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0084 Property Taxation: Freeport, Mobile Homes and Equipment, and Exemptions

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no. 84

PROPERTY TAXATION AS IT PERTAINS
TO FREEPORT GOODS, MOBILE HOMES
AND EQUIPMENT, AND TAX EXEMPTIONS

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 84
December, 1963

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COLORADO GENERAL ASSEMBLY



LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL
DENVER 2, COLORADO
222-9911-EXTENSION 2285

December 6, 1963

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Sen. Floyd Oliver

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Rep. Joseph V. Calabrese
Rep. John L. Kane
Rep. William O. Lennox
Rep. John W. Nichols
Rep. Clarence H. Quinlan

To Members of the Forty-fourth Colorado General Assembly:

As directed by the provisions of House Joint Resolution No. 25, 1963 session, the Legislative Council submits the accompanying report on freeport, mobile homes and mobile equipment taxation.

The committee appointed by the Legislative Council to conduct the study reported its findings and recommendations at the December 6, 1963, Council meeting. At that time the report was adopted by the Legislative Council for transmission to the Forty-fourth General Assembly, and to the Governor.

Respectfully submitted,

/s/ Representative C. P. (Doc) Lamb
Chairman

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Rep. William O. Lennox
Rep. John W. Nichols
Rep. Clarence H. Quinlan

November 8, 1963

Representative C. P. Lamb, Chairman
Colorado Legislative Council
341 State Capitol
Denver, Colorado

Dear Mr. Chairman:

Your Committee on Property Taxation appointed pursuant to H.J.R. No. 25, 1963 session, has completed a study of the problems of mobile home and mobile equipment taxation, as well as a review of a proposed program of freeport equity, and submits herewith its findings and recommendations. A progress report of the Committee's study on tax exempt property also is included in the report.

The Committee has made several recommendations concerning improvement in the administration of taxes on mobile homes and equipment. Consequently, the Committee requests that the Legislative Council recommend to the Governor that these items be presented for consideration to the Second Regular Session of the Forty-fourth General Assembly.

Respectfully submitted,

Frank L. Gill, Chairman
Committee on Property
Taxation

FLG/mp

FOREWORD

With the adoption of House Joint Resolution No. 25, 1963 session, the Legislative Council appointed a Committee on Property Taxation to conduct a study of freeport, mobile home and equipment taxation, and tax exempt property. Committee members included: Senator Frank L. Gill, chairman; Senator Fay DeBerard, vice chairman; and Senators Robert Allen, Ed Lamm, William Bledsoe; Representatives T. H. Dameron, Robert Schafer, Lowell Compton, Walt Stalker, Rex Howell, Hiram McNeil, Samuel Boyden; and Representative C. P. Lamb (ex officio).

The assistance rendered by individuals participating in the studies is gratefully acknowledged, especially to the county assessors without whose help a study of tax exempt property would not be feasible, and to the staff of the Colorado Public Expenditure Council for their work on a freeport survey.

To assist the Committee in clarifying problems of mobile home and mobile equipment taxation, an advisory committee was appointed -- Mr. A. A. Hall, Mr. Howard Latting, Mr. Ray Carper, and Mr. Hollis Swett of the Tax Commission; Mr. William Cassell, chief of the Motor Vehicle Division of the Department of Revenue; Mr. James McNally, county clerk of Jefferson County; and Mr. Ernest MacTavish, deputy assessor of the City and County of Denver. Their assistance has been most helpful.

Miss Clair T. Sippel of the Legislative Reference Office worked closely with the Committee in carrying out the studies. David Morrissey, research associate, had primary responsibility for preparing the research material.

November, 1963

Lyle C. Kyle
Director

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COMMITTEE FINDINGS AND RECOMMENDATIONS

Pursuant to the provisions of House Joint Resolution Number 25, 1963 session, the Legislative Council appointed the Committee on Property Tax to conduct three studies concerned with the taxation of property in Colorado, namely, a study of a program of freeport equity; a review of the problems of taxation of mobile homes and equipment; and an examination of the problems relating to tax exempt property owned by public bodies, religious, and charitable organizations, and specifically the determination of the amount and value of tax exempt property owned by such groups.

In the conduct of the study, the Committee held three meetings, one of which was devoted to a two-day hearing--on July 23 the Committee met with representatives of industry, Colorado Public Expenditure Council, Tax Commission, and County Assessors' Association to examine the proposed program of freeport equity, and on July 24 the Committee met with interested persons and state and county officials concerned with administering taxes on mobile homes and equipment. Committee recommendations are based, for the most part, on these hearings and on surveys conducted by the Colorado Public Expenditure Council and the Legislative Council staff.

Freeport

A program of freeport equity may be defined as the granting of a property tax exemption for inventories of finished goods held in storage in Colorado which are destined for shipment out-of-Colorado. Usually, freeport applies to goods brought into the state from out-of-state, and held in temporary storage for shipment out-of-state -- commonly referred to "as a strict freeport program." However, if the exemption is extended to include "home-produced goods," it may be called a "liberal freeport program." In general, freeport proposals are designed to extend the tax exempt status of goods in-transit in interstate commerce to include goods held in storage at the discretion of the owner. For example, if Colorado adopted a freeport program, a Midwest manufacturer could ship goods into Denver by the carlot, store the goods, and at a later date ship the goods out-state in small quantities without paying ad valorem taxes on the goods. At present, if the goods are shipped into Denver and held in storage at the discretion of the owner, the goods are subject to ad valorem taxes.

Inventory Taxes

Prior to a consideration of freeport problems, the Committee reviewed the impact and equity of inventory taxation. Before 1961, inventories in Colorado were assessed at a ratio of 50 per cent of the average amount invested in inventories, while, at the same time, real property was assessed at approximately 27 per cent of market value, based on the sales ratio studies. Colorado's business community regards the inventory tax as unfair, not only as a result of the high ratio of assessment, but also because the impact of the tax varies from business to business due to such factors as turnover, controllability of inventories, ability to pay, overhead expenses, etc. For this

reason, the business community supported amendment number five, 1962 general election, in the hope that the amendment would allow property to be assessed on the basis of individual classes, thereby enabling the General Assembly to enact legislation reducing the burden of the inventory tax either through a general reduction in the rate of assessment or through a program of freeport equity.

Strict Freeport

Briefly, arguments presented to the Committee in support of a strict freeport program (not including "home-produced goods") are based on the need to keep Colorado competitive with surrounding states. States adjoining Colorado have adopted freeport legislation, which may encourage distributive industries to locate outside of Colorado. The effect of a freeport law on distributive industries may be significant since inventory taxes may range from ten to 25 per cent of holding costs depending on the commodity. Also, based on information supplied by the county assessors, a strict freeport program would have little impact on the property tax in most counties.

On the other hand, "home produced goods" could be placed at a competitive disadvantage, because goods manufactured out-state and held in storage for out-state delivery would not be subject to property taxes.

Liberal Freeport Program

Generally, the business community is in favor of a program of freeport equity if it includes "home-produced goods." Competition of the freeport states would be met, while "home industries" also would be protected. Again, all types of industries, distributive and manufacturing, may be encouraged to locate in Colorado as the inventory tax advantages of the other states would be negligible or non-existent.

The impact of a liberal freeport program, of course, would be much greater than the strict freeport as it pertains to property taxes. However, the accompanying research report points out that the impact of a program of freeport equity on Colorado manufactured goods probably would not exceed one per cent of the total property tax. This may be significant, especially if Colorado's program of industrial development is enhanced by the adoption of the law.

Committee Recommendations

The Committee recognizes that the granting of a freeport exemption for inventories would reduce the tax base of the community; however, the over-riding consideration is the continued development of a healthy economy. Colorado must meet the challenge of other states in the development of new industries as well as to eliminate inequitable tax burdens. Therefore, the Committee proposes a three-step approach for amending the present inventory tax structure. First, the Committee recommends that the Tax Commission reduce the ratio of assessed valuation on inventories from 35 to 30 per cent of the average amount invested in inventories for 1964; second the General Assembly should

adopt legislation, effective in 1965, requiring all property to be assessed at the same ratio of assessed value to value; and third, the committee proposes that the General Assembly establish a program of freeport equity in 1966 by providing a class of freeport property and assessing such property at a ratio of five per cent of the average amount invested.

Taxation of Mobile Homes and Mobile Equipment

Specific Ownership Tax

In 1936, an amendment to Article X, Section 6, Colorado Constitution, was approved by the people. The purpose of the amendment was to facilitate the collection of ad valorem taxes on motor vehicles. Prior to the adoption of the amendment, approximately one-half of the registered motor vehicles were not being assessed for ad valorem taxes. Although the specific ownership tax solved the problem of taxation of vehicles in continuous use on the highways, it has not been as effective in regard to vehicles using the highways only occasionally. It is this administrative problem that brought about the study on the taxation of mobile homes and mobile equipment.

Mobile Equipment

Mobile equipment falls into two categories: 1) mobile machinery -- vehicles designed for special purposes other than operation on the highways; and 2) special mounted equipment -- any type of machinery mounted on a truck chassis. Theoretically, the present method of taxation of such equipment in Colorado is based on the design of the equipment, i.e., if the vehicle is designed for normal highway use, the vehicle is subject to the specific ownership tax; if highway operation of the vehicle is incidental to its primary function, the vehicle is taxed on an ad valorem basis.

Administrative Practices of Taxation of Mobile Equipment. Section 13-5-2, 1960 Perm. Supp. to CRS 1953, states that "...road rollers and road machinery temporarily operated or moved upon the highways need not be registered under this article." A Revenue Department regulation also prohibits the registration of such equipment unless a title to the vehicle is issued. Nevertheless, there are instances in which the county clerks have registered such vehicles and collected specific ownership taxes thereon. It is possible for an owner of such equipment to pay a minimum specific ownership fee of three dollars, preempting the authority of the county assessor to levy an ad valorem tax on the vehicle. In such instances, the assessed value of the vehicle may be much greater than that reflected by the three dollar specific ownership fee. Thus, a conflict exists between the specific ownership tax and the ad valorem tax. This conflict may be attributed to the depreciation schedule for class "B" vehicles outlined in article 5, chapter 13, 1960 Perm. Supp. to CRS 1953. However, the schedule is not designed for mobile machinery, and the county clerks have complicated matters, in some instances, by issuing special mobile equipment plates for these vehicles contrary to the regulations of the Department of Revenue.

Mounted Equipment. The county clerks are charged with the responsibility of assessing specific ownership taxes on special mounted equipment. The tax on the equipment is in addition to the tax on the cab and chassis of the vehicle. The Department of Revenue has issued regulations to assist the clerks in the determination of the value of the equipment. However, in many instances the taxes are not being collected. This may be the result of the "registration by mail" system of the county clerks, which is so popular in expediting the registration of motor vehicles. Although the clerks may not have collected the specific ownership taxes on a piece of mounted equipment, the assessors are prevented from assessing the equipment for ad valorem purposes, because the owner produces a specific ownership receipt for the entire vehicle.

Committee Recommendations. The Committee believes that cooperation among the county clerks, assessors, and Revenue Department may not be achieved in every instance, nor are the regulations issued by the Revenue Department always implemented by the county clerks. Therefore, the Committee recommends that Article 5, Chapter 13, CRS 1963, as amended, be clarified to pinpoint the responsibility of the officials in regard to the taxation of mobile machinery and mounted equipment. In the opinion of the Committee the law should be amended to provide a classification of vehicles designated as mobile machinery, and that such machinery be exempt from highway registration and specific ownership taxes. Mobile machinery, of course, would be subject to ad valorem taxation. The determination of what constitutes mobile machinery would be made by the Revenue Department. If the Revenue Department did not issue title to the vehicle, the machinery would be classified as mobile machinery and subject to ad valorem taxes; if title is issued by the Revenue Department, the county clerks would process registration fees and specific ownership tax in the same manner as for other motor vehicles.

The Committee also recommends that vehicles with special mounted equipment be subject to both the specific ownership tax and ad valorem taxes, i.e., the specific ownership tax is to be levied against the cab and chassis of the vehicle, while the mounted equipment is to be assessed for ad valorem purposes. The Committee makes this recommendation in view of the fact that county clerks are not trained to determine the value of equipment, and because the present system is not working. The suggested change would allow the county assessors to contact owners of special mounted equipment and place such equipment on the tax rolls; the owners of mounted equipment would no longer be able to display a specific ownership receipt covering the entire vehicle. The Committee also recommends that owners of special mounted equipment be required to obtain a statement of assessment from the assessor prior to registration of the vehicle for highway purposes. If an owner succeeds in registering a vehicle with mounted equipment for highway purposes without notification to the assessor, the assessor would still be able to pick up the assessment in the normal course of his duties.

Appendix A contains the proposed bill for implementation of the recommended changes. Other provisions of the bill recommended by the Committee include repeal of the definition of special mobile equipment; elimination of the options for payment of special permit fees for owners of mobile machinery seeking to operate on the highways, and substitution of a single annual permit fee of \$2.50. Also, the

FREEPORT

House Joint Resolution Number 25, 1963 session, directed the Legislative Council to conduct a study of the existing and proposed freeport provisions in the laws of the several states of the union and to evaluate all data available regarding the effect of such freeport provisions upon the marketing of goods and commodities grown, produced, and manufactured by so-called "home industry," and the desirability and necessity of extending to such "home industry goods" the same tax advantage as is extended to freeport goods and commodities.

Study Procedure

In the conduct of a study of freeport provisions (a study of property tax exemptions on inventories of goods shipped in interstate commerce, and held in temporary storage in a state prior to being transported to another state), the committee appointed by the Legislative Council to conduct the study held three meetings, including a hearing with members of distributing and manufacturing industries and other interested persons. During these sessions, the committee reviewed the following areas:

- 1) the need for a freeport program and its possible effect in encouraging industrial development;
- 2) impact of inventory taxation in relation to its effect on business and as a source of revenue to state and local governments;
- 3) the constitutionality of a freeport law for Colorado, both as to its applicability to goods shipped into Colorado in interstate commerce and to "home industry goods" or goods manufactured in Colorado;
- 4) the possible adverse effect on certain Colorado industries if a freeport provision were limited to goods transported in interstate commerce;
- 5) the laws of other states relating to freeport provisions;
- 6) the reductions in property tax revenues resulting from the adoption of a freeport law or equity; and
- 7) problems of administration of a program of freeport equity.

Inventory Taxation

In November of 1960, a subcommittee of the Legislative Council Committee on Assessment Methods completed a report on personal property taxation in Colorado. One of the principal areas of concern for the subcommittee was the taxation of inventories. The subcommittee held hearings in Pueblo, Colorado Springs, and Denver, and representatives of business and industry testified concerning the personal property tax. Interest centered around the personal property tax on inventories, which constitutes nearly half of the personal property tax base. The consensus of these hearings appeared to be that the tax on inventories

is inequitable, that steps should be taken to reduce the inequities, and that either immediate or gradual elimination would be desirable if a suitable replacement tax can be found.

Recognizing that at that time the immediate problem was the reduction of inequities in the administration of the inventory tax, the subcommittee recommended, first, that legislation be enacted which would base the appraisal of inventories on the average of twelve monthly figures, derived either from physical or computed inventories. The computation of inventory would often be under the "retail inventory" system already familiar to most taxpayers. Secondly, the subcommittee believed that the assessment level for inventories was high in comparison with the assessment level for other types of property. Consequently, the subcommittee recommended a gradual equalization program.

On the basis of the subcommittee recommendations, the 1960 General Assembly enacted Senate Bill No. 196, providing that the assessment of inventories be based on one of three methods:

- (a) At the end of each of the twelve months of the calendar year, ending with the last day of December preceding the assessment date, and these figures together with the average of such amounts shall be set forth.
- (b) At the end of each of the calendar quarters of the calendar year ending with the last day of December preceding the assessment date, and these figures together with the average of such amounts shall be set forth.
- (c) At his opening and closing inventories, together with a statement of his cost of goods sold as shown on his Colorado state income tax return for the last calendar or fiscal year ending prior to the assessment date, and from such figures the assessor shall determine the average amount invested in merchandise and manufactures for the purposes of assessment.

In addition, the Tax Commission has reduced the assessment on inventories from 50 per cent of the average investment in inventories to 35 per cent.

General Dissatisfaction of the Business Community with Inventory Taxes. Hearings conducted by the 1960 Subcommittee on Assessment Methods indicated considerable dissatisfaction among the merchants throughout the state with the basis of assessing merchandise. The dissatisfaction took two forms: 1) with the use of fifty per cent or more of the average inventory as the basis of assessment, while other property was assessed at a much lower percentage of market value; and 2) the feeling that average investment as a basis of assessment is not an equitable basis of assessment as between merchants since it does not take into consideration the volume of business done during the year, the rate of gross or net profit of the business, or the amount of overhead expenses.¹

1. Research Publication Number 44, Colorado Legislative Council, Taxing Personal Property, page 8.

Impact of Inventory Tax

Comparison of 1959 and 1962 Personal Property Revenue Estimates.

In comparing the revenue estimates of the personal property tax for 1959 and 1962, it may be noted in Table I that an over-all increase in estimated personal property revenues has occurred. Total personal property revenues estimated for 1959 were approximately \$36 million and for 1962 over \$38 million. This increase of over two million dollars may be attributed to an increase in the assessed valuation of personal property from \$605,879,913 in 1959 to \$623,730,889 in 1962, as well as to increased mill levies.

Also, the increase has occurred despite a decrease in estimated revenues from merchandise inventories. Revenues from merchandise inventories have decreased as a result of the reduction in assessed valuations of merchandise. For instance, in 1959 merchandise inventories were assessed, for the most part, at 50 per cent of cost, while in 1962 inventories were assessed at 40 per cent. Thus, estimated revenues from the tax on merchandise inventories have declined from \$16,134,156 in 1959 to \$15,697,680 in 1962.

