

Section II

Administration

COLORADO PROPERTY TAX

OVERVIEW

The Colorado property tax system provides revenue exclusively for local government services. The largest share of property tax revenue (52.7 percent) goes to support the state's public schools. County governments claim the next largest share (25.2 percent), followed by special districts (15.9 percent), municipal governments (5.3 percent), and junior colleges (0.9 percent).

The authority for property taxation is both constitutional and statutory. Article X of the Colorado Constitution provides that all property is taxable unless declared exempt by the Constitution, and that the actual value of taxable property shall be determined under the general laws to secure just and equalized valuations. The specific statutes pertaining to property taxation are found in Title 39, Articles 1 through 14, Colorado Revised Statutes.

Under the general laws of Colorado, county assessors are required to value all taxable property within their territorial jurisdictions. The State Board of Equalization (state board) has supervision over the administration of all laws concerning the valuation and assessment of taxable property and the levying of property taxes. The Division of Property Taxation (Division), under the leadership of the Property Tax Administrator (administrator), coordinates and administers the implementation of property tax law throughout the sixty-four counties.

Revenue derived from 2004 property taxes (payable 2005) will increase statewide for every local government type. The combined revenue increase from taxes payable in 2005 is 5.30 percent. Table 1 lists the percentage increases in property tax revenue between taxes payable in 2004 and taxes payable in 2005.

**Table 1
Revenue Change by Entity Type**

<u>Taxing Entity</u>	<u>2003-2004 % Increase</u>
School District K-12	+ 4.94%
Junior Colleges	+ 11.18%
Counties.....	+ 4.67%
Municipalities	+ 3.08%
Special Districts	+ 7.96%
Combined Increase.....	+ 5.30%

Although the table above indicates that Colorado property tax revenue increased for 2004, at the local level, the percentage change of tax revenue varied greatly, and numerous taxing entities experienced a decline in their property tax revenue, while others experienced dramatic increases.

STATE BOARD OF EQUALIZATION

The State Board of Equalization consists of the Governor, the President of the Senate, the Speaker of the House of Representatives, or their designees, and two members appointed by the Governor with consent of the Senate. Each appointed member must be a qualified appraiser, a former assessor, or a person who has knowledge and experience in property taxation. The state board members for 2004 were Lyle C. Kyle, Chairperson and appointee of Governor Bill Owens; Heather Witwer, Vice-Chair and designee of Governor Owens; Senator Terry Phillips, designee of John Andrews, President of the Senate; Representative Michael May, designee of Lola Spradley, Speaker of the House of Representatives; and JoAnn Groff, appointee of Governor Owens.

Duties and Responsibilities

The state board supervises the administration of property tax laws and equalization of the values of classes and subclasses of taxable property. Duties of the state board are found primarily in Article X, Sections 3 and 15 of the Colorado Constitution and in Title 39, Articles 1 and 9, Colorado Revised Statutes.

Among its duties, the state board reviews the findings and conclusions of the annual study contractor and orders reappraisals in counties found not in compliance. The annual study was initiated by a 1982 amendment to the Constitution to ensure that all assessors value property at the same level of value using standardized procedures and statistical measurements. The study is conducted by an independent auditing firm contracted by the Director of Research, Legislative Council, § 39-1-104(16), C.R.S. The study and the resulting orders of reappraisal are the primary means of achieving statewide equalization.

The state board's equalization function is important due to the relationship that exists between assessed values and state aid to schools. Generally, if the property in a school district is under-assessed, it is likely that the district will receive more state revenue than it is entitled. When a reappraisal order results in a determination that the affected school district(s) received too much state revenue, the state board will order the county (not the school district) to pay back the excess funding. During the 1980s and early 1990s this sometimes required the repayment of substantial revenue to the state. In more recent years, significant improvements in the quality of county assessments have resulted in far fewer reappraisal orders and far smaller repayments of excess state aid to schools.

The state board also reviews county Abstracts of Assessment, decisions of county boards of equalization (county board), and the policies and recommendations of the Property Tax Administrator.

