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0036 1. Gross Ton Mile Tax 2. Educational Endeavor 3. Continuity in Government

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Report to the Colorado General Assembly:

- 1. Gross Ton Mile Tax**
- 2. Educational Endeavor**
- 3. Continuity in Government**



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO.36

December 1959

LEGISLATIVE COUNCIL
OF THE
COLORADO GENERAL ASSEMBLY

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Raymond H. Simpson
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David J. Clarke, Vice Chairman
Charles E. Bennett
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Carl W. Fulghum
Paul E. Wenke
Robert L. Knous, Lt. Governor

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* * * * *

The Legislative Council, which is composed of five Senators, six Representatives, and the presiding officers of the two houses, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

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

1. GROSS TON MILE TAX

2. EDUCATIONAL ENDEAVOR

3. CONTINUITY IN GOVERNMENT

LEGISLATIVE COUNCIL
REPORT TO THE
COLORADO GENERAL ASSEMBLY

Research Publication No. 36
December, 1959

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LETTER OF TRANSMITTAL

December 3, 1959

TO MEMBERS OF THE FORTY-SECOND COLORADO GENERAL ASSEMBLY:

Contained herein are two progress reports and one final report made by Council Committees and approved by the Legislative Council for transmittal to the General Assembly.

1. Gross Ton Mile Tax: This report is transmitted pursuant to the provisions of Senate Joint Resolution No. 33, 1959 session. The Council Committee making this study was unable to complete its work, because the data needed to make a thorough evaluation of the present ton mile tax and alternate proposals is still being compiled by the Department of Revenue; therefore, this is a progress report rather than a final report as directed under the terms of Senate Joint Resolution No. 33.

2. Educational Endeavor: This progress report is transmitted pursuant to the provisions of Chapter 219, Section 4, Session Laws of 1959 which direct the Committee on Educational Endeavor, which is appointed by the Council, to report annually through the Legislative Council to the General Assembly.

3. Continuity in Government: At the request of the Governor, the Legislative Council appointed a three-member committee to review statutory and constitutional provisions regarding succession in executive, legislative, and judicial offices and to determine whether statutory and/or constitutional change is needed at this time to preserve government continuity in the event of disaster. The report of this committee was approved by the Council and is transmitted herein to the General Assembly.

Respectfully submitted,

/s/ Charles Conklin
Chairman

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PROGRESS REPORT

December 3, 1959

TO: 42nd General Assembly
FROM: Colorado Legislative Council
SUBJECT: Gross Ton Mile Tax Study

Under the provisions of Senate Joint Resolution No. 33,¹ the Legislative Council was directed to appoint a committee to make a thorough study of the present ton mile tax on trucks, truck tractors, and trailers. This study was to include a survey of the operation and administration of the port of entry system. In making its study the committee was given authority by the resolution to inquire into any phase of the ton mile tax and its administration. More specifically, the resolution authorized the committee to: 1) examine the relationship of the ton mile tax and the general highway tax structure; 2) determine the proportionate and fair payment for vehicle highway use; 3) compare Colorado's ton mile tax rates with those of other states.

The Legislative Council, under the terms of the resolution, is required to make recommendations as a result of the committee's findings to the Second Session of the 42nd General Assembly. The committee, appointed pursuant to the resolution, includes the following: Representative Dewey Carnahan, chairman; Senator Floyd Oliver, vice chairman; Senator Charles E. Bennett; Senator Frank L. Gill; Representative Andrew Kelley; Representative Walter Stalker; and Representative John Vanderhoof.

This report summarizes the committee's development of the study, the progress made thus far, and contains the recommendation that the study be extended so that final recommendations and findings shall be presented to the First Session of the 43rd General Assembly (1961).

Study Content and Development

Study Content

In carrying out the provisions of Senate Joint Resolution No. 33, the committee has delineated the scope and content of the study as follows:

1. See Appendix A, page 10.

Equitability of the Ton Mile Tax. An analysis is to be made of the equitability of the ton mile tax in respect to other highway taxes, highway use, and in comparison with other states -- with special emphasis on the other ten western states and those state bordering on Colorado's eastern boundaries. This analysis will be made by vehicle category and size as well as by type of carrier. Special attention will be given to interstate and intrastate haulers, metropolitan registered vehicles, farm registered vehicles, and special mobile equipment.

