.

We agree that the Tax Commission is guilty of the many sins numbered in the report. Consequently, we cannot agree that the Tax Commission deserves more money and more men. We conclude that the weaknesses lie within the Commission itself, and reform there is needed.

Until the Tax Commission shows a disposition to do a better job with the tools it has, we would reject its requests for a bigger budget and a bigger crew.

Legislators must show the same caution with public funds that they would give their own personal cash. In this instance, we would not send good money after bad.

/s/ Ray H. Black
/s/ Yale B. Huffman, Jr.