STATE BOARD ENFORCEMENT

A brief history of enforcement actions by the state board follows:

2004 Enforcement and Repayment

On October 4, 2004, the state board met to review the findings and conclusions of Rocky Mountain Valuation Specialists, Inc., annual study contractor for Legislative Council.

After considering all evidence and testimony, the state board concluded that the Fremont County commercial/industrial property classes were out of compliance and issued an order of reappraisal to the county.

2003 Enforcement and Repayment

On October 14, 2003, the state board met to review the findings and conclusions of Rocky Mountain Valuation Specialists, Inc., annual study contractor for Legislative Council.

After considering all evidence and testimony, the state board concluded that 2003 class values for all 64 counties were in compliance with Colorado assessment law, and no orders were issued requiring the reappraisal of a class or sub-class of property.

2002 Enforcement and Repayment

On October 7, 2002, the state board met to review the findings and conclusions of Thos. Y. Pickett & Co., Inc., annual study contractor for Legislative Council.

After considering all evidence and testimony, the state board concluded that 2002 class values for all 64 counties were in compliance with Colorado assessment law, and it issued no orders requiring the reappraisal of a class or sub-class of property.

However, the state board issued an order to the Mesa County Board of Equalization that it rescind its decision to remove the possessory interest valuations from two properties. The order, and related correspondence with other counties, are discussed in more detail on page II-29.

2001 Enforcement and Repayment

On October 15, 2001, the state board met to review the findings and conclusions of Thos. Y. Pickett & Co., Inc., annual study contractor for Legislative Council.

The report by the annual study contractor recommended that two counties receive reappraisal orders. The recommendations were for the reappraisal of the commercial and industrial classes in Conejos County and the natural resources class in Routt County.

In response, the counties testified that they had resolved the problems identified in the report. Their testimony was supported by a representative of the annual study contractor, who confirmed that the company reviewed the revisions of both counties and that they were in compliance with the standards established by the state board. Based on the testimony, the state board determined that the values for the two counties, and Colorado's 61 other counties, were in compliance with Colorado assessment law, and no reappraisals were ordered.

2001 Possessory Interest Orders

Pursuant to the Colorado Supreme Court's decision in *Board of County Commissioners, v. Vail Associates Inc.*, 19 P.3d 1263 (Colo 2001), the state board unanimously voted on November 21, 2001, to order county assessors that were not parties to the case to value possessory interests beginning with tax year 2001. The order is discussed in more detail on page II-29.

2000 Enforcement and Repayment

On October 10, 2000, the state board met to review the findings and conclusions of Thos. Y. Pickett & Co., Inc., annual study contractor for Legislative Council.

After considering all evidence and testimony, the state board concluded that 2000 property values for all 63 counties were in compliance with Colorado

assessment law, and no reappraisals were ordered.

The state board also reviewed the results of reappraisals ordered the prior year for vacant land in Park and Saguache Counties. The state board determined that the reappraisals in both counties were successfully completed, and it ordered the counties to make the following paybacks and reimbursements.

<u>County</u>	<u>Supervision Reimbursement</u>	<u>State Aid to Schools Payback</u>
Park	\$ 6,602.07	\$63.72
Saguache	\$15,159.79	\$90.43

Since 1988, the state board has allowed counties to choose an alternative method for the repayment of the supervision costs. Rather than paying the money to the state, counties are allowed to apply the supervision repayment to the budgets of their assessors' offices, for the purpose of enhancing their operational effectiveness.

The Saguache County Commissioners chose to employ the alternative method, and submitted a plan detailing how the money would be used to enhance the effectiveness of the assessor's office. The Park County Commissioners chose not to employ this method of repayment, and were ordered to pay the supervisory costs.

1999 Enforcement and Repayment

The vacant land reappraisal orders for Park and Saguache Counties were issued during the October 12, 1999, meeting of the state board. At the meeting, the state board also determined that Fremont County's irrigated farm land was out of compliance. The state board's decisions were based on the 1999 findings and conclusions of annual study contractor Thos. Y. Pickett & Co., Inc.

Vacant land values for Park County were found out of compliance because the reappraisal achieved a 26.46 percent coefficient of dispersion. That figure

exceeds the vacant land standard of 20.99 percent. Saguache vacant land was out of compliance because the median sales ratio of 93.06 percent fell outside the allowable range of 95.0 to 105.0 percent.