While the resolution did not provide specifically for study of truck taxation methods other than the ton mile tax, the committee was of the opinion that such study is desirable to determine whether the ton mile tax is the most satisfactory and equitable method of raising sufficient revenues for highway maintenance and repair. Consideration of alternate methods of taxation used in other states is of importance for two reasons: 1) There is a wide variation in the type of so-called "third structure" taxes used, so that other possibilities should be considered.² 2) An understanding and evaluation of these alternate methods will assist the committee in evaluating proposals for change in Colorado's ton mile tax.

Evaluation of Various Proposals to Modify or Change Colorado's Ton Mile Tax. Foremost among these proposals was Senate Bill 100 introduced at the First Session of the 42nd General Assembly. Senate Bill 100 proposed to change the method of truck taxation by first, substituting graduated registration fees according to vehicle weight for the present flat fee, and second, by establishing a mileage tax graduated according to vehicle empty weight instead of the present flat rate of 2.2 mills times weight per loaded mile traveled and .8 mills times weight per empty mile traveled. Another proposal brought before the committee for consideration included the elimination of the .8 mill tax per empty mile traveled and an increase in the loaded mile tax from 2.2 mills to 3 or 3.1 mills. Complete elimination of third structure taxes has also been advocated.

Administration of the Ton Mile Tax. This portion of the study deals basically with the operation of the Gross Ton Mile Tax Division and the Port of Entry Division of the Department of Revenue. In scope it covers the internal organization and procedures of both divisions, including GTM internal and field audits and the field operation of the port of entry system. The functions of other agencies concerned with the ton mile tax, such as the Department of Highways, Colorado State Patrol, and the Public Utilities Commission are also included in this portion of

2. See Appendix B for a classification of different third structure taxes by state on page 11.

the study, as well as cooperation among these agencies and the Department of Revenue in administering the laws pertaining to the ton mile tax.

In making this portion of the study, the committee is concerned with determining the extent of tax evasion and whether the problem, if there is one, lies with the nature of the tax itself or whether it can be rectified through administrative improvement.

Study Development

Committee Meetings. The committee has held two public hearings and has observed operation of the Gross Ton Mile Tax and Port of Entry Divisions. At the two public hearings, the committee heard testimony from representatives of various segments of the trucking industry. Appearing before the committee were interstate and intrastate operators, large and small; Light and Heavy Contractors Association; Warehousemen and Haulers Association; Denver Area Ready-Mix Concrete Association; and the Colorado Motor Carriers Association.

Port of Entry System. The committee held one meeting at the Monument Port of Entry, and individual committee members have visited some of the other ports. In addition, the Council staff has spent time at several ports studying operations and the port's relationship to the system as a whole, and has referred to the committee any problems either in respect to port operation or to the over-all administration of the tax. Ports visited by the staff included: Brush, Cortez, Grand Junction, Idaho Springs, Lamar, and Platteville. The findings resulting from these visits are still preliminary, and the committee feels that, in light of the work still to be done, any report on this portion of the study would be premature.

Gross Ton Mile Tax Division. Aside from the committee meeting at the GTM Division and its review of the analysis of the division's operations made in 1958 by the Joint Budget Committee staff, nothing further has been done on this portion of the study. An outline of the division's forms and procedures has been presented to the committee by the Department of Revenue, and further information has been requested.

Comparison of Colorado and Other States. This analysis is being made by the Council staff and is still in preliminary form. A considerable amount of data has already been developed in the Governor's Tax Study and is being used as reference material.

Analysis of Ton Mile Tax Application and Proposed Changes

The committee has requested from the Department of Revenue the basic data which is necessary for the proper evaluation of the present tax and proposed changes. This data includes the following:

1) vehicle registration breakdown by weight of vehicle and license classification (GTM, Metropolitan, etc.) including model numbers, which could be checked as to number of axles, if needed;

2) a breakdown by carrier category, showing equipment and taxes paid for each account;³

3) a special study consisting of port of entry reports for a typical month by carrier;³

4) a special report covering flat rate and negotiated rate carriers, including administration, amounts collected, and an exploration of the possibilities of increasing the number of carriers which make payment in this way;

5) a complete compilation of port of entry operations reports, July, 1956 to present;⁴

6) a special report on the metropolitan truck problem including how these vehicles might be administered as part of the GTM program;

7) a special report on reciprocity among states in respect to Colorado's ton mile tax;