Method Used to Estimate Revenue Shown in Table I. An average "urban" mill levy was computed for each county by adding the following mill levies listed in the 1962 Tax Commission report:

- 1) state levy (1.40 mills),
- 2) county mill levy,
- 3) average municipal levy,
- 4) average school levy, and
- 5) average special levy.

The average urban levy then was applied to the assessed valuation of stocks of merchandise, furnishings and equipment, and industrial machinery and supplies of each county.

Next, an average "rural" mill levy was applied to the remaining assessed personal property of each county -- farm machinery, stock, mining equipment, etc. The average rural mill levy was determined by subtracting the average municipal levy from the average urban levy for each county.

Freeport and Interstate Commerce

In general, the term freeport applies to goods or inventories of goods shipped in interstate commerce, and held in temporary storage in a state, prior to being transported to other states. Goods actually in transit in interstate commerce are, of course, excluded from local property taxes. However, the United States Supreme Court has ruled that when goods moving in interstate commerce are held over to accommodate business convenience or for the profit of the taxpayer, the property is subject to local taxation.² Generally, as far as Colorado is concerned, goods that have come to rest at the convenience of the shipper are subject to ad valorem taxes.

2. Bacon v. Illinois (1913), 227 U.S. 504.

Table I

REVENUE ESTIMATES -- 1962 COLORADO PERSONAL PROPERTY TAX^a

County	(1) Average Urban Millage ^b	(2) Stocks of Merchandise Assessed Valuation	(3) Estimated Revenue	(4) Furnishings & Equipment ^c Assessed Value	(5) Estimated Revenue	(6) Industrial Mach. & Supplies ^d Assessed Value	(7) Estimated Revenue	(8) Average Rural Millage ^e	(9) Other Personal Property ^f Assessed Valuation	(10) Estimated Revenue	(11) Total Personal Property Assessed Value	(12) Estimated Revenue
Adams	76.67	\$ 12,943,010	\$ 992,341	\$ 4,545,080	\$ 348,471	\$ 6,411,060	\$ 491,536	64.85	\$ 4,924,430	\$ 319,349	\$ 28,823,580	\$ 2,151,697
Alamosa	70.65	844,712	59,679	370,730	26,192	377,425	26,665	52.12	1,342,955	69,995	2,935,822	192,531
Arapahoe	79.30	7,807,680	619,149	4,449,900	352,877	6,688,740	530,417	68.47	1,678,360	114,917	20,624,680	1,617,360
Archuleta	70.54	217,089	15,313	86,645	6,112	218,514	15,414	50.08	834,613	41,797	1,356,861	78,636
Baca	60.26	427,965	25,789	143,680	8,658	---	---	47.17	2,924,776	137,962	3,496,421	172,409
Bent	65.36	310,220	20,276	60,015	3,923	251,288	16,424	44.36	1,848,873	82,016	2,470,396	122,639
Boulder	71.64	6,463,210	463,024	3,325,110	238,211	3,200,810	229,306	58.77	2,819,720	165,715	15,808,850	1,096,256
Chaffee	66.62	547,740	36,490	376,060	25,053	276,440	18,416	46.11	478,710	22,073	1,678,950	102,032
Cheyenne	67.16	132,535	8,901	83,685	5,620	---	---	43.60	1,979,960	86,326	2,196,180	100,847
Clear Creek	92.54	174,150	16,116	115,220	10,662	---	---	73.01	204,420	14,925	493,790	41,703
Conejos	58.89	216,560	12,753	46,380	2,731	226,970	13,366	45.60	1,263,240	57,604	1,753,150	86,454
Costilla	78.72	125,205	9,856	23,395	1,842	---	---	67.22	721,695	48,512	870,295	60,210
Crowley	68.07	181,635	12,364	16,420	1,118	67,760	4,612	50.21	1,257,200	63,124	1,523,015	81,218
Custer	57.80	38,163	2,206	21,780	1,259	59,372	3,432	48.46	715,018	34,650	834,333	41,547
Delta	75.29	937,525	70,586	169,570	12,767	551,195	41,499	60.04	2,131,855	127,997	3,790,145	252,849
Denver	55.90	125,219,150	6,999,750	42,262,210	2,362,458	51,017,350	2,851,870	55.90 ^g	8,410,760	470,161	226,909,470	12,684,239
Dolores	78.27	81,570	6,384	34,115	2,670	61,380	4,804	57.30	605,860	34,716	782,925	48,574
Douglas	76.18	368,280	28,056	66,935	5,099	829,520	63,193	60.81	1,206,775	73,384	2,471,510	169,732
Eagle	62.10	183,935	11,422	26,410	1,640	---	---	44.16	1,312,870	57,976	1,523,215	71,038
Elbert	75.44	160,658	12,120	86,211	6,504	---	---	61.32	3,057,935	187,513	3,304,804	206,137
El Paso	71.16	12,807,400	911,375	7,302,960	519,679	10,205,390	726,216	55.00	3,367,230	185,198	33,682,980	2,342,468
Fremont	74.63	981,860	73,276	433,930	32,384	792,515	59,145	58.31	1,293,595	75,430	3,501,900	240,235
Garfield	67.86	1,163,390	78,948	414,430	28,123	2,627,640	178,312	52.35	2,274,070	11,905	6,479,530	297,288
Gilpin	99.94	58,080	5,805	37,110	3,709	---	---	72.94	57,050	4,161	152,240	13,675
Grand	64.95	222,290	14,437	264,985	17,211	169,140	10,986	47.54	952,300	45,272	1,608,705	87,906
Gunnison	67.69	335,495	22,710	161,665	10,943	356,265	24,116	50.85	1,740,490	88,504	2,593,915	146,273
Hinsdale	57.76	6,680	386	31,220	1,803	---	---	45.46	228,645	10,394	266,545	12,583
Huerfano	69.83	348,780	24,355	129,225	9,024	23,545	1,644	54.16	1,588,790	86,049	2,090,340	121,072
Jackson	57.29	144,361	8,270	43,804	2,510	167,869	9,617	39.29	2,023,102	79,488	2,379,136	99,885
Jefferson	79.84	9,713,820	775,551	5,258,420	419,832	15,282,670	1,220,168	65.67	1,633,910	107,299	31,888,820	2,522,850
Kiowa	65.17	151,490	9,873	25,810	1,682	28,320	1,846	46.64	1,442,530	67,280	1,648,150	80,681
Kit Carson	63.09	617,915	38,984	210,775	13,298	---	---	50.96	3,831,410	195,249	4,660,100	247,531
Lake	85.14	483,380	41,155	153,695	13,086	1,332,900	113,483	39.78	6,174,060	245,604	8,144,035	413,328
La Plata	66.19	2,127,120	140,794	1,190,370	78,791	467,865	30,968	52.07	3,774,940	196,561	7,560,295	447,114
Larimer	66.47	5,723,480	380,440	1,937,310	128,773	2,818,320	187,334	51.63	3,954,270	204,159	14,433,380	900,706
Las Animas	105.60	817,795	86,359	245,258	25,899	244,540	25,823	84.53	3,690,587	311,965	4,998,180	450,046
Lincoln	70.05	408,795	28,636	73,420	5,143	---	---	44.60	2,986,005	133,176	3,468,220	166,955
Logan	68.87	2,093,570	144,184	438,635	30,209	906,270	62,415	50.31	6,414,505	322,714	9,852,980	559,522
Mesa	76.40	5,588,840	426,987	1,237,290	94,529	7,609,830	581,391	58.30	3,631,970	211,744	18,067,930	1,314,651
Mineral	62.83	25,046	1,574	25,176	1,582	---	---	47.28	156,852	7,416	207,074	10,572
Moffat	61.24	805,075	49,303	215,970	13,226	289,075	17,703	42.00	3,994,965	167,789	5,305,085	248,021
Montezuma	70.68	1,427,730	100,912	499,465	35,302	1,072,220	75,785	57.88	1,622,570	93,914	4,621,985	305,913
Montrose	75.90	1,557,220	118,193	291,975	22,161	564,200	42,823	57.39	5,044,960	289,530	7,458,355	472,707
Morgan	51.40	3,076,050	158,109	874,210	44,934	131,750	6,772	41.12	5,818,260	239,247	9,900,270	449,062
Ouray	76.21	2,607,715	198,734	697,790	53,179	855,065	65,165	62.05	2,059,090	127,767	6,219,660	444,345

Table I
(continued)

County	(1) Average Urban Millage ^b	(2) Stocks of Merchandise Assessed Valuation	(3) Estimated Revenue	(4) Furnishings & Equipment ^c Assessed Value	(5) Estimated Revenue	(6) Industrial Mach. & Supplies ^d Assessed Value	(7) Estimated Revenue	(8) Average Rural Millage ^e	(9) Other Personal Assessed Valuation	(10) Estimated Revenue	(11) Total Personal Assessed Value	(12) Estimated Revenue
Ouray	71.22	\$ 47,660	\$ 3,394	\$ 46,623	\$ 3,320	\$ 6,175	\$ 440	46.15	\$ 743,023	\$ 34,291	\$ 843,481	\$ 41,445
Park	70.65	83,510	5,900	54,090	3,821	144,835	10,233	56.42	1,000,875	56,469	1,283,310	76,423
Phillips	48.77	440,500	21,483	145,865	7,114	---	---	37.05	1,847,285	68,442	2,433,650	97,039
Pitkin	68.46	274,790	18,812	438,020	29,937	336,050	23,006	50.46	1,189,120	60,003	2,237,980	131,808
Prowers	66.76	919,220	61,367	211,905	14,147	412,240	27,521	55.26	2,601,515	143,760	4,144,880	246,795
Pueblo	79.63	18,454,635	1,469,543	3,392,040	270,108	9,537,870	759,501	60.65	2,339,380	141,883	33,723,925	2,641,035
Rio Blanco	66.70	314,865	21,002	75,160	5,013	133,525	8,906	36.27	5,626,555	204,075	6,150,105	238,996
Rio Grande	71.92	978,460	70,371	180,610	12,989	649,705	46,727	50.55	1,645,010	83,155	3,453,785	213,242
Routt	70.01	528,880	37,027	353,890	24,776	826,580	57,869	49.33	2,751,330	135,723	4,460,680	255,395
Saguache	67.78	159,180	10,789	27,430	1,859	42,070	2,852	52.98	1,736,830	92,017	1,965,510	107,517
San Juan	91.46	28,655	2,621	52,675	4,818	25,040	2,290	57.46	178,415	10,252	284,785	19,981
San Miguel	68.41	115,920	7,930	41,110	2,812	---	---	43.30	1,430,610	61,945	1,587,640	72,687
Sedgwick	68.80	903,190	62,139	134,550	9,257	6,370	438	51.87	1,584,340	82,180	2,628,450	154,014
Summit	71.18	25,215	1,795	68,070	4,845	---	---	48.27	1,382,915	66,753	1,476,200	73,393
Teller	113.11	89,880	10,166	89,080	10,076	---	---	80.92	656,630	53,134	835,590	73,376
Washington	55.79	259,345	14,469	67,135	3,745	---	---	34.92	5,971,426	208,522	6,297,906	226,736
Weld	70.74	8,129,340	575,070	1,070,240	75,709	3,682,160	260,476	52.88	17,151,120	906,951	30,032,860	1,818,206
Yuma	57.18	732,380	41,877	275,970	15,780	5,500	314	50.34	4,038,100	203,278	5,051,950	261,249
TOTALS		\$243,159,984	\$15,697,690	\$85,228,912	\$5,531,055	\$131,991,333	\$8,953,239		\$163,350,660	\$8,331,360	\$623,730,889	\$38,513,334
Per cent of Total Revenues			40.3%		14.4%		23.2%			21.6%		100.0%

a. Source: Fifty-first Annual Report of the Colorado Tax Commission.

b. Includes state levy (1.40 mills), county mill levy, average municipal levy, average school levy, and average special levy.

c. Includes household furnishings (productive of revenue), store, hotel, and office furniture and equipment.

d. Includes manufacturing and industrial supplies, machinery and equipment; does not include construction machinery and metalliferous mining machinery and equipment.

e. Does not include the average municipal levy.

f. Includes all agricultural implements, equipment, stock, etc., and other miscellaneous personal property.

g. Includes average municipal levy.

The following Commerce Clearing House summary of federal and Colorado law and regulations may be helpful in clarifying present policies in the freeport area.³

Interstate Commerce. -- (Editorial Comment:) The Constitution of the United States gives to Congress the power to regulate interstate commerce. This power rests exclusively in Congress and no state may levy an ad valorem tax which imposes a burden on such commerce. However, the exemption ceases when the property comes to rest so as to acquire a situs in the state. Generally, property becomes taxable when the "continuity of transit" has been broken at the will or convenience of the shipper. But the property retains its exempt status if during the course of the interstate journey it comes to rest because of circumstances which are beyond the control of the shipper.

Property which "continuously" moves in interstate commerce, such as railroad cars, etc., may be subject to an ad valorem tax apportioned on the basis of time spent or miles traveled in the various states.

The U.S. Supreme Court, in Central Railroad Co. of Pennsylvania v. Commonwealth of Pennsylvania ('62), 370 U.S. 607, 82 S. Ct. 1297, 4 stc § 200-017, held that Pennsylvania's capital stock tax may be imposed on the full value of a domestic railroad corporation's freight cars only to the extent that they have not acquired a tax situs in another state. Consequently, freight cars that are run on fixed routes and regular schedules over the lines of another railroad in New Jersey must be taxed by Pennsylvania on an apportioned basis, rather than at full value, since their habitual presence in New Jersey constitutionally empowers that state to impose an apportioned ad valorem tax. The taxpayer has the burden of proof in establishing the right to be taxed on an apportioned basis. This right is not established by proving only that a determinable number of cars are employed outside the state during the taxable year; it also must be shown either that cars are run on regular routes through particular nondomiciliary states or that they are habitually present, although used on irregular missions, in particular nondomiciliary states.

In an earlier decision involving the tax situs of interstate aircraft, the U.S. Supreme Court ruled in Northwest Airlines, Inc. v. Minnesota ('44), 1 stc § 475, 322 U. S. 292, 64 S. Ct. 950,

3. C.C.H., Colorado Tax Reports, par. 20-012 and 20-013.

that the entire fleet of an interstate commercial airline may be taxed by Minnesota, the state of corporate and commercial domicile, where all planes are within the state at sometime within the year and none has acquired a permanent situs outside of the state.

Rules for Determining When Property Is in Interstate Commerce for Ad Valorem Tax Purposes. -- The Assessor's Office will be guided by the following rules when deciding a claim for exemption from assessment, by reason of taxpayers' contentions that property under certain conditions is in interstate commerce, and thus, is not part of the general mass of property in the state, subject as such, to Colorado property tax.

A. When the Shipment Originates in Colorado.

The claim for exemption will not be allowed if

1. There is a mere intention on the part of the taxpayer to ship goods out of state. Heister v. Thomas Colliery Co., 260 U.S. 245, 67 L. ed. 237 (1922); or
2. The taxpayers' activities in connection with shipment of goods are only incidental and preliminary movements such as the preparation of bills of lading and registration for shipping space. Empresa Siderurgica, S.A. v. Merced County, 337 U.S. 154, 93 L. ed. 1276 (1948).

The taxpayer in each case will have the burden of proving that the particular goods have actually entered the stream of interstate commerce by physical movement, or by unconditional delivery to a common carrier. Formalities such as forms of billing or warehouse receipts in and of themselves are not determining factors. There must be certainty that the particular goods have started their interstate movement. Joy Oil Co. v. State Tax Comm., 337 U.S. 286, 93 L. ed. 1366 (1949); Eardley Fisheries Co. v. City of Seattle, 50 Wash. 566, 314 P. 2d 393 (1957).

B. When There Has Been an Interruption of the Interstate Journey.

1. If the break in the interstate journey was caused by the exigencies or convenience of the chosen means of transportation, considerations of the safety of the goods during transit, or natural causes over which the taxpayer has no control, it

is still in interstate commerce and the exemption will be allowed. Champlain Realty Co. v. Brattleboro, 260 U.S. 366, 67 L. ed. 309 (1922).

2. If the interruption occurred to accommodate the business convenience or profit of the taxpayer, the interstate character of the shipment ceases and the exemption will not be allowed. Bacon v. Illinois, 227 U.S. 504, 57 L. ed. 615 (1913).

In applying the above tests, the following factors should be considered: (a) intention of the taxpayer; (b) the control he retains to change the destination; (c) the occasion or purpose of the interruption. Formalities, such as forms of billing or warehouse receipts, are not the determining factors. The burden of proof will be on the taxpayer to establish in each case that the particular occasion or purpose of the interruption for which the exemption is sought was not sufficient interruption of the interstate movement to destroy the immunity of the property from local taxation.

C. When the Interstate Shipment Ends.

1. The interstate shipment ends when the goods are in possession of the owner, or consignee, at the destination point. Minn. v. Blasius, 290 U.S. 1, 78 L. ed. 131 (1933).
2. Goods brought into a state are taxable as soon as the shipment ends, even though still in the original package. Woodruff v. Parham, 8 Wall. 123, 140, 19 L. ed. 771 (1868).

Shipment may end prior to actual physical possession by the owner or consignee when the common carrier has spotted a car for unloading or otherwise made the shipment available to the owner or consignee. The tax consequences are the same whether possession by the owner or consignee is actual or constructive. The burden of proof is on the taxpayer in each case in which he claims an exemption of particular goods, to present satisfactory evidence that the interstate shipment has not ended.