A reappraisal of Fremont County's irrigated land was ordered because the crop yield used for valuing the subclass was 125 percent of the ten-year average yield reported by the Colorado Agricultural Statistics Service (CASS). This fell outside the state board's compliance standard of 90 to 110 percent. Upon receiving the order, the county made a uniform adjustment to its irrigated land values to achieve compliance with the state board standard prior to publishing the tax warrant.

On December 3, 1999, the state board met and approved the plans for reappraisal submitted by Park and Saguache Counties. The state board rescinded the reappraisal order for Fremont County upon receiving testimony from the Division of Property Taxation that Fremont's adjusted values for irrigated land were in compliance. The state board did not consider repayment actions for 1999, because all 1998 values were found to be in compliance.

1998 Enforcement and Repayment

On October 5, 1998, the state board met to review the findings and conclusions of annual study contractor Thos. Y. Pickett & Co., Inc.

After considering all evidence and testimony, the state board concluded that 1998 property values for all 63 counties were in compliance with Colorado assessment law, and no reappraisals were ordered. The prior year, the state board determined that the 1997 values for three counties were out of compliance, and issued the following reappraisal orders:

<u>County</u>	<u>Property Classes</u>
Lake	Vacant land
Routt	Agricultural subclasses
Hinsdale.....	Single family residential, Vacant land, Commercial/ Industrial, Agricultural Improvements

Upon recommendation of the auditor, the state board concluded during its 1998 meeting, that the 1997 orders were justified and successfully completed. It ordered the counties that received 1997 orders to make the following paybacks and reimbursements.

<u>County</u>	<u>Supervision Reimbursement</u>	<u>State Aid to Schools Payback</u>
Lake.....	\$10,599.00	\$ 0.00
Routt.....	\$ 878.23	\$81.79
Hinsdale.....	\$ 959.30	\$ 7.47

The counties chose the alternative repayment method of applying the supervisory costs to the budgets of the assessor's offices.

DIVISION OF PROPERTY TAXATION

Under the general laws of Colorado, the Property Tax Administrator heads the Division of Property Taxation. The administrator is appointed by the State Board of Equalization to serve for a five-year term and until a successor is appointed and qualified.

One primary responsibility of the Division is to administer the implementation of property tax law throughout the 64 counties so that valuations are fair, uniform, and defensible, thereby ensuring that each property class contributes only a fair share of the total property tax revenue. In other words, the Division's goal is equalization of valuation and proper distribution of property taxes throughout the state.

The Division is comprised of four sections: Administrative Resources, Appraisal Standards, Exempt Properties, and State Assessed Properties.

Administrative Resources

The Administrative Resources section acts as liaison to the 64 county assessors in determining existing and future needs for assistance from the Division. In addition, the section serves as a liaison and coordinator with a variety of other agencies and companies having an interest in property taxation.

The section develops and teaches all courses dealing with the administrative functions of assessors' offices. The section also teaches specialized workshops on parcel mapping, severed mineral interest valuation and assessment, title conveyance, tax increment financing, and certification of values to taxing entities. The Colorado Board of Real Estate Appraisers approved the administrative courses for continuing education purposes.

The section develops and publishes manuals that provide instruction and legal references for all administrative areas of the assessor's offices, and the section publishes the Annual Report to the Governor and General Assembly and the Mobile equipment Manual for county clerks and recorders and ports of entry personnel. For each year of reappraisal, it completes a documented study that estimates the residential assessment rate for the action of the General Assembly.

The section provides technical assistance to counties in administration matters and also investigates taxpayer complaints. The section conducts research projects for the Division and Legislature.

Appraisal Standards

The Appraisal Standards Section acts as liaison to the 64 county assessors in determining existing and future needs for assistance from the Division primarily in the appraisal field. It also serves as a

liaison and coordinator with a variety of other appraisal agencies and companies having an interest in property taxation.

The section develops and teaches courses dealing with all aspects of appraisal including the three approaches to value. It also teaches workshops in specialized areas such as standards and ethics for appraisers, sales ratio studies, agricultural valuation, vacant land discounting procedures, and the valuation of possessory interests. All appraisal courses are approved for licensing credit by the Colorado Board of Real Estate Appraisers.