8) other reports covering evasion under the present program, and Colorado weight and length limits and tax rates compared with surrounding states.⁵

This statistical information and the various reports were worked out at a meeting with the Director of Revenue and the Revenue Department officials who are assisting in preparing this material. At the August 14 meeting of the committee, the Director and Deputy Director of Revenue explained that the

3. Originally a selected sample had been agreed upon by the committee and the Department of Revenue; however, the department could not derive a sample which could be justified as representative so all carriers are being included.
4. These reports have already been submitted to the committee.
5. This later analysis was considered necessary so that an evaluation might be made as to whether Colorado's greater weight and length limits offset to any extent its higher tax rate for interstate carriers, who can choose alternate routes around Colorado in transcontinental hauling.

information requested would not be completed until February, 1960. This delay is necessitated, because of the large quantity of data to be placed on IBM cards. Instead of a selected sample, all ton mile tax data for 1958 is being accumulated and punched. This includes: vehicle registration, amount of cargo, weight, destination, mileage, and tax paid for each account, and covers all interstate, intrastate, and metropolitan haulers.

The committee believes that all of the information requested is necessary for a thorough evaluation of the present tax and for an analysis of proposed changes and their effect. This is especially the case in respect to Senate Bill 100, as there has been considerable disagreement between proponents and opponents as to the amount of tax which would be realized and the effect on the various carrier categories. After the basic information is made available by the Department of Revenue, at least two or three months will be needed to apply this data in carrying out the study.

Special Problems and Considerations

While the committee has completed only a small portion of the work involved in the study, certain aspects of the present carrier tax program have been pinpointed as needing special consideration.

City and Metropolitan Trucks. The present law provides for a special registration fee for all trucks, tractors, and trailers operated exclusively within the corporate limits of a city, city and county, or incorporated town.⁶ These are CITY licensed vehicles and must pay the ton mile tax for miles traveled outside of the municipality in which licensed. Trucks with METRO registration are licensed at a rate of 125 per cent of the fees paid for CITY trucks. METRO vehicles may be used both within the municipality where registered and within a ten-mile radius. The ton mile tax must be paid on all miles traveled beyond the ten-mile limit.

This system of registration has raised several questions. Foremost of these is whether these trucks, at least above a certain weight class, should not be subject to the ton mile tax for all miles traveled. This approach might be justified, because a portion of the highway users fund is allocated to maintain municipal streets and present registration fees may not provide adequately for wear and tear. Second, there appears to

6. C.R.S. 1953, 13-5-23 (3) as amended.

1. empty weight up to 4,500 lbs. - \$7.00
2. empty weight 4,500 - 10,000 lbs. - \$7.00 + \$.75 per 100 lbs. or fraction thereof over 4,500 lbs.
3. empty weight over 10,500 lbs. - \$55.75 + \$1.75 for each 100 lbs. or fraction thereof over 10,500 lbs.

be some evasion of the ton mile tax by METRO vehicles traveling outside the ten-mile limit, although the committee has not yet determined the extent of this problem. (The METRO truck situation is also somewhat different in the Denver metropolitan area. METRO trucks registered in the City and County of Denver have a wider radius of operation in the metropolitan area than those licensed in Arapahoe, Adams, or Jefferson Counties. Consequently, trucking firms may be encouraged to locate in Denver rather than the surrounding counties.)

Third, some of the truck operations who have both METRO and GTM (Gross Ton Mile Tax) registered vehicles sometimes have to use METRO trucks beyond the metropolitan area because GTM vehicles are not available, and are picked up because of not having a GTM permit. It is claimed that usually there is insufficient time to obtain a permit, because the vehicle is needed at once. This is also true of CITY registered trucks which are sometimes used in the metropolitan area. As a result, some carriers license their vehicles with METRO plates, even if they operate only occasionally outside the corporate limits.

Reciprocity

There is considerable disagreement between some of the truckers and the Department of Revenue as to the effect of Colorado's ton mile tax on reciprocity agreements. At the public hearing held by the committee on June 8, trucking firm representatives stated that the ton mile tax created problems of reciprocity with other states, especially those east of Colorado. It was their contention that Colorado's low registration fee makes it difficult to achieve reciprocity agreements with other states with much higher registration fees.