Freeport Programs -- Strict and Liberal

Generally, freeport programs may be classified as strict or liberal, depending on whether "home-produced goods" are provided the same treatment as inventories of goods involved in interstate commerce and shipped into the state from out-of-state.

Strict Freeport. A strict freeport law would apply to a property tax credit or exemption for goods originating or manufactured out-state and transported into the state for storage in a public warehouse (a bonded warehouse not owned or operated by the manufacturer or owner of the goods in question) prior to final distribution out-of-state. In a sense, a strict freeport law simply extends the federal concept of goods in-transit in interstate commerce to include goods held in storage at the convenience of the shipper. A strict freeport law could also be applied to inventories in private warehouses and inventories of goods which are relabeled or repackaged prior to shipment out-of-state.

Liberal Freeport Law. A liberal freeport law extends the state's tax policy on strict freeport to "home produced goods," i.e., manufacturers' inventories of finished goods destined for delivery out-state would receive the same tax benefit as for goods held in temporary storage en route through the state.

Freeport in Other States

Generally, a review of the freeport policies of other states reveals that the states may be classed into six basic categories:

- 1) states that do not have an inventory tax (four states -- Delaware, Hawaii, New York, and Pennsylvania);
- 2) states that do not have a freeport provision (18 states -- Alabama, Alaska, Arkansas, California, COLORADO, Florida, Georgia, Kentucky, Maryland, Montana, New Hampshire, North Carolina, Rhode Island, South Dakota, Texas, Vermont, Virginia, and West Virginia);
- 3) states in which all goods held in public storage (warehouses in which the consignor or consignee of the property do not have any interest) for delivery out-state are exempt from personal property taxes (five states -- Illinois, Iowa, Michigan, Nebraska, and Wisconsin);
- 4) states in which goods held for storage in transit, shipped into the state, which may be processed, assembled, packaged, etc., for delivery out-state, are exempt from personal property taxes (six states -- Arizona, Nevada, Oregon, South Carolina, Utah, and Wyoming);
- 5) states in which goods held in storage, in original packages, or, at least, without significant processing, shipped into the state for trans-shipment to out-state destinations, are exempt from ad valorem taxes (15 states -- Connecticut, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Mississippi, Missouri, New Mexico, North Dakota, Ohio, Oklahoma, Tennessee, and Washington); and

6) miscellaneous states (two states -- Maine exempts from the personal property tax all goods not in trade or manufacture, and New Jersey exempts from personal property taxes inventories of raw materials, supplies, small tools, and gas stored in public warehouses).

Of the states that provide a freeport law, there appear to be three critical areas of difference: 1) whether freeport includes "home" produced products; 2) whether freeport applies to goods in public warehouses only, i.e., to warehouses in which the consignor or consignee of the property has little or no control; and 3) whether the goods may receive additional processing while in storage and still be entitled to freeport exemptions.

A complete summary of the freeport laws in the 50 states is contained in Appendix D. However, since the business community is extremely interested in the competitive advantages associated with freeport, an examination of the freeport laws of states adjoining Colorado follows:

Arizona -- Property moving through the state and consigned to a warehouse for storage or assembly in transit, for an out-state destination, does not acquire situs for property tax purposes. Warehouses claiming freeport exemptions for property in transit must keep proper records of point of origin, destination, date of receipt, and date of withdrawal. Also, claim for exemption must be filed by owner of the property.⁴

Kansas -- Personal property moving through the state or consigned to a warehouse in the state for delivery to a point outside the state⁵ does not acquire situs for the purposes of property taxation.

Nebraska -- Merchandise in interstate commerce, stored in transit, in bonded and licensed warehouses, originating within and without the state of Nebraska, for out-state destinations, is exempt from property taxation. The owner of goods must notify the warehouse licensee of his intention to ship goods, and of their out-state destination. If the destination is changed to within the state of Nebraska, the licensee must notify the county assessor of the change in destination; hence the change in the taxable status of the property.⁶

New Mexico -- Personal property which is moving in, through, or over the territory of New Mexico from outside the state, for storage in transit to a final destination (whether specified when transportation begins or afterwards) outside the state, shall be deemed not to have acquired a situs in New Mexico for purpose of ad valorem taxation.⁷

4. Commerce Clearing House State Tax Guide, Arizona, Par. 20-219.

5. Ibid., Kansas, Par. 20-227.

6. Ibid., Nebraska, Par. 20-774.

7. 72-2-1.1, 1963 Pocket Supp. to New Mexico Statutes, 1953.

Oklahoma -- Personal property moving in interstate commerce through the state of Oklahoma, consigned to a warehouse for storage in transit, with final destination outside the state (whether specified when transportation begins or afterwards), is deemed not to have gained situs for ad valorem tax purposes.⁸

Utah -- The freeport law provides that goods moving in interstate commerce into the state, for final destinations outside the state, and entitled to through rates as approved by the Interstate Commerce Commission and not detained more than 90 days, are deemed to be property in interstate commerce and not subject to property taxation. Also, merchandise detained not more than nine months and held for assembly, manufacturing, processing, or fabricating purposes, and shipped into the state for final destinations out-state, is not subject to property taxation. However, goods using "home" produced products are subject to taxation even though final shipment is out-state.⁹ The Utah legislature (1963 session) adopted a resolution for a proposed constitutional amendment which, in effect, would extend freeport to "home" products.

Wyoming -- Personal property, in transit, held in storage for not more than nine months, shipped into the state for a destination out-state (whether such destination is specified before or after transportation begins) is deemed not to have acquired situs for tax purposes. Also, warehouses must keep adequate records.¹⁰

Constitutionality of Freeport Legislation for Colorado

The Colorado Constitution, Article X, Section 5, provides: "Property, real and personal, that is used solely and exclusively for religious worship, for schools or for strictly charitable purposes, also cemeteries not used or held for private or corporate profit, shall be exempt from taxation unless otherwise provided by general law." Although the General Assembly is vested with the authority to restrict exemptions from property taxation, it is not authorized by the constitution to provide new tax exemptions. Therefore, if the General Assembly wishes to grant a complete exemption for freeport inventories, the measure would probably have to be submitted to a vote of the people.

However, the General Assembly appears to have the authority to differentiate between classes of property for purposes of establishing the ratio of assessed value to market value. For instance, Article X, Section 3, provides: "All taxes shall be uniform on each of the various classes of real and personal property..." (emphasis added) The term each is especially important because of the adoption of amendment number five at the November 1962 general election. This amendment provides for the repeal of the full cash value provision for assessment of property. Thus the General Assembly could enact legislation establishing different ratios for various classes of property.

8. Commerce Clearing House State Tax Guide, Oklahoma, Par. 20-706.

9. Ibid., Utah, Par. 20-208.

10. Ibid., Wyoming, Par. 20-225.

At the July 22 hearing, Mr. Ray Kimball, of the Colorado Public Expenditure Council, stated:

"Accordingly, when the Traffic Council of the Colorado State Chamber of Commerce first announced its encouragement of an official study of a freeport tax provision for the State of Colorado, Colorado's home industry, primarily through the offices of the Colorado Public Expenditure Council, commenced a friendly holding or delaying action to see if the freeport concept of property tax policy could be made mutually advantageous to both the transportation industry and to Colorado home industry which produced goods for marketing outside the state's boundaries. The Expenditure Council's research activity at this point was devoted to three main areas: First, to obtain information on existing 'Freeport' provisions in the other states; secondly, to obtain advice from the legal counsel for Colorado's major manufacturing firms, searching out the possibilities for obtaining freeport provisions under the existing constitution and statutes; and third, to inquire from the State Tax Commission and other taxing officials as to whether or not 'Freeport' could be obtained, if desirable, through administrative action under existing federal and state constitutions and state statutes.

"The Expenditure Council's research into the matter, though preliminary and somewhat inconclusive, resulted in a very definite conviction on the part of staff members that it would be extremely difficult, if not impossible, to achieve a freeport tax policy under the existing state constitution. This viewpoint gave substantial support and encouragement to business community taxpayers in their active efforts to gain favorable voter approval of Constitutional Amendment No. 5 of the 1962 general election. Amendment No. 5, by deleting the full cash value requirement of the constitution, opened the doors for legislative interpretation in determining classes of property to be used by tax officials in assessment procedures. Classification of property for assessment purposes was set forth in Amendment No. 2 of 1956. As mentioned above, the studies pertaining to this implementation of the constitutional amendments of 1956 and 1960 are currently underway by the Legislative Interim Committee under the chairmanship of Representative Palmer Burch."

Need for a Freeport Program

Strict Freeport. The following excerpts from the minutes of the July 22 hearing reflect the principal arguments in support of a strict freeport program for Colorado.

"About three years ago the subject of 'Freeport' property tax laws commenced to receive attention from Colorado business taxpayers. Colorado is recognized as a distribution center, a natural result of the state's advantageous location on the main east-west railroads connecting the Midwest and Eastern seaboard states with the Rocky Mountain and Western states. As was predicted at that time Colorado by 1964 will be completely encircled by 'Freeport' states. New Mexico enacted a law during its recent legislative session, and the Utah legislature has proposed a constitutional amendment to create a large freeport activity

at the former Naval Supply Depot at Clearfield, Utah, located near Odgen. This fact was made known by firms interested in locating freeport facilities in this region, and Colorado's transportation industries were made keenly aware of an existing economic disadvantage in bidding for the location of freeport warehouses."¹¹

"You are aware that the freeport laws of some states do now exempt from property taxation goods brought into the state, stored and subsequently moved out of the state. However, some states -- Utah is the nearest example -- have passed freeport laws which exempt from taxation property stored within the state for sale or processing, whether manufactured, processed, produced or otherwise originating within or without the state, which is shipped to a final destination outside the state.

"If some relief is not provided for, then Colorado manufacturers might also begin to take a long look at the advantages of warehousing their merchandise outside of Colorado to reduce as much as possible the property tax they may have to pay on merchandise warehoused in Colorado.

"Several Colorado cities - Denver, Pueblo and Grand Junction particularly are distributive centers today. Will they be ten years from now? The proximity of Salt Lake City to Grand Junction poses a threat to local distributors in that area. The Northeastern part of Colorado would be susceptible to distributive efforts originating in Cheyenne and Laramie, Wyoming, as well as Omaha, Nebraska.

"A freeport law permits industry to take full advantage of intrastate storage with the transloading feature. Full carloads of homogeneous products can be shipped from widely scattered plants located throughout the United States and into Colorado. At a Colorado warehouse the goods can be unloaded, stored in transit, then mixed and trans-loaded at a later date for further shipment to points outside of Colorado. The extra transit charge is insignificant when compared to the total rate. In effect, shippers can deliver to customers mixed quantities of goods produced at different plants and still pay only the less expensive long haul volume rate from point of origin to point of destination. Manufacturers and processors can afford to take advantage of such transportation rates only if their total warehousing costs are low enough to justify this type of operation.

"Property taxes on warehoused inventories can be a significant factor in the inventory holding costs. According to the June 1963 issue of 'Utah Economic and Business Review,' published by the University of Utah, 'Samples taken at various locations in the West indicate that inventory taxes can range from 10 to 25 per cent of the total holding costs depending upon the location and type of commodity.' Utah recognized the potential impact of this and passed a freeport law supported by a joint resolution calling for a referendum in 1964 which will protect the law through constitutional mandate.

"There is a continual flow of freight moving from the eastern part of the United States to the western regions and also a flow of freight is continually moving from the western regions to the east. The transcontinental flow of traffic can be compared to about 5 primary systems extending in a general easterly and westerly direction.

11. Comments by Mr. Ray Kimball, Colorado Public Expenditure Council.

"Industry is always working on increasing the efficiency of their systems of distributing their products. One of the prime factors required for the location of a warehouse for distribution of a nationally marketed product is that the warehouse location be situated on at least one of the transcontinental rail systems.

"Since the inception of the Nevada Freeport Law, we have had many inquiries from West Coast food producing types of firms seeking the location of sites for warehousing canned foods moving to the eastern markets. These firms are interested in locating in any area between Nevada and Kansas from which location their product can be temporarily warehoused and when the market demand in a particularly located eastern market develops, then the amount of product needed to satisfy that particular demand would be then shipped to that particular market location for consumption, more expediently.

"The discouragement of the location of new business in Colorado and the deterrent effect on expansion of existing manufacturers brought about by the present property tax on warehoused goods are negative forces in the development and growth of Colorado. It is reasonable to believe that elimination of the property tax on warehoused goods for consumption outside of the State of Colorado would, within a very few years, bring about a net increase in tax revenue, because new warehouse installations, expanded plants of present manufacturers, and new manufacturing, will expand their fixed assets resulting in increased property tax by their added investments in land, machinery and buildings.

"I urge this Committee to recommend legislation in this area which will return Colorado to a competitive position with our neighboring states. Competition could then be met for not only those warehousing and distributive industries which we presently have, but also those which we can develop."12

Opposition of Colorado Manufacturers to a Strict Freeport Program. Testimony presented to the July 24 hearing evidenced considerable opposition of Colorado manufacturers to a freeport program, which would not include "home produced goods." Statements submitted to the committee follow:

"At the same time that the Colorado transportation industry became more keenly aware of this economic disadvantage, Colorado's home industry commenced to look at freeport proposals as an economic threat because a freeport provision applicable only to out-state products would permit a competitor in any basic field of industry--steel, rubber, sugar, luggage, or mining machinery and equipment--to use Colorado as a warehousing and out-of-state distribution center without paying the same property tax burden that was attached to goods and products manufactured by Colorado's home industry which were competing in the same market area.

12. Comments by R. C. Cavness, director of industrial development, Denver Rio Grande Western Railroad Co.

"It is strongly believed by the Expenditure Council staff that the Colorado business community viewpoint at the present time is simply that only a package 'Freeport' proposal will be acceptable, that straight 'Freeport' though justified by a simple tax completion requirement in relation to the surrounding states could adversely affect the economic growth of Colorado's existing home industry and could be particularly detrimental to the state's interest in securing the location of new industries. On the other hand, a freeport tax policy, coupled with the provision for freeport equity on Colorado-produced goods destined for interstate commerce, might prove to be the cornerstone for a significant and substantial expansion of Colorado's industrial tax base with all its attendant advantages to the state."¹³

With respect to a strict Freeport proposal, Mr. Michael Freed, Shwayder Bros., made the following comments:

"The first concern and consideration the State of Colorado owes to its own industries is to afford Colorado home industry the greatest degree of protection, if not favor. Therefore, if a Freeport proposal is to be acted upon favorably, then as part and parcel of such a proposal, the state at the very least must extend to its own industries the same advantages it would grant to any industry which is outside the State of Colorado.

"We are unalterably opposed to any Freeport proposal that would not be equitable in its advantages to home industry. And certainly, gentlemen, can we expect less from the state of which we are native citizens, producers and taxpayers? Furthermore, the advantages of freeport should be extended to industries from other states on a strictly reciprocity basis. Colorado industry has a right to expect the same treatment from other states in which we do business as their industries would receive under freeport in Colorado.

"If a freeport proposal on this fair, reasonable and equitable basis is not now feasible, then the state legislature, at a minimum, should grant Colorado manufacturers a measure of relief from the intolerable burden the present Inventory Tax imposes by reducing substantially the present 35% levy at its next session."

Mr. Clayton Hill, Gates Rubber Company, stated that the press of competition has forced the Gates Rubber Company to spend approximately 50 per cent of its monies for expansion in areas outside of Colorado in order to get closer to markets. Gates is in a serious competitive position, he added, and a freeport law, limited to goods shipped in transit from out-state for destinations out-state, could provide a double tax advantage to Gates' competitors. For instance, he said, if a company has a small tax burden in its own state, and warehouses goods in Colorado tax free, it would have a double tax advantage in the distribution of goods in the Rocky Mountain area. Gates markets about 97 per cent of its goods outside of Colorado and 85 per cent of the goods outside the Rocky Mountains.

"Generally speaking, states which have passed the freeport laws which exempt only property coming into the state and shipped out of the state are those which have little or no manufacturing industries within their own borders - for example Nevada. Due to its geographical location Nevada is in a strategic location for this type of freeport law.

Manufacturers are able to ship their goods to points in Nevada reasonably close to the California border for storage free of property tax. Distribution from these warehouses in Nevada can subsequently be made direct to the retailers in California with delivery within 24 to 36 hours."¹⁴

Arguments Against Any Program of Freeport Equity. It has been said that one man's equity is another man's loophole.¹⁵ At the July 22 hearing, Mr. Ray Carper, Tax Commission, commented that elimination of a segment or all of the inventory tax would not get rid of the tax, but would shift the burden to other property taxpayers. Also, Mr. Carper cited an article in "Challenge" Magazine (Vol. IX, No. 4, January 1961) concerning tax incentives for the purpose of attracting industry. Excerpts from this article follow:

"How do firms respond to such tax incentives? This question is so complex that no certain way exists to evaluate the reaction of firms to such offers. A decision to relocate is the product of a number of separate considerations, and these cannot simply be weighed and the net balance taken.

"The tax consideration is only one among many, some of which are much more important-- for example, markets, supplies of skilled labor, satisfactory sites and access to raw materials.

"...A number of able investigators have reached the conclusion, however, that the tax factor and financial aid have ranked very low among the considerations leading to industrial location;

"...although some of the poorer states may have been successful in attracting industry, their tax revenues and budgets have been adversely affected.

"...The major rise in revenues, at least during the first few years of the program, occurs in sales and income taxes. But these generally benefit the states rather than the municipalities.

"A rise in state revenues may be offset by a need for more public services to take care of the industrial immigration.