The section also publishes appraisal manuals covering both real and personal property, and it provides technical assistance to counties on a variety of appraisal matters.

Exempt Properties

The Exempt Properties Section investigates all applications for exemption from property taxation for property claimed to be owned and used solely and exclusively for religious worship, private schools, or charitable purposes, and makes determinations on the applications. Annual reports of exempt properties are reviewed to determine continuations of the exemptions. The Exemptions Section reviews approximately 700 applications and 9,700 annual reports for exemption each year.

State Assessed

The State Assessed Properties Section values all public utility properties in Colorado. The staff sets values on approximately 570 companies each year using unitary valuation procedures. It also defends the values when they are appealed by the property owner or the county.

2004 VALUE INFORMATION

Statewide Assessed Values for 2004

2004 was an “intervening,” or non-reappraisal year, meaning the actual values of most properties were the same as those established for 2003. Generally, the values reflect market values as of June 30, 2002. However, certain classes and sub-classes of property are valued every year. These include all property classified as state assessed; land classified as oil and gas, natural resource, and producing mines; and all subclasses of personal property. Table 2 displays the percentage changes in value of each property class for 2004.

Table 2
Value Changes by Class

<u>Class</u>	<u>2003-2004</u> <u>Change</u>	<u>Percentage</u> <u>of Total</u>
Vacant Land	- 4.3%	6.4%
Residential	+ 3.2%	47.2%
Commercial	+ 1.9%	28.5%
Industrial	- 3.1%	4.2%
Agricultural	+ 1.1%	1.2%
Natural Resources	- 5.2%	0.4%
Producing Mines	- 10.4%	0.1%
Oil & Gas	+ 77.6%	6.0%
State Assessed	- 1.0%	6.0%
Net Total	+ 4.3%	100.0%

Typically, the most significant changes to the values during an intervening year are the result of new construction. For 2004, the 3.2 percent increase to the residential class and the 1.9 percent increase to the commercial class are predominantly new construction related. In addition, much of the 4.3 percent reduction to the vacant land class was caused by the reclassification of land underlying newly constructed properties, from vacant land to an improved property classification.

However, for 2004, the most significant change to the state’s total assessed value in both dollar and percentage terms was the 77.6 percent increase to the oil and gas class. In 2004, oil and gas property comprised 6.0 percent of the total taxable

value, whereas it comprised 3.5 percent of the total in 2003. \$1.7 billion of the \$2.7 billion net increase to Colorado’s total assessed value is attributable to the increase in oil and gas.

The value of oil and gas land is calculated as a percentage of the sale price obtained for the product at the wellhead. This makes oil and gas among the most volatile of classes because the market prices of natural gas and crude oil can change considerably from year to year. When the prices rise or fall, the production volumes of the commodities tend to increase or decrease in harmony with the changes in price, magnifying the effect of price changes on the assessed value of the property class. For example, natural gas production in 2003 (2004 values) was approximately 1,307,403,000 MCFs with an average price of \$4.54 per MCF. By comparison, the 2002 production (2003 values) was approximately 832,380,000 MCFs with an average price of \$2.42 per MCF.

The value of land in the other production classes, natural resources and producing mines, is also calculated as a percentage of the money obtained from selling the product. Unlike oil and gas, the value of natural resource land is relatively stable from year to year as the prices for sand and gravel products, and their production amounts, do not fluctuate greatly.

Producing mines values are subject to a high level of volatility, but the class comprises only 0.1 percent of the state’s total value. Ninety-nine percent of that value is located in the counties of Clear Creek, Grand, Lake, and Teller. The primary mineral produced in the first three counties is molybdenum, while in Teller it is gold. Due to the small number of mining operations in Colorado, the total value is sensitive not only to changes in commodity prices, but also to business decisions of the operators and to decisions rendered on property tax appeals. The 10.4 percent decrease is largely the result of a \$10,667,020 reduction by the Clear Creek County Board of Equalization.