The situation becomes accentuated because vehicles registered in these states are subject to the ton mile tax for miles traveled in Colorado. It was pointed out that in some states Colorado registered vehicles are subject to a retaliatory tax. Nebraska was cited as an example. In that state all Colorado tractors are subject to a tax of \$.03 per mile traveled and all trucks are subject to a tax of \$.02 per mile traveled, regardless of size. Nebraska and Kansas, neither of which has a third structure tax, have a reciprocity agreement which allows vehicles registered in one of the two states to travel in the other without payment.

The Director of Revenue took the opposite position on reciprocity problems. He pointed out that Colorado is a participant in a reciprocity agreement covering the eleven western states. The agreement developed by these western states is designed to relate registration and license fee payments to the actual use made of highways within each state. The essence of the plan is that operators of vehicle fleets pay to each state

in which they operate a portion of the total fees they would pay if all of their vehicles were licensed in that state. The portion paid each state is based on proportion of mileage in that state to total fleet mileage in all eleven states. The mileage allocation is based upon actual mileage traveled during the preceding twelve months. Thus, each state is reimbursed on an equitable basis for the use of its highways, although the actual amounts paid to each state will depend upon the tax rates imposed by it. A license for each vehicle is issued by the state in which it is usually based. A special proration plate is also issued and identification tags are affixed for each state in which fees for the vehicle have been apportioned. Vehicles registered under this agreement may operate in interstate commerce in all states in which they are proportionally registered. They also may operate in intrastate commerce if they have the right to do so under authority granted by state regulatory bodies.

The Director of Revenue also cited an agreement which has been worked out with Illinois. Under the terms of this agreement, Colorado registered vehicles may make five trips per year into Illinois upon payment to that state of an amount equal to the ton mile tax which would be imposed here. If more trips are made, the vehicle must have Illinois registration. It was his opinion that it didn't matter if vehicles were registered in states other than Colorado. The ton mile tax would still be collected on all miles traveled in Colorado and the loss of registration fees, which have a maximum of only \$17.50 per vehicle, would not be great. (The loss of specific ownership tax to Colorado local taxing units because of out-of-state registration was not discussed.)

Port and Tax Evasion

There is also considerable disagreement on this subject between truckers and the Department of Revenue. At its two public hearings, some trucking firm representatives estimated 20 per cent evasion. The Director of Revenue said that this was an exaggerated view and that evasion did not exceed five per cent. Visits to the various port of entries indicate that there are considerable opportunities for bypassing the ports, and that advantage is being taken of alternate routes. The ton mile tax statutes impose no penalty for port bypassing, but only for port running; i.e. driving through a port without stopping.

There appears to be general agreement that the established trucking firms with regular routes are usually not the offenders. Rather it is the operator with occasional and varied hauls, who is the chief violator. Overloading appears to be one of the major reasons for evading the ports of entry. The additional weight offsets the disadvantage of driving additional miles if necessary. Some out-of-state truck operators who make occasional trips into Colorado may also be in the evader class.

The committee is of the opinion that there may be validity in the estimate made by both the truckers and the Department of Revenue. The truckers may be looking at the problem from the standpoint of the proportion of trips not reported and the number of wildcat operators who are believed to be evading the tax. The Department of Revenue, as a tax collecting agency, may base its estimate on the proportion lost of the total tax collected.

Negotiated and Flat Rates

Approximately 1,200 of 10,400 GTM accounts are on negotiated rates; i.e. the loads and equipment are standard, but the mileage varies. A load factor is developed based on experience, and these accounts pay monthly on the basis of this factor multiplied by the miles traveled. The possibility of evasion in this category of accounts was raised by the committee, and the Department of Revenue was asked whether there was any procedure set up to check these accounts to see if additional equipment had been purchased and additional miles traveled, especially if these additional trips do not clear ports of entry. This question was also raised in respect to flat rate accounts. (These are accounts which pay the same tax each month, as the load factor and miles traveled remain constant throughout the year.) The Director of Revenue told the committee that evasion over an extended time period would be difficult, because the GTM Division makes a three-way check on these accounts, making use of PUC records, fuel tax payment records, and vehicle registrations.

The committee has also asked the Department of Revenue whether it is possible to convert additional accounts to a negotiated rate basis and for a report on the administrative problems involved. (This report will be included in the data prepared for the committee by the department.) The committee asked for this information, in the belief that conversion to negotiated rates where possible would eliminate some of the carrier bookkeeping involved in regular GTM accounts.