"The major reason that studies of the loss of tax revenues are usually restricted to the property tax is that the indirect effects on yields of other taxes, and on state and local expenditures incurred as a result of the immigration of industry, are difficult to estimate. On the tax side, it is not a great task to estimate revenue yields accruing from rises in property values, incomes and taxable spending associated with a given increase in new industry. But it is quite another matter to determine what proportion of these rises is attributable to the tax remission program and what part would have occurred in any case.

"Lack of centralized state records of local finances makes it difficult to obtain reliable estimates of the narrowing of the property

14. Mr. R. C. Carness, Denver Rio Grande Western Railroad.

15. Comment by Mabel Walker, Executive Director of Tax Institute, Incorporated, to National Conference on School Finance.

tax base resulting from the tax concession. Relatively good records exist, however, for Louisiana. William D. Ross, in a thorough study of this experience, concluded that the estimated total cost to state and local governments over a 10-year period was more than \$51 million (assuming that all the firms remained the full period, and that tax rates did not change). The estimated amount of new investments resulting from the tax program was about \$25 million and total exempted investments were \$355 million. The author concluded that, on the basis of this evidence, the results were small and that the cost of the program, considering the amount of property tax revenues foregone, was excessive."

Similar arguments also were presented to the National Tax Association in an address by William A. Johnson, Commissioner of Revenue, State of North Carolina:

"So the real question is, what do these tax exemptions cost and what benefits do they produce? Let us first consider the cost.

"The granting of industrial tax exemptions directly violates the sound democratic premise that public funds must not be used for private purposes. Sadly, we have already seen too much impairment of this valuable concept in other areas. Continued use of tax exemptions is bound to increase the peril to this essential feature of democratic government and could play a major role in its ultimate destruction.

"The creeping insidiousness of this practice is what makes it so dangerous. One tax exemption, although minor and relatively unimportant standing alone, tempts and often leads to another.

"In our capitalistic system the only sound industrial growth is that based on free competitive enterprise and sound location factors. Tax exemptions pose a real threat to this system and are a definite step in the direction of socializing our basic industries. Already the State of New Mexico permits a community to use public funds to purchase plant assets and equipment in order to move a plant from another state into a community in New Mexico. At the moment the community cannot operate the plant. But who knows how long it will be before this development will be used to justify municipal operation of an industrial plant? This is a real and frightening possibility. I believe it is clearly apparent to all of us that once this happens we will see the tragic end of the system of competition and free enterprise which has sustained this country and in a large measure enabled it to become the great nation that it is today.

"Tax revenue is the lifeblood of government and there is an absolute relationship between a fair and equitable tax structure and the proper maintenance of this necessary source of governmental life. The granting of tax exemptions ignores this fact. Tax exemptions are by their very nature unfair and discriminatory. They enable the beneficiary of the exemption to escape a fair share of the cost of financing the government whose protection, benefits and services it enjoys. Further, a wrongful and excessive tax burden is placed upon existing industries and other taxpayers.

In a study by Frank K. Stuart, Bureau of Economic and Business Research, University of Utah, the following statement is made:

"Although many states have adopted freeport legislation, only a few states can use the law to advantage. Of the eleven western states, California, Oregon, and Washington cannot benefit because they are primarily initiating and terminating states and goods coming to rest for sales are generally not exempted. Idaho is too far removed from the heavily concentrated California markets. Many states east of Utah have freeport legislation, but are too far removed from heavily concentrated western markets. A letter from the Wyoming Tax Commission advises:

'It was thought that this law would induce corporations such as....to locate assembly plants in Wyoming. To date no such plants have been built; hence, there has been no impact on industrial development.'

'....For the 1962 tax year little use was made of this legislation (freeport) in that only a very few warehouses filed the required bond with this office.'¹⁶

Impact of Freeport Programs on Property Tax Revenues

Strict Freeport. The impact of a strict freeport program involving public warehousing would probably have little effect on assessed valuations of property in most counties. First of all, there is very little public warehousing outside the Denver Metropolitan area, and Boulder, El Paso, and Pueblo counties. The Legislative Council staff surveyed the ten largest counties to determine whether property tax revenues from public warehousing operations are significant in relation to the total tax base, and replies to the survey indicate that such a program would not have much effect on property assessments. For instance, the estimated total property valuation for 1962 for Denver amounts to \$1,158,372,540, while the value of freeport merchandise in public warehouses is estimated at \$1,500,000, or less than one-tenth of one per cent.

Liberal Freeport. The Council staff, with the assistance of a survey conducted by the Colorado Public Expenditure Council, compiled preliminary estimates on the impact of exempting manufacturers' inventories of goods destined for out-of-state shipment. These preliminary estimates are reported on both a county and school district basis in Tables II and III respectively.

Method Employed in Making Projections for Table II -- Counties. The Colorado Public Expenditure Council requested the county assessors to furnish information on all manufacturers' inventories exceeding an average assessed valuation of \$5,000 (based on 35 per cent of value). These figures are reported in Table II, Column (2). The Expenditure Council also surveyed industry for the purpose of obtaining figures on the amount of finished goods shipped out-of-state. Column (4) of Table II contains the dollar amounts of the assessed value of goods reported to be shipped out of Colorado. A relationship between the inventories reported by the county assessors

16. Utah Freeport For Western Distribution, Frank K. Stuart, page 29.

and the inventories reported by industry is contained in Column (3). Since the survey of industry is only partially completed, a percentage relationship is calculated [Column 3] in order to project a total estimated assessed valuation of inventories shipped out-state [Column (5)]. Next, the average county mill levy [Column (6)] is applied against the estimated assessed valuation of inventories destined for out-of-state delivery, resulting in the approximate amount of revenues derived from property taxes on such inventories [Column (7)]. Column (8) contains a percentage relationship between the assessed valuation on inventories destined for out-of-state delivery and the total assessed valuation of the county, while Column (9) reflects the average per cent change in county assessed valuations from 1959 through 1963.

Table III -- School Districts. In order to determine whether the exemption of inventories destined to be shipped out-of-state might have an adverse effect on school districts, the data contained in Table II has been re-calculated on a school district basis. Generally, the method employed in making the projections for Table III is similar to that outlined for Table II. It may be noted that counties with single school districts are not reported in Table III, and counties in which sufficient data are not available also are not reported.

Effect of Exempting Freeport Inventories -- Counties. The total estimated assessed valuation of proposed freeport inventories (home produced goods) in Colorado amounts to less than one per cent of the state-wide property tax valuation. On the basis of manufacturers' inventories exceeding \$5,000 assessed valuation, the total freeport inventory is estimated to be .762 per cent of Colorado's property tax valuation. The estimated revenue derived from the proposed freeport valuation amounts to a little over 1.8 million dollars. Of this amount, over 75 per cent of the total revenue -- \$1,395,079 -- is derived from Adams (\$145,440), Arapahoe (\$133,672), Denver (\$685,212), Jefferson (\$184,602), and Pueblo (\$246,153) counties. Although these counties produce the major portion of revenues from freeport valuations, the proportion of freeport valuations to county valuations is less than one per cent in Adams (.929 per cent), Arapahoe (.759 per cent) and Jefferson (.898 per cent) counties, and is less than two per cent in Denver (1.061 per cent) and Pueblo (1.933 per cent) counties.

On a state-wide basis, the proportion of freeport valuation to total county assessed valuation ranges from a high of 2.68 per cent in Sedgwick County to zero per cent in counties not reporting any inventories in excess of \$5,000 -- Baca, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Custer, Eagle, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Kiowa, Lincoln, Park, Pitkin, Routt, and Washington counties. Other counties in which the estimated per cent of freeport valuation exceeds one per cent include Larimer (1.230 per cent) and Morgan (1.267 per cent) counties.

It may be interesting to note that the growth in assessed valuation in the counties reporting the largest share of freeport revenues may more than offset any loss in valuation because of the adoption of a freeport proposal. For instance, the average growth in assessed valuation from 1959 to 1963, in these counties is as follows: Adams - 13.54 per cent; Arapahoe - 11.94 per cent; Denver - 2.49 per cent; Jefferson - 16.21 per cent; and Pueblo - 3.36 per cent.

Table II

PRELIMINARY ESTIMATES OF THE EFFECT ON COUNTIES OF EXEMPTING INVENTORIES OF GOODS
DESTINED FOR DISTRIBUTION OUT-STATE FROM PROPERTY TAX ASSESSMENT

County	(1) Total Assessed Valuation ¹ (add 000)	(2) Assessors' Reports on Valuation of Inventories ²	(3) Per Cent of Inv. on Which Finished Goods Reported	(4) Reported Assessed Value Inv. Shipped Out-State ²	(5) Total Est. Assessed Value of Inv. Shipped Out-State	(6) Avg. County Mill Levy ¹	(7) Est. Rev. Derived From Inv. Shipped Out-State	(8) Per Cent Out-State Inv. To Total (Col.5+Col.1)	(9) Avg. Per Cent Change In Val. (1959-1963) ³
Adams	\$ 221,029	\$ 5,970,453	34.84%	\$ 715,597	\$ 2,053,952	70.81	\$ 145,440	.929%	13.54%
Alamosa	16,256	96,906	29.94	75	251	63.59	16	-0-	1.30
Arapahoe	229,227	5,145,700	63.82	1,109,787	1,738,933	76.87	133,672	.759	11.94
Archuleta	5,932	42,486	---	---	---	53.85	---	---	2.21
Baca	21,052	---	---	---	---	50.44	---	---	1.32
Bent	15,519	17,005	---	---	---	47.94	---	---	(.32)
Boulder	157,136	1,697,650	75.67	986,785	1,304,064	67.44	87,946	.830	8.33
Chaffee	13,781	---	---	---	---	55.44	---	---	.47
Cheyenne	15,362	---	---	---	---	46.13	---	---	.05
Clear Creek	5,787	---	---	---	---	78.21	---	---	.46
Conejos	10,976	---	---	---	---	47.93	---	---	.95
Costilla	5,752	---	---	---	---	57.18	---	---	.14
Crowley	7,433	221,176	96.87	45,000	46,454	53.66	2,493	.625	.16
Custer	3,463	---	---	---	---	47.62	---	---	1.32
Delta	20,517	213,820	36.44	66,690	183,013	67.01	12,264	.892	.26
Denver	1,158,373	26,851,700	61.82	7,598,168	12,290,793	55.75	685,212	1.061	2.49
Dolores	5,544	45,000	---	---	---	62.71	---	---	1.68
Douglas	15,887	N.A.	---	---	---	61.57	---	---	4.44
Eagle	11,973	---	---	---	---	46.74	---	---	(1.24)
Elbert	14,945	136,060	100.00	34,379	34,379	50.25	1,728	.230	1.50
El Paso	221,756	1,930,764	34.70	187,102	539,199	64.70	34,886	.243	6.15
Fremont	30,828	556,276	78.63	54,608	69,449	66.59	4,625	.225	2.53
Garfield	29,882	320,520	---	---	---	58.24	---	---	2.08
Gilpin	2,867	---	---	---	---	77.06	---	---	.35
Grand	11,570	---	---	---	---	56.23	---	---	.61
Gunnison	11,756	---	---	---	---	56.64	---	---	2.24
Hinsdale	1,319	---	---	---	---	48.50	---	---	2.67
Huerfano	11,280	---	---	---	---	60.18	---	---	.54
Jackson	8,629	35,021	---	---	---	41.23	---	---	(.08)
Jefferson	282,538	3,627,360	84.66	2,147,056	2,536,093	72.79	184,602	.898	16.21
Kiowa	13,477	---	---	---	---	48.61	---	---	.13
Kit Carson	21,196	10,490	---	---	---	54.79	---	---	2.01
Lake	38,452	135,440	100.00	132,054	132,054	42.01	5,548	.343	4.80
La Plata	42,936	191,230	15.55	29,444	189,350	59.35	11,238	.441	4.39
Larimer	108,435	2,012,260	72.93	972,506	1,333,479	61.01	81,356	1.230	4.80
Las Animas	29,196	16,260	100.00	7,930	7,930	68.97	547	.027	(1.16)
Lincoln	19,253	---	---	---	---	48.73	---	---	.43
Logan	59,979	363,488	100.00	336,117	336,117	55.10	18,520	.560	(1.64)
Mesa	91,310	536,602	81.15	177,978	219,320	69.36	15,212	.240	4.65
Mineral	1,700	---	---	---	---	48.62	---	---	(1.16)
Moffat	21,096	95,030	8.41	-0-	-0-	47.98	-0-	---	5.25
Montezuma	20,747	39,490	---	---	---	66.68	---	---	11.97
Montrose	33,026	95,033	9.69	5,344	55,150	63.89	3,523	.167	4.04
Morgan	70,670	984,375	97.23	870,411	895,208	43.43	38,878	1.267	2.21
Otero	39,675	147,060	81.62	43,046	52,740	62.29	3,285	.133	1.26

Table II
(continued)

County	(1) Total Assessed Valuation (add 000) ¹	(2) Assessors' Reports on Valuation of Inventories ²	(3) Per Cent of Inv. on Which Finished Goods Reported	(4) Reported Assessed Value Inv. Shipped Out-State ²	(5) Total Est. Assessed Value of Inv. Shipped Out-State	(6) Avg. County Mill Levy ¹	(7) Est. Rev. Derived From Inv. Shipped Out-State	(8) Per Cent Out-State Inv. To Total (Col. 5+Col. 1)	(9) Avg. Per Cent Change In Val. (1959-1963) ³
Ouray	\$ 4,513	\$ 100,230	---	\$ ---	\$ ---	52.71	\$ ---	---	(.07%)
Park	8,864	---	---	---	---	57.96	---	---	3.42
Phillips	18,304	62,135	---	---	---	41.30	---	---	2.41
Pitkin	12,005	---	---	---	---	57.89	---	---	12.17
Prowers	28,596	234,322	79.32%	22,539	28,415	58.73	1,669	.099%	1.27
Pueblo	177,965	8,812,370	93.73	3,225,035	3,440,771	71.54	246,153	1.933	3.36
Rio Blanco	63,592	68,120	---	---	---	38.95	---	---	(4.83)
Rio Grande	20,165	185,315	36.17	14,149	39,118	57.04	2,231	.194	1.49
Routt	19,724	---	---	---	---	54.70	---	---	(1.88)
Saguache	10,561	N.A.	---	---	---	55.53	---	---	1.48
San Juan	2,603	---	---	---	---	65.04	---	---	.70
San Miguel	7,770	---	---	---	---	45.61	---	---	.57
Sedgwick	14,787	429,002	100.00	396,698	396,698	57.66	22,873	2.68	1.34
Summit	7,084	N.A.	---	---	---	52.39	---	---	9.43
Teller	5,829	---	---	---	---	85.10	---	---	(.14)
Washington	49,846	---	---	---	---	34.98	---	---	3.21
Weld	156,014	1,383,122	81.37	938,842	1,153,794	59.60	68,766	.740	2.19
Yuma	25,792	14,420	---	---	---	51.48	---	---	2.41
Total or Per Cent	\$3,813,531	\$62,823,691		\$20,117,340	\$29,076,724		\$1,812,683	.762%	4.21%

1. Source: Tax Commission -- "Fifty First Annual Report."

2. Source: Survey conducted by Colorado Public Expenditure Council.

3. Source: Based on county valuations reported in annual report of Tax Commission. Figures in parenthesis reflect average decrease.

N.A. Not Available.

Table III

PRELIMINARY ESTIMATES OF THE EFFECT ON SCHOOL DISTRICTS OF
EXEMPTING INVENTORIES OF GOODS DESTINED FOR DISTRIBUTION
OUT-STATE FROM PROPERTY TAX ASSESSMENT

	(1)	(2)	(3)	(4)
<u>County</u>	<u>School District</u>	<u>Assessed Valuation of District^a</u>	<u>Est. Inv. Shipped Out-State^b</u>	<u>Per Cent of Inv. to Assessed Valuation (Col.3÷2)</u>
Adams	1	\$ 38,044,350	\$ 362,892	.954%
	14	41,571,980	1,190,162	2.863
	JT 27	20,849,050	391,648	1.878
	JT 28	77,750,761	36,622	.047
	50	51,848,870	72,628	.140
Arapahoe	1	45,449,634	521,958	1.148
	2-23	3,894,433	29,145	.748
	5	40,285,008	64,062	.159
	6	76,864,397	1,123,768	1.462
Archuleta	50	5,087,959	(42,486)	---
Bent	2	4,595,457	(7,350)	---
	JT-13	2,866,904	(9,655)	---
Boulder	JT-1	48,169,930	1,137,509	2.361
	2	113,355,720	166,555	.147
Crowley	ReJT 1	6,926,075	46,054	.665
Elbert	JT-100	3,828,954	34,379	.898
El Paso	11	151,126,240	523,169	.346
	2	8,968,640	4,448	.050
	14	8,249,560	11,582	.140
Fremont	1	18,968,610	39,219	.207
	2	9,391,225	30,230	.322
Grafield	C-2	7,043,830	(320,520)	---
Kit Carson	4	3,031,016	(10,490)	---
La Plata	9	34,195,830	155,521	.455
	JT-10	2,859,490	33,829	1.184
Larimer	ReJT-2	34,676,020	775,498	2.236
	Rel	64,194,420	557,981	.869
Las Animas	1	8,693,975	4,968	.057
	5	123,370	2,962	2.401
Logan	12	24,862,900	336,117	1.352
Mesa	51	86,691,070	219,320	.253
Montezuma	4	1,935,320	(29,840)	---
	6	2,104,735	(9,650)	---
Montrose	JT-1	19,146,125	55,150	.288

Table III
(continued)

	(1)	(2)	(3)	(4)
<u>County</u>	<u>School District</u>	<u>Assessed Valuation of District^a</u>	<u>Est. Inv. Shipped Out-State^b</u>	<u>Per Cent of Inv. to Assessed Valuation (Col.3÷2)</u>
Morgan	2	\$ 8,907,150	\$ 249,529	2.801%
	3	23,563,900	620,882	2.635
Otero	1	14,872,639	45,697	.307
	2	14,274,903	7,043	.049
Ouray	1	2,400,517	(100,230)	---
Phillips	Re 1JT	23,680,446	(51,495)	---
	Re 2JT	8,264,224	(10,460)	---
Prowers	13	2,866,904	691	.024
	1	4,640,563	2,606	.056
	2	15,624,029	9,889	.063
	3	6,370,198	15,229	.239
Pueblo	60	154,501,582	3,196,835	2.069
	70	21,468,400	243,936	1.136
Rio Blanco	4	49,409,110	(68,120)	---
Rio Grande	7	5,147,886	3,062	.059
	8	8,657,204	36,056	.416
Sedgwick	35R	4,470,860	396,698	8.873
Weld	N.A.			
Yuma	1	23,680,446	(14,420)	---

a. Source: Fifty-first Annual Report of the Colorado Tax Commission.

b. Figures in parentheses indicate total inventories reported by assessors.
Out-state values are not available.