Other Matters to be Considered

Bookkeeping. Many of the truckers contend that the ton mile tax causes additional and complicated bookkeeping on their part, which is not needed in the normal course of their operations, and as a result is an additional expense. The Department of Revenue, on the other hand, stated that the bookkeeping procedures resulting from the ton mile tax have been advantageous to the truckers, because it has aided them in setting up a better record-keeping system and more accurate accounting procedures.

Agency Cooperation. The committee feels that further attention should be focused on the relationship and cooperation of the various agencies concerned with the ton mile tax -- not only on the statutes and regulations covering these agencies, but on actual field relationships.

Penalty Provisions. At the August 14 meeting of the committee, the Deputy Director of Revenue recommended a change in the present statutory penalty provisions. He said the statutes make a 50 per cent penalty mandatory if a trucker has paid less tax during a month than the POE records show should have been paid.

This penalty is based on the contention that the underpayment was a fraudulent action. Actually, he told the committee, most underpayments are a consequence of negligence rather than fraud, and the ten per cent penalty which applied to income tax underpayments would be more appropriate.

Continuation of Study

Senate Joint Resolution No. 33 requires the committee to complete work in 1959, so that the Council could report findings and recommendations to the Second Session of the 42nd General Assembly in 1960.

The committee has been unable to complete its work for several reasons. Foremost among these is the need for the information being prepared by the Department of Revenue in order to make a thorough evaluation of the present tax and alternate proposals. The additional problems, such as administration of the tax, port operation, and reciprocity require considerable study and analysis by the committee.

The committee believes strongly that the complexity of the ton mile tax and related subjects requires exhaustive and thorough study if the results are to be of value to the General Assembly. The need for such thorough study is heightened by the many disagreements of proponents and opponents of the tax. For this reason the committee requests that the Council recommend that a joint resolution continuing the study and requiring a report of recommendations and findings to the First Session of the 43rd General Assembly be submitted at the upcoming session of the General Assembly.

APPENDIX A

Forty-second General Assembly, First Regular Session

S.J.R. 33

Sponsors:

Title:

Senators Oliver, Bishop, Saunders, Miller,
Porter, Finley, Strain, Skiffington, Roth,
Wolvington, DeBerard and Hewett.

Ton mile tax

Be It Resolved by the Senate of the Forty-second General Assembly of the State of Colorado, the House of Representatives concurring herein:

1. That the Legislative Council be directed to appoint a committee for the purpose of making a thorough study of the present ton mile tax on trucks, truck tractors, and trailers, which study shall include also a survey of the operation and administration of the Department of Revenue's ports of entry inspection stations, which are principally responsible for the enforcement of the ton mile tax under the direction of the department.

2. The committee shall have authority to inquire into any phase of the ton mile tax and its administration, particularly as to its relationship to the general tax structure of the state affecting the use of the highways and roads of the state, and the proportionate and fair payment for such use by the vehicles subject to the tax. Specifically in its study, the committee shall inquire into and compare the ton mile tax rates of other states with the rates in Colorado, to determine if Colorado rates are fair and just.

3. The committee may call upon the Department of Revenue, the Department of Highways, the Public Utilities Commission, and upon any other state agencies to assist it in its work.

4. The Council shall make recommendations as a result of its findings to the Second Regular Session of the Forty-second General Assembly upon the convening thereof in 1960; and

Be It Further Resolved, That any and all expenses, but not to exceed five thousand dollars (\$5,000.00), incurred in the study authorized by this resolution shall be paid from the appropriation made to the Legislative Department by House Bill No. 2, enacted at the First Regular Session of the Forty-second General Assembly and approved by the Governor on January 21, 1959. All expenditures shall be approved by the chairman of the Legislative Council and shall be payable by warrants drawn as provided by law; and

Be It Further Resolved, That a copy of this Resolution be transmitted to the Director of the Legislative Council.

Classification of States According to Tax Base Used for Special Commercial Carrier Taxes,^a 1958

Mileage (7)	Tax Base				
	Gross receipts (8)	Graduated weight (8)	Ton or passenger-mile (3)	fee ^b (3)	In lieu other taxes ^a (5)
Alabama	Arizona	Iowa	Colorado	Georgia	Connecticut ^e
Idaho	California	Nebraska	Oklahoma	Indiana	Florida ^f
Michigan	Louisiana	Rhode Island	(pass.mile)	Kansas	Illinois ^g
New York ^d	Montana	South Carolina	Wyoming		Maryland ^h
North Dakota	North Carolina	South Dakota			Mississippi ⁱ
Ohio	Pennsylvania	Tennessee			
Oregon	Texas	Washington			
	(contract)	West Virginia			
	Virginia				

- a. These taxes are additional levies on licensed for-hire carriers of passengers and property unless otherwise indicated.
- b. \$10 or more per vehicle.
- c. These taxes are in lieu of registration or other taxes as indicated and apply to one or more categories of licensed vehicles. In lieu features applying only to inter-state or unlicensed carriers are excluded.
- d. Property carriers only.
- e. Gross receipts on common carrier buses (all other taxes).
- f. Mileage (ad valorem).
- g. Mileage-weight (registration).
- h. Passenger-mile and graduated weight (registration).
- i. Gross receipts, graduated weight or ton-mile (registration).

Source: Commerce Clearing House, General State Tax Law Service, 1958.

Reprinted: From Governor's Tax Study, Chapter X, p. 69, Colorado 1959.

PROGRESS REPORT

December 1, 1959

TO: The Legislative Council, All Members, 42nd General Assembly

SUBJECT: Report of the Committee on Educational Endeavor, Established by S.B. 234, 1st Regular Session, 42nd General Assembly (1959)

In accordance with the statute noted above (S.B. 234, 1959), the Committee on Educational Endeavor is pleased to make its first annual report to the General Assembly and Legislative Council as required by law.

Establishment of Committee

The Legislative Council in the summer of 1959 approved the appointment of the committee and it met for organization purposes on September 28, 1959. Its members and their respective appointments to terms shown by years in parentheses are as follows:

Mrs. Arthur Ballantine, Durango	(four years)
Andrews D. Black, Littleton	(four years)
Jess Christiansen, Limon	(two years)
Eldon P. Cole, Colorado Springs	(four years)
Charles M. Compton, Fort Collins	(four years)
William W. Gaunt, Brighton	(two years)
Donald C. McKinlay, Denver	(four years)
John Mackie, Longmont	(four years)
Mrs. Lois Ranum, Denver	(two years)
Professor Peter Szymanski, Gunnison	(two years)
Robert Welborn, Englewood	(two years)
Representative Ruth Clark, Fort Collins, Vice-Chairman (ex officio)	
Senator Herrick Roth, Denver, Chairman (ex officio)	

Work of Committee to Date

The committee considers this a report of activities and programs as well as announcement of plans for its future work and program.

The committee has had three full days of meetings and has had as guests and consultants the following:

1. Dr. Elbie Gann, Executive Assistant to the State Commissioner; Dr. Leo Black, Assistant Commissioner for Instructional Services; and Dr. Clifford Bebell, Director of Elementary Educational Services, all of the State Department of Education, Denver.
2. Mr. Peter Muirhead, Director of the Financial Aid Branch of the U. S. Office of Education, Washington, D.C. (chief administrator of grants-in-aid to higher educational institutional programs under NDEA) and Mr. Ron Brown, Director of Student Financial Aid, University of Colorado, Boulder.
3. Mr. Al Bunger, Director, State Department of Vocational Education, Denver.
4. Dr. John Vanderwilt, President, Colorado State School of Mines, Golden; Dean Eugene Wilson, Vice-President, University of Colorado, Boulder; and Dr. Andrew Clark, Dean of Faculties, Colorado State University, Fort Collins.

We have explored rather broadly and generally the provisions of the National Defense Education Act of 1958 (NDEA), the application of NDEA's ten titles to the Colorado program as implemented through S.B. 234 of 1959 Session Laws of Colorado, and the general quality of education in Colorado from primary through graduate degree levels in our state.

The National Defense Education Act
of 1958 and S.B. 234 (1959)

It is the present opinion of the Committee that Colorado should continue to participate in the programs established under NDEA, both with regard to State appropriations and the current provisions of the State enabling act, S.B. 234 (1959).

However, the committee intends to look closely into all phases of NDEA's operation in Colorado during the year 1960, when the first complete year of its operation will be a matter of record. Some of these phases include but are not limited to: analyses of student loan funds; the effect of loyalty affidavits (not oaths) on the use of funds by both undergraduate students and those who participate at all collegiate levels in special language, guidance, and science institutes; the kinds of students

receiving loans; student drop-out after receiving loans; the relationship of the loan program to student jobs and scholarship grants; curricular and subject areas not subject to NDEA grants; etc. (These specifics are intended as examples of only one or two of the vast program areas that are not underway in Colorado under NDEA and the related tasks that therefore face the committee in its work ahead).