N.A. Not available.

Of course, some counties have sustained an average decrease in assessed valuation during the same period -- Bent (.32 per cent), Eagle (1.24 per cent), Jackson (.08 per cent), Las Animas (1.64 per cent), Mineral (1.16 per cent), Ouray (.07 per cent), Rio Blanco (4.83 per cent), Routt (1.88 per cent), and Teller (.14 per cent). However, for the most part, these counties do not report significant manufacturers' inventories.

Generally, as far as counties are concerned, the adoption of a freeport equity program, especially on a sliding scale in which the assessed value on freeport inventories would be decreased by five or ten per cent per year over a three to five-year period, may be absorbed by growth in assessed valuation.

Freeport Equity in Relation to School Districts

For the most part, the adoption of a freeport equity program may not affect school districts adversely, with possibly one exception. According to the Expenditure Council survey, school district 35 R in Sedgwick county has an estimated freeport inventory valuation of \$396,698, and a total school district property valuation of \$4,470,860. The proportion of freeport valuation to total school district valuation is 8.873 per cent. In comparison, similar proportions in school districts reporting fairly high freeport valuation percentages range between two and three per cent only. These school districts include: Adams - 14 (2.863 per cent); Boulder - JT-1 (2.361 per cent); Larimer - ReJT-2 (2.236 per cent); Las Animas - 5 (2.401 per cent); Morgan - 2 (2.801 per cent) and 3 (2.635 per cent); and Pueblo - 60 (2.069 per cent).

Thus, it would appear that with the exception of a single district a program of freeport equity may not have a severe impact on property tax revenues.

Conclusions

A program of freeport equity may be enacted by the General Assembly without recourse to a constitutional amendment. The adoption of amendment number five at the November 1962 general election appears to have cleared the way for the General Assembly to fix ratios on various classes of property. Freeport equity could be accomplished by setting a minimum ratio of assessed value to value on all finished goods held in storage for shipment out-of-state.

A strict freeport law limited to goods in transit, shipped into Colorado from out-state and held in storage for delivery out-of-state, appears to lack universal appeal with Colorado's business community. Colorado manufacturers are concerned that a program of freeport equity limited to in-transit goods may place them in an undesirable position because of the tax advantage to competitors warehousing goods in Colorado.

Impact of Freeport on Property Taxes Negligible. If the Colorado General Assembly enacts legislation to implement a liberal program of freeport equity, the impact on total assessed valuation of property is estimated to amount to less than one per cent. A freeport

program, of course, would probably amount to less than one-tenth of one per cent of the total assessed valuation of the state. However, a program of freeport equity may have a much greater effect on individual local units of government. For instance, the preliminary estimates (Table II) on the impact of exempting freeport inventories of Colorado manufacturers indicate that five counties would show a manufacturers' freeport valuation in excess of one per cent -- Denver (1.061 per cent), Larimer (1.230 per cent), Morgan (1.267 per cent), Pueblo (1.933 per cent), and Sedgwick (2.680 per cent). Also, the assessed valuation of fourteen school districts reported in Table II would be affected by an amount exceeding one per cent of the total school district valuation. For example, school district 35R (Sedgwick County) may have a manufacturers' freeport valuation exceeding eight per cent of the total school district valuation. The school district with the next highest percentage ratio of manufacturers' freeport valuation to total school district valuation is district 14 (Adams County) -- 2.863 per cent. Thus, the smaller the taxing unit, the greater the effect a freeport program may have on the tax base of the unit. Of course, the taxing unit must contain manufacturing or warehousing operations benefiting from proposed freeport legislation to be adversely affected.

Freeport and Industrial Development. Freeport legislation may, or may not, stimulate the industrial development of a community. Data presented to the Committee are not conclusive either in support of freeport or opposed to freeport as it relates to industrial development. For instance, the states surrounding Colorado have enacted freeport legislation, but these states are not industrial states and their tax base may not be adversely affected by such legislation. The states with the most liberal freeport laws include Arizona and Nevada. Both of these states are located in a geographical position close to the large California markets, making them logical sites for in-transit warehouse operations. The Utah legislature has placed a proposed constitutional amendment on the ballot to implement a freeport program. Utah is in a unique position in that the Clearfield Naval Supply Depot is being released for the benefit of private industry. This huge warehousing complex is an added attraction to encourage industry to establish their distributing operations in Utah. In summary, the effect of freeport legislation on industrial development may depend on other extenuating circumstances.

A basic problem to be considered in evaluating a freeport program is the erosion of the tax base, regardless of the degree of impact on the tax base. For instance, if the assessed valuation of freeport goods is set at a lower rate than other property, will other groups request the General Assembly to enact legislation reducing the assessed values on their classes of property?

MOBILE HOMES

House Joint Resolution No. 25, 1963 session, directed the Legislative Council to conduct a study of alternative methods of taxing mobile homes to assure equitable taxation of this class of property. The committee appointed by the Legislative Council to conduct the study held three meetings, one of which was devoted to a hearing with members of the mobile home industry, representatives of County Clerks' and Assessors' Associations, Tax Commission, and Revenue Department officials.

Historical Development of Mobile Home Taxation

In 1936, an amendment to Article X, Section 6, Colorado Constitution, providing for a specific ownership tax on motor vehicles, trailers, and semitrailers, was approved by the people. The amendment, in effect, substituted the specific ownership tax in place of the property tax on motor vehicles and trailers and provided that the revenue from the tax be distributed in the same manner as property tax revenues. The specific ownership tax is the basis for taxation of mobile homes in Colorado although, in a few instances, a mobile home owner may declare that his house trailer is not to be used on the highways and may request exemption from the specific ownership tax. House trailers exempt from the specific ownership tax are, of course, subject to property taxes.

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

Problems of Administration of Specific Ownership Tax on Mobile Homes

Although the specific ownership tax has expedited collection of revenues from motor vehicle owners, it has not been as successful in regard to the taxation of mobile homes. For example, motor vehicles are in continuous use on the state highways, necessitating compliance with registration requirements, while a mobile home may remain in one location for an extended period of time, encouraging the owner to avoid registering the vehicle. If the vehicle is not registered, the specific ownership tax is not levied. In such situations, the county clerk may have to contact the individual mobile home owner, if collection of the specific ownership tax is to be made.

Specific Ownership Tax Presents Enforcement Problem. Improved administration of the specific ownership tax, as it relates to mobile homes, may be achieved by enforcement of present laws, rather than by adoption of a new law. For example, sections 13-14-3(2)(a) and (b), 1960 Perm. Supp. to CRS 1953, require trailer park operators to file an annual report with the county clerks, listing the vehicles located in the park, the license numbers, name and address of the owners, and place of employment of the owners. In addition, park operators must file monthly reports listing any new trailers using park facilities. Duplicate copies of the reports are mailed to the Department of Revenue, and failure to comply with the reporting requirements is a misdemeanor. Thus, as far as the registration of mobile homes in trailer parks is concerned, it would appear that the county clerks are supplied with adequate information to follow-up on the registration of these vehicles. Also, section 13-5-23(5)(a), 1960 Perm. Supp. to CRS 1953, requires all trailer coaches used exclusively for temporary or permanent living quarters, whether or not operated on the public highways, to pay the registration fee. The county clerks have the authority to contact the mobile home owners in these parks, and to collect registration fees and specific ownership taxes. However, the county clerks apparently feel that they are not enforcement officers, and in some instances decline to attempt to register these vehicles.

Mr. William Cassell, chief of the Motor Vehicle Division, Department of Revenue, reports that the division has urged enforcement of the specific ownership tax on mobile homes. Recently, the department issued a bulletin showing the effect of improved administration of collection of the specific ownership tax on mobile homes in a selected group of counties for the purpose of encouraging county clerks to make an effort in the collection of the tax (see Table IV). The bulletin also suggested the following means to enforce collection of the specific ownership tax:

"To further increase the registration of mobile homes a summons may be issued to any trailer coach or mobile home owner who has failed to register his vehicle as provided by law. We suggest that County Clerks solicit the cooperation of the District Attorney and the local sheriff's office in the enforcement of this act. It is also suggested that a general notice be given in advance that a summons will be issued to all mobile home owners who have not registered and paid specific ownership tax. It is further suggested that if a summons is issued and the fee and taxes are paid prior to such owners appearance in Justice of the Peace Court, an agreement might be reached by the enforcement officer and the Justice of the Peace whereby the charges would be dismissed upon the payment of the court costs.

"It has been brought to our attention that a number of counties have hired an extra employee or deputized one of their own employees to further the collection of ownership tax on mobile homes."

Table IV

COLORADO DEPARTMENT OF REVENUE
Motor Vehicle Division

INCREASE IN REGISTRATIONS OF MOBILE HOMES IN SELECTED COUNTIES

1959 thru 1962

		<u>Registrations</u>	<u>Increase</u>	<u>% Increase</u>
ADAMS	1959	1022		
	1960	1383	361	35.32%
	1961	2287	904	65.37
	1962	2690	403	17.62
BOULDER	1959	637		
	1960	932	295	46.31
	1961	1319	387	41.52
	1962	1549	230	17.44
CHAFFEE	1959	130		
	1960	119	11 Less	8.46%
	1961	133	14	11.76
	1962	192	59	44.36
FREMONT	1959	213		
	1960	349	136	63.85
	1961	326	23 Less	6.59
	1962	406	80	24.54
LAKE	1959	67		
	1960	96	29	43.28
	1961	105	9	9.38
	1962	135	30	28.57
WELD	1959	423		
	1960	605	182	43.03
	1961	642	37	6.12
	1962	760	118	18.38

Administration of the specific ownership tax on mobile homes located on individual lots requires considerable effort and expense for the county clerks. If the tax is to be enforced, the county clerks must make a field contact of individual mobile home owners. For instance, Mr. A. A. Hall, State Tax Commissioner, reports that the Lake County commissioners have hired an individual to contact mobile home owners in Lake County to be sure that they have paid the specific ownership tax. The commissioners have taken this action as a result of the expected influx of construction workers associated with the Fryingpan-Arkansas Reclamation Project. The commissioners in Lake County are concerned with the impact the project will have on the local school district in the Leadville area, especially if the families of the construction workers are concentrated in mobile homes.

Mobile Home Taxation in Other States

Mobile homes are extremely difficult to tax because of their dual nature, i.e., they are closely associated with the area of transportation or highway use, while at the same time they may take on the aspect of real property for general ad valorem tax purposes. The dual role of mobile homes is reflected, to a large extent, in the tax policies of many states.

The following excerpt from "The County Officer," April 1963, may highlight the problems of taxing mobile homes that state and local governments are faced with:

"From the legal standpoint the tax situation as it affects mobile homes from state to state is a magnificent jungle of inconsistencies. Some states tax mobile homes as personal property. Some tax mobile homes as real property when they are used for dwelling purposes and are located outside mobile home parks. To complicate the matter further, real estate taxes are collected in most states without great administrative difficulty, but in many states the collection of personal property taxes is little short of farcical. Even though the ad valorem rate may be the same for both real and personal property the relative certainty of collecting real taxes leads many officials to advocate the taxation of mobile homes as realty.

"License and permit fees have frequently been used. The reasonableness of such fees is always a matter of argument. Monthly parking permit fees are becoming increasingly common. Attempts to levy occupancy taxes are not unknown.

"It is true that, in any given state, constitutional or legal barriers may bar a particular form of taxation. But the number of weapons in the revenue-producing arsenal is sufficient that any state legislature, if it be so inclined, may adequately arm its units of local government.

"The mobile home park operator, of course, pays a variety of taxes. On the land and the physical improvements, he pays a real estate tax. He pays the usual business and occupational licensing taxes. If there are special assessments, such as those often made for road or sewer construction, he pays. But the operator's real estate taxes are assessed on what is relatively unimproved land, at least as compared, for instance, with apartment houses. Under such circumstances, the total tax return from the operator cannot approximate the value of the park and the value of the individual mobile homes.

"Where a mobile home owner buys a lot in a mobile home park subdivision and he places his dwelling unit on it, other tax problems are raised. In some instances, an individual buys both the lot and the mobile home already installed on the lot. These types of operations are growing, and the problem is far from academic. Where mobile homes are taxed as real property, no immediate problems arise except those that would arise normally from real property assessment and tax collection. But several states, including Florida where a number of these subdivisions are presently located, have homestead tax exemption provisions. Does a mobile home situated on the owner's own lot in such

a subdivision constitute a 'homestead?' In Florida, the answer apparently is 'yes;' in some jurisdictions the question is far from settled.

"Many cities and towns levy utilities taxes. Such taxes cannot, of course, be levied on mobile homes alone. A general utilities tax does reach mobile home owners as well as those living in conventional dwellings. Sewer taxes, based on numbers of hookups, would be valid in most states as applied to multiple dwelling operations and would reach the mobile home park operator. Certainly, too, there is no reason why mobile home parks should not pay their share of garbage and trash collection costs."

For purposes of comparing mobile home taxation in the various states, the following classes or categories may be used, which also reflects an attempt by some states to collect fees and taxes for both highway and general purposes:

1) Twenty-four states require mobile home owners to pay both motor vehicle registration fees and local property taxes -- Alabama, Alaska, Arkansas, Connecticut, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky (mobile homes on permanent foundations are classified as real estate and not subject to registration), Maryland, Missouri, Montana (mobile homes permanently attached to the land are exempt from motor vehicle registration), Nebraska, Nevada (mobile homes operated on the highways are subject to personal property taxes collected by the motor vehicle department; if mobile homes are not operated on the highway, then the tax is collected by the county auditor), New Hampshire, North Carolina, Rhode Island, Texas, Utah, Vermont, Virginia, and West Virginia;

2) Six states require motor vehicle registration fees plus special fees or excise taxes -- Massachusetts, Ohio, Oklahoma, South Carolina, South Dakota, and Wisconsin;

3) Fourteen states offer alternative methods of taxation, either the mobile home must pay highway registration fees, or be assessed for property taxes -- Arizona, COLORADO, Florida (also provides a homestead exemption for vehicles not used on the highways), Louisiana, Maine, Michigan, Minnesota, Mississippi, New Jersey, New Mexico, North Dakota, Oregon, Pennsylvania, and Wyoming.

4) Three states require the licensing of all mobile homes in lieu of ad valorem taxes -- California, Hawaii (no personal property taxes), and New York (may require real property taxes on vehicles not registered for highway purposes); and

5) Three states may be considered as miscellaneous -- Delaware, Texas, and Washington (an excise tax is levied in addition to other ad valorem taxes).

Impact of Mobile Homes on Local Community

The mobile home has developed into a semipermanent residence for over 3.5 million people in the United States. The average mobile home family consists of 2.9 persons and locates in the same site for

approximately 27 months. The stability of mobile homes coupled with the development of sizeable mobile home parks is placing a substantial burden on community services in a number of localities.¹⁷

"Mobile home owners have not always recognized, of course, that with the shift from mobility to more or less permanent residential characteristics, the mobile home becomes part of the total housing supply of the community. Community thinking on taxation and on services will be related to that idea. The mobile home as part of the housing supply uses services and ought to contribute to their support. If there are children, they will need schooling. Fire protection is a 'must' for mobile homes, even with their basically steel and aluminum construction."¹⁸

Mayor Alfred Krogh, Commerce City, summarized the problems presented to local governments by mobile homes in an April 25, 1963, letter to the Legislative Council:

"... 1. Mobile homes are located on the fringe of a metropolitan area because of zoning restrictions in the heart city and due to land acreage costs that drive them this distance from the center of the metropolitan area.

"2. Mobile home courts represent an imposition on the school district in which they locate because only the improved property on which they locate adds to the assessed valuation of the school district. This assessed valuation is the basis for bonding the school district for additional school facilities to accommodate children of the mobile homes.

"The school to house these and other children is built to last fifty years; bonds to build the school are paid off in a twenty year period; the mobile home itself, depreciating to a minimum value in seven years, has added nothing to the school district tax base for constructing a school.

"3. Only a small portion of the Specific Ownership tax paid by mobile home owners is given the school district for operation of its schools. The balance of this tax is awarded the numerous other taxing bodies of the county. In just a few years, according to existing tax methods, the mobile home has depreciated to a minimum tax level where it remains for the balance of its useful life. In the meantime, there has been no relationship between local tax needs and the revenue from this mobile home.

"This school district at the present time must attempt to plan for children from a 400-unit mobile home court approved by the Adams County Commissioners. The court will be constructed outside the limits of Commerce City but within the confines of the school district including all of Commerce City.

"The School Board and Administrators protested to the County Commissioners against allowing this mobile home court to be built. It is felt that enough mobile homes are already in this school district,

17. Mobile Homes, Zoning and Taxes, T. H. Pickens and W. B. Fitzsimmons, page 1.

18. The County Officer, April, 1963.

and further that the present inequality in taxes should be adjusted before the proposed court is built. This was all to no avail.

"A 400-unit mobile home court when filled would require a new school, but would add little tax base for construction of this school. It is quite natural that tax paying citizens of the community would protest against adding new residents who come in without adding to the tax base and bring no other form of support to the district as is received from federal impacted school program under Public Laws 815 and 874."

Specific Ownership Tax on Mobile Homes

For purposes of specific ownership taxation, the General Assembly has established two classes of mobile homes:¹⁹

"Class C) All trailer coaches or mobile homes used in serving the public in the business of the transportation of persons or property for compensation as a carrier over any public highway between fixed points or over established routes, or otherwise, whether such business or transportation is engaged in or contracted by contract, or otherwise."

"Class D) All trailer coaches or mobile homes not used for hire and not included in Class C hereof."

The specific ownership tax on Class C mobile homes is determined as follows:²⁰

1) The tax is based on the factory retail price of the vehicle; or

2) If the factory retail price is not available, then seventy-five per cent of the retail delivered price of the vehicle, exclusive of state and local sales taxes. On the aforementioned bases the following rates are applied:²¹

<u>Year of Model</u>	<u>Rate</u>
1st	3% of 70% of value
2nd	" " " " "
3rd	" " " " "
4th	3% of 50% of value
5th	" " " " "
6th and over*	3% of 30% of value

* A minimum tax of \$15.00 is levied.

The specific ownership tax base on Class "D" mobile homes is either the factory retail price or 75 per cent of the retail delivered price, exclusive of sales taxes. The base is then reduced by 20 per

19. 13-5-4, 1960 Perm. Supp. to CRS 1953.

20. 13-5-6(3), 1960 Perm. Supp. to CRS 1953.

21. Ibid.

cent to compensate for the value of household furnishings,²² The tax applied to the Class "D" base is computed as follows:²³

<u>Model Year</u>	<u>Rate</u>				
1st	4%	of	55%	of	tax base
2nd	"	"	50	"	" "
3rd	"	"	45	"	" "
4th	"	"	40	"	" "
5th	"	"	30	"	" "
6th and over*	"	"	20	"	" "

* A minimum tax of \$15.00 is levied.

Comparison of Revenue Derived from Specific Ownership Taxes and Property taxes on Mobile Homes

Assuming that a mobile home is classified as Class "D" and the factory retail price is \$10,000 and the vehicle is in its first year of service, the specific ownership tax is determined by reducing the base by 20 per cent for household furnishings (leaving a taxable value of \$8,000) and applying a tax rate of four per cent of 55 per cent of the taxable value. The tax levied amounts to \$176. In comparison, if the trailer is placed on the property tax rolls, assuming the same 20 per cent reduction of the taxable value for household furnishings, and it is assessed at 29.5 per cent of market value (average state-wide sales ratio for single family dwellings - 1962) and the average state levy of 60.941 mills is applied, the property tax would raise an estimated \$144. On this basis, the property tax would not raise as much revenue as the specific ownership tax, at least, in the first year of assessment. Mr. A. A. Hall stated that the depreciation rate for mobile homes established under the specific ownership tax closely estimates actual average depreciation of the house trailers. Mr. Dean Joseph of Trailer Finance, Denver reports that the average mobile home depreciates at a rate of approximately ten per cent for the first year, and five per cent for each succeeding year. On this basis, Table V provides a rough comparison of estimated revenue derived from the specific ownership tax on a \$10,000 mobile home compared to that which could be raised by the average county mill levy on a \$10,000 mobile home.

It may be noted from Table V that the property tax derives more revenue than the specific ownership tax as the age of the trailer increases. However, in the six-year period, an estimated \$49 more revenue is derived from the specific ownership tax than from an average property tax.

22. 13-5-6(4)(b), 1960 Perm. Supp. to CRS 1953.

23. 13-5-6(4)(c), 1960 Perm. Supp. to CRS 1953.

Table V

SIX YEAR COMPARISON OF REVENUE - CLASS "D" MOBILE HOME,
VALUE AT \$10,000-SPECIFIC OWNERSHIP TAX AND PROPERTY TAX*

<u>Year of Mobile Homes</u>	<u>Estimated Revenue Based on \$10,000 Mobile Home</u>	
	<u>Specific Ownership Tax</u>	<u>Property Tax</u>
1st	\$176	\$144
2nd	160	129
3rd	144	122
4th	128	115
5th	96	108
6th	64	101
Total	\$768	\$719

* Computation of the property taxed based on ten per cent depreciation for the first year - five per cent for each succeeding year. Property tax based on state average of 60.941 mills and average sales ratio of 29.5 per cent of market value. Computations based on factory retail price of \$10,000.

Single-Family Dwelling Contributes More to Tax Base than Mobile Home. If a comparison of local tax support is estimated for an individual investing \$10,000 in a mobile home and an individual investing \$10,000 in a single-family dwelling (\$8,000 on the house and \$2,000 on furnishings), the single-family dwelling absorbs a greater tax burden. For instance, the depreciation on a new single-family dwelling is negligible the first five years. Thus, if a dwelling is purchased for \$8,000, the property owner would pay about \$144 per year in taxes, based on an average mill levy of 60.941 mills and an average assessed valuation of 29.5 per cent of market value. Over a six-year period, this would amount to \$864 in ad valorem taxes, while the mobile home owner would be contributing \$768 in specific ownership taxes. Obviously, the mobile home will continue to depreciate at a much faster rate than a house; consequently, over a longer period of time the tax difference will become greater. However, at the end of ten to fifteen years the mobile home may well be worthless while the normal house will maintain considerable value.

In viewing theoretical comparisons concerning specific ownership and property taxes, consideration should be given to the basic problem that property taxation does not reflect services rendered by local government but is an assessment against the value of the property.

Property Tax Assessment of Mobile Homes. As previously mentioned, Section 13-5-23(5)(a), 1960 Perm. Supp. to CRS 1953, requires the registration of all mobile homes, regardless of whether they are used on the highways. However, William Cassell, chief of the Motor Vehicle Division, Department of Revenue, reports that the department has issued a directive to the effect that a mobile home owner may be released from registering his home, if he signs a statement that the house trailer is not to be used on the state highways and is not to be sold as a mobile home. If the home owner takes this action, the trailer is subject to property taxation.

The significant difference between the specific ownership tax and the property tax may be in the method of distribution of revenue. Although Article X, Section 6, Colorado Constitution, requires the specific ownership tax to be distributed in the same manner as property taxes, this is not the case in a few counties. For instance, although the Attorney General recently issued an opinion to the effect that the specific ownership tax ought to be distributed according to the situs of the property, Adams County distributes the funds on the basis of total collections in the county. Thus, if a mobile home park is located in one school district, revenue from the specific ownership tax on the mobile homes in that park may be distributed to all the school districts in the county.

Distribution of Specific Ownership Taxes. The Revenue Department reports that the counties of Adams, Boulder, Jefferson, Gilpin, and Mineral are not utilizing the data processing facilities of the Revenue Department for the purpose of allocating revenues from specific ownership tax collections to the various political subdivisions within the county. In regard to the specific ownership tax distribution to school districts, of the aforementioned counties, Gilpin, Jefferson, and Mineral would not be affected because they are one district counties.

Adams and Boulder counties are multi-district counties and the distribution of specific ownership taxes to the school districts in these counties could be affected by the method utilized. For instance, the following tables summarizes the distribution of a specific ownership tax of \$100 for a mobile home located in Boulder County, utilizing two methods of distribution -- 1) according to the situs of the vehicle; and 2) according to total ad valorem taxes levied.

Table VI
COMPARISON OF TWO METHODS OF DISTRIBUTION OF
SPECIFIC OWNERSHIP TAXES
(Tax of \$100)

<u>Political Subdivision</u>	<u>Distribution On Basis of Situs</u>	<u>Distribution Based On Total Ad Valorem Taxes Levied</u>
Boulder	\$12.32	9.86
School District Re 2	44.82	35.85
County General Fund	19.22	15.37
County School Fund	20.99	16.78
State	2.65	2.12
(Not in the political subdivision in which vehicle is located)		20.02
Total	\$100.00	\$100.00

The above comparison of a theoretical distribution of specific ownership revenues may illustrate the point that a mobile home park located in a given school district could be contributing a significant amount of revenues to other school districts at the expense of the district in which it is located.

Conclusions

The taxation of mobile homes presents a perplexing problem because of the dual nature of the homes, i.e., the homes are utilized as real property for permanent and semipermanent living quarters, while at the same time mobile homes frequent the public highways. In Colorado, the taxation of mobile homes has been implemented through specific ownership taxes and ad valorem taxes, frequently resulting in conflict of responsibility between the county clerk and assessor. As a consequence, some mobile homes may be escaping taxation. A review of the mobile home tax laws in other states also indicates similar inconsistencies and lack of an effective solution to the problem.

Other conclusions that may be drawn from the study are:

- 1) mobile homes are a direct burden to local units of government, despite the fact that mobile home owners may contribute significant monies to the economy, because local governments are supported, for the most part, by property taxes;
- 2) in the event mobile homes are assessed ad valorem taxes, the value of the average home is not sufficient to raise an amount of revenue equal to that which may be raised on an average single family dwelling;
- 3) property taxes are not designed to reflect services rendered, ability to pay, etc.;
- 4) the specific ownership tax on mobile homes in Colorado appears to be equitable in relation to taxes on other property;
- 5) the primary problem of mobile home taxation in Colorado may be the enforcement of the specific ownership tax on mobile homes.

MOBILE EQUIPMENT

In the conduct of the study, the committee on Property Tax held three meetings to review the problem of the taxation of mobile equipment as directed by House Joint Resolution Number 25. One meeting was devoted to a hearing with members of industry and officials administering the specific ownership and ad valorem taxes on mobile and mounted equipment. Testimony at the meeting indicated a lack of communication among the officials administering the program of taxation of special equipment. Consequently, the committee directed the appointment of an advisory committee consisting of representatives of the Tax Commission, County Clerks' Association, County Assessors' Association, and Department of Revenue to review and recommend legislation to clarify responsibility for collection and enforcement of taxes on mobile and mounted equipment.

Present Method of Taxation of Mobile and Mounted Equipment

Since the enactment in 1936 of Article X, Section 6, Colorado Constitution, mobile equipment (drill rigs, cranes, loaders, air compressors, etc.) has been subject either to the specific ownership tax or to the property tax. Generally, the taxation of mobile equipment presents problems similar to those of mobile home taxation. For example, the administration of taxes on mobile equipment is a dual responsibility of both the county clerk and assessor; the property may be used in a number of different counties or various locations in-state and out-of-state in a given year, making it extremely difficult for the counties to levy a tax on the equipment; and if the equipment is excluded from property taxation, because the owner elects to pay a specific ownership tax, the amount of revenue collected under the specific ownership tax may be far less than that which could be assessed under the property tax.

Legal Basis for Collection of Specific Ownership Tax on Mobile Equipment. Article X, Section 6, of the Colorado Constitution provides for the establishment of a specific ownership tax in lieu of property taxes on motor vehicles, trailers and semitrailers. In carrying out the mandate of the constitution, the General Assembly adopted legislation requiring the registration of all motorized equipment used on the state highways, classifying vehicles into four categories:²⁶

Class "A" -- Any motor vehicle, trailer, or semitrailer used in serving the public in the business of the transportation of persons or property for compensation as a carrier over any public highway between fixed points or over established routes, or otherwise, whether such business or transportation is engaged in or contracted by contract, or otherwise.

Class "B" -- All motor vehicles, trailers, or semitrailers not used for hire and not included in class "A". (Mobile equipment is classified under group "B".)

Class "C" and "D" include mobile homes.

Section 13-5-1(1), 1960 Perm. Supp. to CRS 1953, requires "Every owner or operator of a motor vehicle, trailer, or semitrailer vehicle which is primarily designed to be operated or drawn upon any highway of the state,.... except such vehicles as are specifically exempted by section 13-5-2 shall obtain registration therefor..." Section 13-5-2, 1960 Perm. Supp. to CRS 1953 exempts the following property: "Vehicles owned and operated by any department of the federal government, fire fighting vehicles, police patrol wagons, and police ambulances; and farm tractors, farm bailers, hay bailers, combines and other heavy movable farm equipment primarily used on the farms and not on the highways, and road rollers and road machinery temporarily operated or moved upon the highways need not be registered under this article."

²⁶⁾ Section 13-5-4, 1960 Perm. Supp. to CRS 1953.

Therefore, as far as the operators of mobile equipment are concerned, if the equipment is used on the highways only occasionally, the owner may exercise an option of registering the vehicle for highway use or paying property taxes on the equipment.

Basic Problems of Present Method of Taxation

At the committee hearing of July 23, a number of problems concerning the taxation of mobile equipment were presented to the committee. These problems are summarized in the following paragraphs:

1) Mr. William Cassell, chief of the Motor Vehicle Division, stated that the principal problem in taxing mounted equipment is properly registering the vehicle. For example, the county clerk must determine the type and value of the equipment mounted on a vehicle, rather than simply registering and taxing the vehicle according to model and weight. To assist the clerks in this matter, the Department of Revenue has issued bulletins suggesting methods for determining the value of the mounted equipment.

2) The law needs clarification as to a definition of special equipment in order that the clerks may determine whether a vehicle is subject to registration and specific ownership taxes or an ad valorem tax.

3) Registration by mail is a simple and economical method for county clerks to license and collect specific ownership taxes on motor vehicles. However, registration by mail may preempt the opportunity of county clerks to obtain needed information on mounted equipment. Therefore, the equipment may escape taxation.

4) Owners of mobile equipment or machinery object to the payment of ton-mile fees in addition to specific ownership taxes on the grounds that the vehicles seldom are operated on the highways.

5) If an owner of a vehicle with special mounted equipment pays specific ownership taxes on the vehicles, the assessors are powerless to assess the mounted equipment for ad valorem taxes.

6) The choice or option for payment of taxes available to the owner of special equipment may enable the owner to avoid payment of his fair share of the tax burden.

7) There is an apparent disparity between ad valorem and specific ownership taxes on some types of mobile equipment.

8) The county clerks may not be familiar enough with the value of special mounted equipment to assess a fair and equitable specific ownership tax on the equipment.

9) Section 137-3-3, 1960 Perm. Supp. to CRS 1953, requires that all taxable property brought into the state after the assessment date and removed from the state prior to the following assessment date is subject to taxation for the period in which it is used in the state, provided that the property is assessed for a period of at least 90

days. Combines and other equipment used in the state for short periods are, of course, subject to taxation. However, as Mr. Howard Latting, Tax Commissioner, reported to the committee, it is very difficult to administer the law as it pertains to transient equipment.

Level of Specific Ownership Tax on Mobile Equipment

The annual specific ownership tax upon motor vehicles and trailers in Class "B" is determined and collected by the county clerk, based on the factory retail price of the vehicle. If the factory retail price is unavailable, then 75 per cent of the retail delivered price, excluding state and local sales taxes, is determined as the base value. In computing the amount of specific ownership tax on the taxable value of Class "B" vehicles, the clerk must take three per cent of 70 per cent of established base value for the first year the vehicle is in service; three per cent of 50 per cent of value the second year; three per cent of 40 per cent of the established value the third year of service; three per cent of 30 per cent of the established value the fourth year; three per cent of 15 per cent of value the fifth year, and for the next four years; and for the tenth and subsequent years the tax is three dollars. Also, in regard to Class "B" commercial vehicles used in interstate commerce, the county clerk may take into account the length of time the vehicle is operated in Colorado.

Administration of the Specific Ownership Tax on Special Equipment

In January of 1961, the Revenue Department issued a bulletin to the county clerks to the effect that if a vehicle has specially mounted equipment, it is the duty of the county clerk to separately value the truck and the equipment attached to it. In other words, the tax on a vehicle's truck-bed is computed in the usual manner, while a tax on the special mounted equipment is obtained by determining the retail delivered price, exclusive of state and local taxes, and then taking 75 per cent thereof and applying the proper depreciation schedule to determine the taxable value.

Property Tax Assessment of Industrial Mobile Equipment

The assessment of heavy equipment is a rather difficult and complex problem for the county assessors because of the rapid depreciation of such equipment. Heavy industrial equipment used in construction, logging, petroleum activities, etc., may have a life span of from three to five years. At the first committee meeting, Senator DeBerard commented that some equipment used in the construction of the Dillon Dam is reported to have completely depreciated in a period of 18 months.

In order to assist the county assessors in establishing a value on such equipment, the Tax Commission has prepared a training manual (AH-527 CTC-AD) outlining the procedures for determining the relative value of the industrial mobile equipment. Three of the key steps in computing the value of mobile equipment are as follows:

1) An estimate of the average useful life of the equipment is determined, based on operating conditions, experience, and informed judgment.

2) the proper depreciation table is selected from the manual (see Table VI) based on the average useful life of the equipment; and

3) consideration is given for unusual depreciation or, in some cases, the re-building of the equipment.