General Comments

From our discussions and consultations to date, we wish to make these general observations:

1. During the few months that this committee has been in existence, it has had no real opportunity to do more than get a feel of its responsibilities and to take an overall look at the studies and evaluations which should be made.
2. We are duly impressed by the magnitude of the task and by the heavy obligation implied in the assignment. We believe that the proper approach for the committee's study is first a general analysis and subsequently a treatment of specific problems and matters.
3. Some of the questions which we believe should be asked and answered as we pursue our work are:
 - a. What is the quantity of so-called "frivolous atmosphere" in our schools; does it relate to the quality of the education; does it interfere with the serious application to study?
 - b. What is the quality of the education at the various levels and how much room is there for realistic improvement?
 - c. Is there talent in our schools that is being wasted by any distracting influences or extraneous activities which may usurp time, energy and money in excess of their actual contribution in educational terms? Is serious application to study disparaged in any degree by present educational practices or systems?

- d. What campus images exist and how do they contribute or detract from the goals of the Colorado public education system?
- e. Are competent students avoiding the more exacting course studies such as the sciences, the humanities and the foreign languages; if so, in what quantity; why; and what is the effect of this on the above mentioned goals of our educational system?
- f. What is the quality of our school administrators; are able and zealous administrators able to perform at their full capacity or are they being limited by inappropriate standards and/or lack of material resources?
- g. Is the intellectual, moral and emotional maturity of the student in high school in particular, keeping pace with his physical maturity? How do teacher leadership and curricular offerings affect attainment of the full potential of a student's maturity?

Educational Quality in Higher Education

Since an established Committee on Education Beyond the High School is now in the process of studying and reporting upon the over-all picture of our colleges and universities, our Committee on Educational Endeavor has decided to await the reports from this special group before giving more particular attention to the matter of quality in higher educational programs. We are not unmindful of our statutory charge in this area; however, we believe that our particular function will best be served only after we have had the opportunity to review the extensive research and corresponding recommendations of the Committee on Education Beyond the High School.

Standards and Teaching Quality

Here again, we recognize that quality in any educational process has major dependence upon the teacher -- the faculty member -- and his arts and skills in handling course and curriculum content as well as student interest and motivation. Again, we do not wish to duplicate the functions or responsibilities of the interim legislative Committee on Teacher Certification. We will review its work and reports in relation to the effect of teacher certification requirements on teaching quality. Accord-

ingly, and not being unmindful of our Committee's charge to provide direction in this area relating to the quality of educational endeavor, we do wish to use the applicable resources of this special committee's work as it is unfolded and made available for our perusal.

Committee Program for 1960

In accordance with the background presentation of materials outlined heretofore in this report, the Committee on Educational Endeavor has set for itself the following program objectives and procedures for its functioning in 1960:

1. One of the prime studies and decisions which our committee hopes to make during our work in 1960 is an analysis of the goals of Colorado education. Related to this, we hope to suggest guideposts for evaluating the overall system and its various component levels and instructional areas, and for examining how each measures up to these goals.
2. Because of factors mentioned heretofore, we are planning to focus particularly our attention on the primary and secondary levels of Colorado education during 1960.
3. With regard to committee procedures, we have set for ourselves, in addition to projects that might be undertaken by sub-committees of our committee, a meeting schedule of from 12 to 15 days of full committee discussions and work between March 1 and December 1, 1960. We are going to invite to meet with us for seminar type discussions broadly representative professional and lay leaders concerned with education.
4. Relative to the financing of our committee's work, we do not contemplate the need of full-time staff. We believe that the availability of professional and secretarial staff of the Legislative Council on short-term projects to compile and record necessary records and reports will be sufficiently effective to permit our committee to perform its function for both legislators and the general public.

5. The Committee will ask that sufficient funds be appropriated to pay the actual travel expenses of both committee members and consultants to attend its sessions.

This then, in accordance with the requirements of Senate Bill 234 (1959) is the initial report of the Committee on Educational Endeavor to the Legislative Council and the members of the 42nd General Assembly.