Table VI

AVERAGE PER CENT OF USEFUL LIFE OF
INDUSTRIAL MOBILE EQUIPMENT

<u>Year of Service</u>	<u>Average Life of Equipment</u>			
	<u>5 Years</u>	<u>10 Years</u>	<u>15 Years</u>	<u>20 Years</u>
1	80%	89%	91%	93%
2	64	80	85	89
3	51	72	80	85
4	39	64	74	80
5	30	57	69	76
6	23	51	64	72
7		45	59	68
8		39	54	64
9		34	51	60
10		30	47	57
11		26	43	54
12		23	39	51
13			36	48
14			33	45
15			30	42
16			28	39
17			26	37
18			23	34
19				32
20				30
21				26
22				25
23				23
24				22
25				

Source: TAX COMMISSION MANUAL AH-527 CTC-AD

The Tax Commission has categorized the useful life of industrial equipment into four groups -- five, ten, fifteen, and twenty-year periods (see Table VI). Table VI outlines the average per cent of useful life for industrial equipment for the aforementioned categories. For instance, if the average useful life of the equipment is five years and the property is two years old, the per cent of average useful life is 64 per cent. The bulletin suggests that the percentage of useful life may be increased or decreased by ten per cent depending on the condition of the equipment. Equipment in excellent condition may be assessed at a ten per cent higher than average value and poor conditioned equipment at a ten per cent lower value. However, in actual practice, the assessor may not be inclined to assess equipment in excellent condition at a higher than average rate.

Following determination of the per cent of useful life, the Tax Commission Manual points out the method for determining the replacement cost (new) of the equipment. The per cent of useful life is then multiplied against the replacement cost to determine the current value of the equipment.

For the five years listed, the property tax depreciates at a much slower rate for all values (5 year average useful life, ten year average useful life, etc.) than the specific ownership tax; even the property tax on equipment that has an estimated five year useful life does not depreciate at a rate equal to the specific ownership tax. The estimated specific ownership tax on a vehicle costing \$20,000 drops from \$315 to \$68 (78.4% decrease) in five years, while the property tax on equipment with a life expectancy of five years drops from \$341 to \$128 (62.9% decrease).

Comparison of Specific Ownership and Property Tax

A rough comparison may be made between the specific ownership tax on Class "B" vehicles and the property tax on mobile industrial equipment. Table VII presents the approximate specific ownership tax (Class "B") and the average property tax on a piece of mobile equipment with a new and replacement value of \$20,000. It may be noted that the property tax amounts listed in Table VII are based on depreciation values outlined in Table VI; thus there are four property tax values.

In examining Table VII it would appear that the property tax allows a great deal more flexibility and for this reason may be more equitable than the specific ownership tax.

Mr. Hollis Swett, director of appraisals and equalization, State Tax Commission, provided information confirming that some types of mobile machinery are being licensed despite a Department of Revenue regulation that county clerks should not license such vehicles unless the Revenue Department issues title. Also, the data submitted indicates that the specific ownership taxes collected on certain vehicles is substantially lower than the amount that would be assessed for ad valorem purposes. For instance, specific ownership tax collected on a Caterpillar Motor Grader -- S. N. 8118397 amounted to \$58.39, while the ad valorem tax on the same vehicle was \$209.04.

Table VII

ESTIMATED CLASS "B" SPECIFIC OWNERSHIP TAX AND PROPERTY TAX
ON INDUSTRIAL MOBILE EQUIPMENT VALUED AT \$20,000

Year of Service	Specific Ownership Tax	** Property Tax			
		* Average Life Expectancy of Equipment			
		5 Years	10 Years	15 Years	20 Years
1st	\$ 315	\$ 268	\$ 298	\$ 305	\$ 312
2nd	225	215	268	285	298
3rd	180	171	241	268	285
4th	135	131	215	248	268
5th	68	101	191	231	255
Total	\$ 923	\$ 886	\$1,213	\$1,337	\$1,418

* The specific ownership tax is computed in the same manner as outlined in the aforementioned section.

** The property tax is computed on the basis of average condition, using the state wide sales ratio of 27.5 per cent of current value and 60.941 mills as the tax levy.

Recommendations for Improvement in the Administration of Taxes on Mobile Equipment

The following suggestions were made at the July 23 hearing for improving the effectiveness of administration of the specific ownership tax as it pertains to mobile equipment.

1) At present, mobile equipment owners may purchase a motor vehicle license and pay a specific ownership tax of \$3.00, rather than be assessed a fairly substantial amount under the personal property tax. Apparently, this situation exists despite a Revenue Department regulation that vehicles are not to be licensed unless the vehicle owners produce a title from the Revenue Department. In any event, mobile equipment owners should not be given an option as to the payment of the specific ownership tax or personal property taxes, especially if there is a significant disparity between the two.

2) County clerks may not be collecting the entire specific ownership tax on vehicles with mounted equipment because they may be unaware that the vehicle has equipment mounted on it; the value of the equipment may not be readily discernible; they do not believe they have the authority to require the owner to produce evidence of the

value of the equipment; etc. Perhaps, through adoption of one of the following suggestions, the problem may be minimized:

- a) require the owners of the equipment (any truck or vehicle other than an automobile or pick-up) to obtain a receipt from the county assessor showing the value of the equipment;
- b) require the owners to appear in person for registration of special equipment, and empower the county clerks with authority to inspect the equipment.

3) For the most part, mobile equipment is not used for purposes of highway transportation. Therefore, it is logical that such equipment should not be registered, on a permanent basis, for highway purposes and should not be subject to the specific ownership tax. Mobile equipment ought to be taxed as personal property. County assessors are familiar with the value of such equipment and it should be their responsibility to see that such property is placed on the tax rolls. Therefore, a redefinition of the term "mobile equipment" needs to be made.

4) Require the owner of a vehicle with mounted equipment, at the time of registration, to complete a form listing all equipment that is mounted or may be mounted upon the chassis, giving the date of acquisition, and cost of each piece of mounted equipment. This information would enable the county clerk to readily determine the tax base for the entire unit and to compute the specific ownership tax due on this unit, which would represent the full tax liability. The Department of Revenue is empowered to issue a ruling requiring persons registering such vehicles to complete a form listing all equipment mounted on the chassis, and legislation is not needed.

Recommendations of Advisory Committee

In viewing the problem of taxation of special equipment, the advisory committee found that it is very difficult to define special equipment in terms which would be inclusive and would leave no doubt as to whether a vehicle should be subject to ad valorem or specific ownership taxes. Therefore, the advisory committee recommended that the final determination of whether special equipment is to be assessed for ad valorem taxes or specific ownership taxes be left to the Department of Revenue. Thus, if the Department of Revenue issues a certificate of title the county clerk may register and collect the specific ownership tax on a vehicle. If the department does not issue a certificate of title, the vehicle is subject to ad valorem taxation, rather than the specific ownership tax. In this way, vehicle registrations are limited to vehicles which are primarily used on the highways.

In order for owners of special equipment (mobile machinery) to qualify for operation on the highways, it is suggested that an annual permit be issued by the county clerk. This would eliminate two of the three present options: 1) a special trip or monthly permit; and 2) payment of registration fees similar to those required for farm vehicles. The annual permit would be the only means of payment and

would be collected by the county clerks. The state patrol and ports of entry would not be allowed to issue permits. Repeal of the option of a special or monthly permit is necessary since it is extremely difficult to enforce mileage limitations required by special permits.

Next, the advisory committee reviewed the problem of taxing vehicles with special mounted equipment. The advisory committee believes that county clerks are not familiar with valuations of special equipment; however, since such vehicles may be operated on the highways at regular intervals, the vehicles must be registered. Therefore, the advisory committee recommended that vehicles with special mounted equipment should be registered, and specific ownership taxes assessed against the vehicle, but not the special equipment. The special equipment may then be placed on the rolls for ad valorem taxation. In this way, owners of vehicles with special mounted equipment may not escape taxation of the special equipment by showing a specific ownership receipt for the vehicle.

APPENDIX A

A BILL FOR AN ACT

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

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

SECTION 1. 13-5-2, Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby amended to read:

13-5-2. Vehicles exempt from registration. Vehicles owned and operated by any department of the federal government; ~~fire-fighting vehicles, police-patrol-wagens-and-police-ambulances;~~ and farm tractors, farm trailers, hay balers, combines, and other heavy movable farm equipment primarily used on farms and not on the highways; and ~~road-rollers-and-road-machinery-temporarily-operated-or-moved upon-the-highways-need-not-be-registered-under-this-article.~~ MOBILE MACHINERY NOT DESIGNED OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS OR CARGO, INCLUDING MOTOR VEHICLES ORIGINALLY DESIGNED FOR THE TRANSPORTATION OF PERSONS OR CARGO BUT WHICH HAVE BEEN REDESIGNED OR MODIFIED BY THE MOUNTING THEREON OF SPECIAL EQUIPMENT OR MACHINERY AND WHICH MAY BE ONLY INCIDENTALLY OPERATED OR MOVED OVER A HIGHWAY, SHALL NOT BE SUBJECT TO REGISTRATION UNDER THIS ARTICLE. THE DEPARTMENT OF REVENUE SHALL MAKE THE FINAL DETERMINATION OF VEHICLES CLASSIFIED AS MOBILE MACHINERY, AND THE COUNTY CLERK AND RECORDER OF ANY COUNTY OR THE MANAGER OF REVENUE OF THE CITY AND COUNTY OF DENVER SHALL NOT ISSUE A REGISTRATION CERTIFICATE OR COLLECT A SPECIFIC OWNERSHIP TAX ON ANY VEHICLE FOR WHICH THE REVENUE DEPARTMENT HAS NOT ISSUED A CERTIFICATE OF TITLE; PROVIDED, THAT BEFORE MOBILE MACHINERY MAY BE OPERATED ON THE HIGHWAY, THE OWNER OF SUCH A VEHICLE, OR HIS AGENT, SHALL OBTAIN A PERMIT AS REQUIRED BY SECTION 13-5-23(11).

SECTION 2. 13-5-3, Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby amended by THE ADDITION OF A NEW SUBSECTION (3) to read:

13-5-3. Application for registration - tax. Whenever special equipment or machinery is mounted on a vehicle for which the department of revenue has previously issued a certificate of title, the owner of said vehicle, or his agent, before making application for a permit to operate the vehicle on the highway, shall obtain a statement of assessment from the county assessor of the county of his residence, or from the manager of revenue of the city and county of Denver if a resident thereof, that the special equipment or machinery has been assessed for the purpose of ad valorem taxes. Payment of any such ad valorem taxes on such special mounted equipment or machinery shall not be construed as payment in lieu of the specific ownership tax on the vehicle on which such special equipment or machinery is mounted.

SECTION 3. 13-5-23 (11), Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby amended to read:

13-5-23.(11). Ton mile and passenger mile tax - fees. (11)
~~Owners of special-mobile-equipment~~ MOBILE MACHINERY DESIRING TO OPERATE SUCH VEHICLES ON THE HIGHWAYS may ~~elect-to-pay-the-same-registration-as-provided-in-paragraph-(b)-of-subsection-(3)-of-this-section-and-the-ton-mile-tax-or-to-operate-such-vehicle-under-a-special-trip-or-monthly~~ OBTAIN AN ANNUAL permit issued by the ~~department of-revenue-or-the-Colorado-state-patrol~~ THE COUNTY CLERK AND RECORDER OF ANY COUNTY OR THE MANAGER OF REVENUE IN DENVER upon payment of a fee of two dollars and fifty cents, ~~for-each-one-hundred-miles, or-portion thereof, or-an-annual-permit-of-two-dollars-and-fifty-cents-per vehicle-ton-for-not-to-exceed-twenty-five-hundred-miles-traveled-on~~

~~the-public-highways;~~ provided, however, that this SUBSECTION shall not be construed as allowing a motor vehicle carrier for hire to operate without A certificate of convenience and necessity, ANY SUCH PERMIT FEES SHALL BE IN ADDITION TO AD VALOREM TAXES ASSESSED ON SUCH MOBILE MACHINERY.

SECTION 4. Repeal. 13-1-1 (48), Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby repealed.

SECTION 5. Effective date. This act shall take effect on January 1, 1965.

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

APPENDIX B

A BILL FOR AN ACT

CONCERNING TRAILER COACHES AND MOBILE HOMES AND THE REGISTRATION AND TAXATION THEREOF.

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

SECTION 1. 13-5-3 (2), Colorado Revised Statutes 1953 (1960 Perm. Supp.) is hereby amended to read:

13-5-3. Application for registration - tax. (2) The owner of such vehicle, or his agent, shall, upon filing the application for registration, pay such fees as are prescribed by section 13-5-23, together with the annual specific ownership tax on the motor vehicle, trailer, semi-trailer, trailer coach, or mobile home for which the license is to be issued. ~~except that the specific ownership tax, but not the fees provided in section 13-5-23, on any trailer coach or mobile home, if said specific ownership tax is in excess of one hundred dollars, may be paid semiannually, one-half on or before January 10 and one-half on or before July 10 of each year and in such case there shall be furnished to the owner at the time each semiannual installment of specific ownership tax is paid a sticker showing such payment,-- Such sticker to be affixed to the license plate,-- On any trailer coach or mobile home registered under the provisions of section 13-5-1-(4) the specific ownership tax, but not the fees provided in section 13-5-23, may be paid in calendar quarterly installments in advance, upon the filing by the owner thereof of an affidavit stating that his gainful employment within this state is not expected to exceed three months' duration, and in such cases there shall be furnished to the owner at the time the calendar quarterly installment of specific ownership tax is paid, a sticker showing the date to which the tax has been paid,-- Such card or sticker shall be affixed~~

~~to the license plate and it shall be the duty of such owner, if the owner continues to be gainfully employed within this state, or continues to reside within this state beyond the date to which said tax has been paid, to file an additional affidavit and thereupon to pay the next succeeding calendar quarterly installment of specific ownership tax on such trailer coach or mobile home.~~

SECTION 2. 13-5-6 (4), Colorado Revised Statutes 1953 (1960 Perm Supp.), is hereby amended BY THE ADDITION OF A NEW PARAGRAPH (d) to read:

13-5-6. Tax on vehicles of classes B, C, and D. (4) (d) It shall be the duty of each county clerk and recorder of the state, and of the manager of revenue of the city and county of Denver, to locate and collect the registration fees on all trailer coaches and mobile homes located in his county at the time of registration; and to collect the specific ownership taxes on all trailer coaches and mobile homes as required by this section which are located in his county at the time payment of such taxes are due, except as provided in section 13-5-9 (4) (b). It is not the intention of this section to release individual responsibility for registration of a mobile home.

SECTION 3. 13-5-9 (2) and (4), Colorado Revised Statutes 1953 (1960 Perm. Supp.), are hereby amended to read:

13-5-9. Tax year - disposition - exemption - partial payment.
(2) The county clerk and recorder shall report weekly and pay to the county treasurer all annual specific ownership taxes collected by him and accept his receipt therefor, and said county treasurer shall distribute, apportion, credit, and pay over to the state and its political subdivisions said specific ownership tax TAXES as provided by law with reference to ad valorem taxes. IN THE CASE OF SPECIFIC

OWNERSHIP TAXES COLLECTED ON A TRAILER COACH OR MOBILE HOME IN CLASS D, THE SCHOOL DISTRICT AND ANY OTHER POLITICAL SUBDIVISIONS IN WHICH THE SITUS OF THE TRAILER COACH OR MOBILE HOME IS ESTABLISHED AT THE TIME OF THE PAYMENT OF SUCH TAXES, SHALL BE APPORTIONED AND PAID THEIR PROPORTIONATE SHARE THEREOF IN THE SAME MANNER AS OTHER AD VALOREM TAXES ARE APPORTIONED AND PAID. The department of revenue shall pay over funds and moneys received by it to the county treasurers at such times as are reasonable, and said county treasurers shall deposit such funds and moneys in highway funds of their respective counties under direction of the ~~beard~~ BOARDS of county commissioners of said counties.

(4) (a) Payment of an annual specific ownership tax on a trailer coach or mobile home to the county clerk and recorder of any county of this state in which ~~the-owner-or-occupant-is-a-resident~~ THE SITUS OF THE TRAILER COACH OR MOBILE HOME IS ESTABLISHED AT THE TIME OF REGISTRATION, or to the manager of revenue of the city and county of Denver, ~~if-said-occupant-is-a-resident-thereof~~ IF THE SITUS IS IN DENVER AT THE TIME OF REGISTRATION, for all of a calendar year, shall constitute the entire tax payable on such vehicle, ~~provided,-however should-the-occupant-elect-to-pay-specific-ownership-tax-on-a-semi-annual-or-calendar-quarterly-basis-such-tax-shall-be-paid-for-the second-one-half-of-the-year-or-for-any-subsequent-quarter-to-the county-clerk-and-recorder-of-the-county-wherein-said-occupant-is-then and-there-residing,-except-in-the-city-and-county-of-Denver-the-same shall-be-paid-to-the-manager-of-revenue-of-the-city-and-county-of~~ Denver.

(b) THE OWNER OF A TRAILER COACH OR MOBILE HOME MAY ELECT NOT TO PAY THE REGISTRATION FEE AND SPECIFIC OWNERSHIP TAX THEREON, BUT

TO PAY IN LIEU THEREOF AN AD VALOREM TAX, BY SURRENDERING THE CERTIFICATE OF TITLE ISSUED BY THE DEPARTMENT OF REVENUE TO THE COUNTY CLERK AND RECORDER OF THE COUNTY WHERE THE TRAILER COACH OR MOBILE HOME IS SITUATED, OR TO THE MANAGER OF REVENUE OF THE CITY AND COUNTY OF DENVER IF SITUATED IN DENVER, AND BY FILING AN AFFIDAVIT GIVING THE EXACT LOCATION OF THE TRAILER COACH AND MOBILE HOME. ALL SUCH AFFIDAVITS SHALL BE TURNED OVER BY THE COUNTY CLERK AND RECORDER TO THE COUNTY ASSESSOR WHERE THE TRAILER COACH OR MOBILE HOME IS SITUATED, AND SAID COUNTY ASSESSOR, OR THE MANAGER OF REVENUE IN DENVER, SHALL ASSESS SUCH PROPERTY FOR THE PURPOSES OF AD VALOREM TAXATION.

SECTION 4. Repeal. 13-5-6 (5), Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby repealed.

SECTION 5. Applicability and effective date of act. This act shall take effect January 1, 1965, and shall apply to the year 1965 and each year thereafter.

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

APPENDIX C

PRELIMINARY SUMMARY TAX EXEMPT LAND IN COLORADO BY COUNTY^a

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
								Per Cent Of
								Tax Exempt Land To
County	Acres of Tax Exempt Land					Total Land In Colo. ^f		All Land
	Federal	State ^c	County ^d	Municipal ^d	Private ^e	Total		
Adams	19,832	24,780	553	1,921	8,879	55,965	795,406	7.04%
Alamosa	84,258	55,496	574	440	923	141,691	460,800	30.75
Arapahoe	68,844	13,580	43	N.A.	3,698	86,165	517,780	16.64
Archuleta	428,668	3,641	200	24	855	433,388	872,960	49.65
Baca	205,700	42,625	36	50	3,782	252,193	1,641,600	15.36
Bent	10,845	143,456	127	20	8,934	163,382	970,880	16.83
Boulder	191,086	2,423	124	14,070	7,542	215,245	480,000	44.84
Chaffee	511,427	16,485	2,787	724	2,020	533,443	664,960	80.22
Cheyenne	282	51,242	304	N.A.	3,350	55,178	1,134,080	4.87
Clear Creek	199,781	5,112	N.A.	7,266	N.A.	212,159	252,160	84.14
Conejos	452,835	55,902	N.A.	140	2,667	511,544	812,160	62.99
Costilla	2,948	---	N.A.	1,267	464	4,679	777,600	.60
Crowley	6,534	62,718	436	461	5,140	75,289	513,920	14.65
Custer	186,807	11,959	162	290	237	199,455	471,680	42.29
Delta	397,970	8,050	2,280	110	1,514	409,924	740,480	55.36
Denver	2,113	9	N.A.	N.A.	N.A.	2,122	50,496	4.20
Dolores	387,740	4,469	15	36	5	392,265	657,920	59.62
Douglas	138,672	6,880	33	5,770	2,973	154,328	539,520	28.60
Eagle	965,039	12,657	313	690	2,350	981,049	1,078,400	90.97
Elbert	152	81,818	40	520	1,446	83,976	1,192,960	7.04
El Paso	187,867	188,826	1,602	13,237	11,433	402,965	1,381,120	29.18
Fremont	450,882	58,357	5	6,780	3,352	519,376	999,680	51.95
Garfield	1,294,439	791	3,553	1,510	1,766	1,302,059	1,916,160	67.95
Gilpin	46,574	950	N.A.	850	550	48,924	95,360	51.30
Grand	790,536	56,315	418	5,090	2,479	854,838	1,177,600	72.59

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
								Per Cent Of
								Tax Exempt
								Land To
								All Land
County	Acres of Tax Exempt Land					Total Land In Colo. ^f		
	Federal	State ^c	County ^d	Municipal ^d	Private ^e	Total		
Gunnison	1,625,289	17,927	200	430	2,654	1,646,500	2,072,320	79.45%
Hinsdale	648,683	2,458	60	445	2,478	654,124	676,480	96.70
Huerfano	211,026	41,132	80	240	2,236	254,714	1,009,920	25.22
Jackson	540,211	121,059	N.A.	N.A.	888	662,158	1,038,080	63.79
Jefferson	106,045	7,274	186	17,382	7,120	138,007	501,918	27.50
Kiowa	3,875	70,493	354	11	1,506	76,239	1,146,880	6.65
Kit Carson	452	53,613	370	615	1,291	56,341	1,389,440	4.05
Lake	176,014	1,349	1,260	360	1,482	180,465	243,200	74.20
La Plata	416,757	13,342	1,828	1,592	2,523	436,042	1,078,400	40.43
Larimer	779,839	59,933	151	2,453	21,323	863,699	1,672,960	51.63
Las Animas	128,842	162,501	877	2,605	5,949	300,774	3,068,160	9.80
Lincoln	3,804	134,494	2,605	91	2,311	143,305	1,659,520	8.64
Logan	1,557	149,608	768	1,210	5,409	158,552	1,169,280	13.56
Mesa	1,479,848	11	3,556	2,880	2,867	1,489,162	2,119,680	70.25
Mineral	525,306	740	3,222	250	1,732	531,250	589,440	90.13
Moffat	1,615,158	206,707	7,521	40	133	1,829,559	3,042,560	60.13
Montezuma	502,917	8,358	N.A.	N.A.	N.A.	511,275	1,340,160	38.15
Montrose	972,908	14	N.A.	N.A.	N.A.	972,922	1,432,960	67.90
Morgan	674	53,155	N.A.	N.A.	N.A.	53,829	820,480	6.56
Otero	167,227	128,092	1,188	862	4,299	301,668	810,880	37.20
Ouray	160,390	4,115	49	208	214	164,976	345,600	47.74
Park	726,070	96,351	329	17,637	1,000	841,387	1,386,240	60.70
Phillips	---	17,607	600	160	730	19,097	435,200	4.39
Pitkin	489,337	672	1,050	8	29	491,096	623,360	78.78
Prowers	1,065	42,566	294	1,500	1,570	46,995	1,040,640	4.52
Pueblo	76,643	240,553	2,005	1,040	7,124	327,365	1,536,640	21.30
Rio Blanco	1,583,998	37,140	N.A.	N.A.	N.A.	1,621,138	2,088,320	77.63
Rio Grande	344,602	13,485	54	770	941	359,852	586,240	61.38
Routt	671,468	68,227	2,841	317	1,706	744,559	1,491,200	49.93
Saguache	1,330,796	86,407	80	100	54	1,417,437	2,012,160	70.44

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
County	Federal	State ^c	County ^d	Municipal ^d	Private ^e	Total	Total Land In Colo. ^f	Per Cent Of Tax Exempt Land To All Land
San Juan	234,715	---	N.A.	172	383	235,270	250,880	93.78%
San Miguel	476,242	13,520	---	---	---	489,762	821,120	59.65
Sedgwick	78	25,373	56	648	1,187	27,342	348,160	7.85
Summit	290,651	---	320	7,920	145	299,036	391,680	76.35
Teller	156,671	7,408	N.A.	5,598	5,227	174,904	354,560	49.33
Washington	1,058	104,546	N.A.	N.A.	2,617	108,221	1,616,000	6.70
Weld	210,430	171,244	N.A.	96	40,203	421,973	2,562,560	16.47
Yuma	520	52,536	40	550	978	54,624	1,516,800	3.60
TOTAL	24,054,554 ^b	3,122,551	45,549	129,456	206,668	27,558,778 ^b	66,485,760	41.45%
Per Cent of State Land	36.18%	4.70%	.07%	.19%	.31%	41.45%		

- 54 a. Source: General Services Administration report -- "Real Property Owned by United States Government Throughout the World," National Forest Service, Bureau of Land Management, "Colorado Yearbook, 1959-61," State Land Board, and Game and Fish Commission.
- b. Total includes an additional 361,556 acres of land, not identified by county, under control of the Bureau of Reclamation.
- c. Includes 2,987,011 acres of public school lands, 128,993 acres of Game and Fish Lands, and 6,547 acres of miscellaneous property (not complete).
- d. Planning Commission reports that this information, in some cases, is based on 1940 estimates because surveys were not completed.
- e. Based on replies from counties, and includes railway rights of way.
- f. Excludes surface water area -- total 232,320 acres.
- N.A. Not available.

APPENDIX D

SUMMARY OF STATE FREEPORT LAWS

Alabama -- No freeport exemption, but does exempt from property taxes all agricultural products raised or grown in the state and stored by the producer. (CCH par. 20-220)

Alaska -- No freeport provision.

Arizona -- Property moving through the state and consigned to a warehouse for storage or assembly in transit, for an out-state destination, does not acquire situs for property tax purposes. Warehouses claiming freeport exemptions for property, in transit, must keep proper records of point of origin, destination, date of receipt, and date of withdrawal. Also, claim for exemption must be filed by owner of the property. (CCH par. 20-219)

Arkansas -- No freeport provision.

California -- No freeport provision.

Colorado -- No freeport provision. Livestock and agricultural products temporarily stored for less than one year do not acquire situs for property tax purposes. (137-3-35, CRS 1953)

Connecticut -- Goods of non-resident merchants, held in public storage, in original packages, are considered in transit and not subject to property taxation, but no portion of premises in which the goods are stored may be owned or leased by the consignor or consignee if the exemption is to apply. (CCH par. 20-233)

Delaware -- No personal property tax.

Florida -- Attorney General's opinion - goods shipped in from other states and placed in temporary storage, prior to movement to other states, do not acquire tax situs. However, the length of stay or storage may raise a presumption that the goods have become a part of the bulk of property of the state for tax purposes, but this is not conclusive. (Opinion of Attorney General, No. 060-22, January 29, 1960.)

Georgia -- No freeport exemption

Hawaii -- No personal property tax.

Idaho -- Goods shipped into Idaho and stored in original packages prior to shipment to other states are deemed to be in transit and not subject to the personal property tax, provided that the warehouse in which the goods are stored is not owned or leased by a consignor or consignee of the personal property. (CCH par. 20-200)

Illinois -- Strict freeport exemption enacted in 1963 session.

Indiana -- Personal property of non-residents of the state shipped into the state for purposes of trans-shipment to another state, retained in original packages, and the bill of lading designates final point of shipment, and the warehouse in which the goods are stored is not owned by the consignor or consignee, are exempt from the personal property tax. (CCH par. 20-717)

Iowa -- Personal property stored in a warehouse of any person, co-partnership or corporation engaged in the business of storing goods for profit and not intended for resale is exempt from taxation. (CCH par. 20-232)

Kansas -- Personal property moving through the state, or consigned to a warehouse in the state for delivery to a point outside the state, does not acquire situs for the purposes of property taxation. (CCH par. 20-227)

Kentucky -- No state freeport exemption; however, machinery and products in the course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw materials actually on hand are exempt from local property taxes. (CCH par. 20-381)

Louisiana -- All personal property in public or private storage, while in transit through the state, shipped into the state for a final destination outside of the state, whether such destination was specified when the transportation began or not, is exempt from taxation. All such property, whether tax exempt or not, must be reported. (CCH par. 20-220)

Maine -- For the purpose of personal property taxation, goods must be used in trade or manufacture; if not, the goods do not acquire situs for local taxation. (CCH par. 91-580) (The administration of this act may exclude goods held in warehouses or in transit. Clarification with the Maine tax commission may be necessary to determine the extent of such exemptions.)

Maryland -- No state freeport exemption. The charter of the city of Baltimore exempts property stored in the city for temporary purposes from city taxation. (CCH par. 20-230)

Massachusetts -- The personal property of an individual, who neither resides nor has his place of business in the state, held in storage in a licensed public warehouse, in original package form, is deemed to be in transit and not subject to taxation. (CCH par. 20-101)

Michigan -- All products, with the exception of alcoholic beverages, located in a public warehouse, and designated as in transit for destinations out-state, are exempted from the personal property tax. For purposes of this act, a public warehouse does not include premises owned or leased by the consignor or consignee of the property in which the exemption is requested. The owner of the property must file a sworn statement to qualify for an exemption. Exemptions are limited to one year. (CCH par. 20-229 and 230)

Minnesota -- Original packages of merchandise shipped into the state by a non-resident for storage, while en route to a destination out-state, are exempt from personal property taxation. To

qualify for exemption, the warehouse must be licensed and regulated by the state of Minnesota and the consignor or consignee of the property must not hold a lease or have an interest in the warehouse. Also, the warehouse operator must file a statement in order for the exemption to be granted. Dairy, poultry, vegetable and meat products produced in the state and held for shipment out-state are also exempt from taxation. The latter exemption does not apply if the owner of the property has an interest in the warehouse. (CCH par. 20-225 and 226)

Mississippi -- All commodities held in storage for interstate, intrastate, and foreign commerce are exempt from state and local taxes. (CCH par. 20-249) If 50 per cent of the products stored in a warehouse are for shipment to another state, the warehouse may be licensed as a "freeport warehouse". Manufacturing or assembly plants may not qualify as "freeport warehouses". The tax commission may require that warehouses keep all necessary records to carry out the purposes of the freeport law. (CCH par. 20-249)

Missouri -- Personal property, moving through the state or consigned to a warehouse in the state, in transit, to a destination out-state, acquires no situs for property tax purposes. The owner is required to submit documentary proof that the goods are in transit. (CCH par. 20-221)

Montana -- No freeport exemption.

Nebraska -- Merchandise in interstate commerce, stored in transit, in bonded and licensed warehouses, originating within and without the state of Nebraska, for out-state destinations, is exempt from property taxation. The owner of goods must notify the warehouse licensee of his intention to ship goods and of their out-state destination. If the destination is changed to within the state of Nebraska, the licensee must notify the county assessor of the change in destination; hence the change in the taxable status of the property. (CCH par. 20-774)

Nevada -- Personal property moving in interstate commerce, consigned to a warehouse, public or private, for storage in transit to another state, whether specified when transportation began or afterward, is deemed to have acquired no situs for purposes of taxation. Property does not lose its status of exemption because of assembly, additional processes, relabeling, repackaging, etc. Also, there is no time limit on which the property must be shipped in order to retain its tax free status. If the property is reconsigned to a destination in Nevada, the warehouseman must make such a report and the property is then subject to the regular tax laws. (CCH par. 20-250)

New Hampshire -- No freeport exemption.

New Jersey -- Exempts inventories of raw materials, supplies, small tools, and gas stored in public warehouses. (CCH par. 20-215)

New Mexico -- 1963 law exempts property in interstate commerce shipped from out-state for storage in-transit for final destination out-of-state.

New York -- No personal property tax.

North Carolina -- No freeport provision.

North Dakota -- Personal property consigned to a warehouse within the state, for storage or assembly in transit, to an out-state destination, is deemed to have acquired no situs for purposes of taxation. The warehouse must keep records showing property in transit and must notify the local assessor if the destination is changed to an in-state area. (CCH par. 20-707)

Ohio -- Personal property shipped from points outside the state, held in a public warehouse not subject to control or supervision of the taxpayer, not processed, and final destination is outside the state, is not subject to taxation. Also, agricultural products, held in storage and subject to control of the U. S. Government, are not subject to personal property taxation. (CCH par. 20-220)

Oklahoma -- Personal property moving in interstate commerce, through the state of Oklahoma, consigned to a warehouse for storage in transit, with final destination outside the state (whether specified when transportation begins or afterwards), is deemed not to have gained situs for ad valorem tax purposes. (CCH par. 20-706)

Oregon -- Personal property produced outside the state, in transit, brought into the state for purposes of trans-shipment to an out-state destination, and held in storage, is deemed not to have acquired situs for purposes of taxation. Such property is not deprived of exemption because, while in storage, the product is bound, assembled, joined, divided, cut, broken in bulk, labeled, relabeled, etc. (CCH par. 20-232 and 232a)

Pennsylvania -- No tax on tangible personal property.

Rhode Island -- No freeport exemption.

South Carolina -- Personal property shipped through the state of South Carolina, consigned to a warehouse (public or private), for storage in transit to a final destination outside of the state (whether specified when transportation begins or afterwards), is deemed not to have achieved situs for property taxation. Property which is bound, assembled, joined, processed, divided, etc., while held in storage, does not lose its exempt status. Warehouses must keep records of in transit property. Persons must file for exempt status, and such claims must be accompanied by a warehouse certificate. (CCH par. 20-233)

South Dakota -- Attorney General's opinion provides that merchandise held in storage in South Dakota has come to rest and is subject to taxation. Therefore, the burden of proof lies with the owner to show that the property is not subject to taxation. (CCH par. 20-101)

Tennessee -- Property does not acquire situs for tax purposes if moving in interstate commerce and consigned to a warehouse for storage, in transit, for shipment to an out-state destination (whether specified when transportation begins or afterwards). (CCH par. 20-218)

Texas -- No freeport provision. Attorney General's opinion (1945) held that property engaged in interstate commerce may achieve taxable situs in a jurisdiction that it passes through in terms of the nature and duration of the delay. (CCH par. 20-701.20)

Utah -- The freeport law provides that goods moving in interstate commerce into the state, for final destinations outside the state, and entitled to through rates as approved by the Interstate Commerce Commission, and not detained more than 90 days, are deemed to be property in interstate commerce and not subject to property taxation. Also, merchandise detained not more than nine months and held for assembly, manufacturing, processing, or fabricating purposes, and shipped into the state for final destinations out-state, is not subject to property taxation. However, goods using "home" produced products are subject to taxation even though final shipment is out-state. (CCH par. 20-208) The Utah legislature (1963 session) adopted a resolution for a proposed constitutional amendment which, in effect, would extend freeport to "home" products.

Vermont -- No freeport provision.

Virginia -- No freeport provision.

Washington -- Merchandise held in storage in a public or private warehouse, brought in from out-state, and final destination also is out-state, is considered to be in transit, and non-taxable. County assessors must assess all property, but receipt of documentary proof of goods in transit cancels the respective assessment. (CCH par. 20-216)

West Virginia -- No freeport law.

Wisconsin -- Personal property held in storage, in a public warehouse, for shipment out-state is tax exempt. Owner must file statement to qualify for exemption. (CCH par. 20-236)

Wyoming -- Personal property, in transit, held in storage for not more than nine months, shipped into the state for a destination out-state (whether such destination is specified before or after transportation begins) is deemed not to have acquired situs for tax purposes. Also, warehouses must keep adequate records. (CCH par. 20-225)