Respectfully submitted,

For the Committee on Educational
Endeavor
/s/ Herrick S. Roth, Chairman

FINAL REPORT

December 3, 1959

TO: Forty-Second General Assembly
FROM: Colorado Legislative Council
SUBJECT: Lines of Succession for State Officials in Advent of
Disaster

In a letter to the chairman of the Legislative Council, dated July 28, 1959, Governor McNichols requested that the Council consider the problem of continuity in government with a view to recommending necessary action. (Senate Joint Resolution No. 34 which provided for such study was not adopted by the First Session of the Forty-Second General Assembly.)

The Council, at its September 24 meeting, appointed a committee to review the subject and the staff material thereon and to make its report to the next regularly scheduled meeting of the Legislative Council. The committee appointed included: Representative Joe Dolan, chairman; Senator Charles E. Bennett; and Representative Peter Dominick. After a review of the continuity in government material prepared by the staff, the committee met on November 16 and formulated its report to the Council.

Committee Recommendations

Succession to the Governorship

The Office of Civil and Defense Mobilization recommends that the successors to the Governor should be six deep beyond the incumbent. Currently the Colorado Constitution provides for three successors to the Governor, namely, the Lieutenant Governor, President pro tempore of the Senate, and the Speaker of the House of Representatives, in that order.¹

After consideration of this problem, the committee agreed that succession to the office of Governor as presently provided is adequate in case of disaster and no constitutional amendment for this purpose be proposed at this time.

1. Article IV, Sections 13 and 15, Colorado Constitution.

Succession to Other Executive Offices

Article IV, Section 6 of the Colorado Constitution provides that by appointment the Governor shall fill a vacancy occurring in the offices of treasurer, auditor, secretary of state, or the attorney general.

The committee is of the opinion that there is no need to change these provisions, since the Governor currently has the necessary power to fill these vacancies in case of disaster.

General Assembly

Legislative Succession. The Office of Civil and Defense Mobilization also recommends that standby legislators be designated, so that there are three to seven successors for each General Assembly member. Four alternative methods are suggested by the civil defense organization: 1) designation of successors by the Governor; 2) designation by each General Assembly member of his own successors; 3) designation by county commissioners; or 4) designation by the appropriate local political party organization.

The committee is of the opinion that the current method of filling vacancies in the General Assembly is sufficiently flexible to permit prompt filling of such vacancies. Section 49-19-4 C.R.S. 1953 stipulates that a vacancy should be filled within ten days maximum time but does not stipulate a minimum time, consequently, a vacancy could be filled the same day the incumbent vacates the seat.

Legislative Quorum. Article V, Section 11 of the Colorado Constitution states that a simple majority of each house shall constitute a quorum. The Constitution (Article V, Section 22) also provides that a majority of the members elected must vote in the affirmative for passage of legislative measures. The Office of Civil and Defense Mobilization recommends that states amend their constitutions, if necessary, to provide for a smaller legislative quorum in case of nuclear disaster and the death or disability of a legislative majority.

The committee decided that no such amendment is necessary. The Governor's authority for legislative appointment would make it possible for replacement of legislators who are killed or disabled.

The Judiciary

The Governor is authorized, under Article IV, Section 6 of the Colorado Constitution, to fill judicial vacancies in the Supreme Court and District Court by appointment. County Court judicial vacancies are filled by the board of county commissioners (C.R.S. 1953 37-5-13) and municipal judges are appointive positions in some

municipalities.

The Governor can appoint county commissioners who in turn can fill county court judicial vacancies, if necessary. Municipalities may make their own provision for succession.

Emergency Seat of Government

Article VIII, Section 3 of the Colorado Constitution requires that two-thirds majority of those voting at a general election is necessary to change the seat of state government. To initiate such vote, the General Assembly must refer the question to the electorate.

The committee takes the view that this provision applies only to the permanent seat of state government and would not affect temporary relocation in case of nuclear attack. Denver would still be the permanent seat of government, even though business was temporarily transacted elsewhere.

Local Government

The committee recommends that no action be taken in respect to succession in local government. The twenty-three home rule cities have constitutional authority to act on this matter, and the statutes provide that the governing bodies of cities of the second class and towns may fill vacancies.² The committee feels that the question of succession at the municipal level is a matter of primary concern to the local communities, themselves. The General Assembly should give careful consideration to change in state laws in this respect, if such are recommended by the municipalities.

2. C.R.S. 1953, 139-4-4, 139-4-5, 139-6-5, 139-7-4.