The state assessed class is comprised of property owned by public utilities, airlines and railroads. It is valued each year by state appraisers. The portion of that value attributable to Colorado is then distributed to county assessors according to the location of the companies' operating property and/or its business activity throughout the state. The 1.0 percent decrease in state assessed value occurred because significant decreases to the telecommunications industry outweighed increases that occurred in most other industries.

The slight decrease to the value of the industrial class occurred for various reasons. Among them was a large reduction made to the value of an ore-processing mill in Grand County.

The value established for agricultural land is based on the earning or productive capacity of the land regardless of the property's market value or its highest and best use. As a result, the actual values of agricultural property are often much lower than their market values and tend to be stable from year to year.

Local Values in 2004

The 4.3 percent increase did not occur uniformly across Colorado. At the county level, the changes in value ranged from an increase of 54.12 percent in Las Animas County to a decrease of 9.43 percent in Clear Creek County. Nineteen of Colorado's 64 counties experienced a decline in total assessed value, and seven others witnessed an increase of less than one percent. The range of value changes is more dramatic when observed at the taxing district level.

In 2004, the counties with the greatest percentage increases in total assessed value were generally those with substantial oil and gas property. Table 3 lists the top ten oil and gas producing counties for 2004 along with their increases in total value.

Table 3

TOP OIL AND GAS COUNTIES IN 2004

<u>County</u>	<u>% Change in total value</u>
1) La Plata	+ 40.28%
2) Weld	+ 20.52%
3) Garfield	+ 36.12%
4) Las Animas	+ 54.12%
5) Rio Blanco	+ 11.46%
6) Yuma	+ 26.61%
7) Moffat	+ 15.28%
8) Montezuma	+ 4.97%
9) Cheyenne	+ 11.46%
10) San Miguel	+ 8.57%

Several of the counties had experienced significant declines to their 2003 total assessed value even though 2003 was a re-appraisal year. This occurred because the oil and gas commodity prices and production volumes decreased considerably in 2002, resulting in a statewide reduction in oil and gas value of 21.4 percent for 2003. Table 4 lists the top 10 oil and gas producing counties in 2003 and their increases or decreases in total value.

Table 4

TOP OIL AND GAS COUNTIES IN 2003

<u>County</u>	<u>% Change in total value</u>
1) La Plata	- 18.90%
2) Weld	+ 2.29%
3) Garfield	+ 0.41%
4) Rio Blanco	- 10.23%
5) Las Animas	+ 8.08%
6) Montezuma	- 0.69%
7) Cheyenne	- 6.36%
8) Moffat	- 7.75%
9) Yuma	- 10.17%
10) Huerfano	+ 3.09%

Table 5 lists the value changes for each county for 2004.

Personal Property in 2004

Colorado is one of 39 states that impose a tax on business personal property (*Fair & Equitable*, P. 6, 05/04). In 2004, personal property accounted for 12.58 percent of Colorado's property tax base, but that percentage varied substantially from

county to county. Although most personal property is assessed locally, nearly 43 percent of personal property is classified as state assessed. In 2004, 90.1 percent of the state assessed property value was personal. All taxable personal property is assessed at 29 percent of its actual value.

Under the Colorado Constitution and statutes, certain categories of business personal property are exempt from taxation, including equipment used for agricultural purposes, business inventory, materials and supplies held for consumption, and personal property under common ownership with a total actual value of no more than \$2,500 per county. In addition, a provision found in the constitution, allows any taxing entity to “enact cumulative uniform exemptions and credits to reduce or end business personal property taxes,” § 20(8)(b), art. X, COLO. CONST.

Table 6 lists the state assessed, locally assessed and total taxable personal property by county, and the percentage of value comprised of personal property.

Table 5

CHANGE IN TAXABLE VALUES

COUNTY	2004 ASSESSED VALUES			2003 ASSESSED VALUES			INCREASE OR DECREASE		
	Non-Residential	Residential	Total	Non-Residential	Residential	Total	Non-Res	Residential	Total
Adams	1,941,558,750	1,824,215,350	3,765,774,100	1,879,092,090	1,730,702,090	3,609,794,180	3.32%	5.40%	4.32%
Alamosa	72,551,800	33,207,320	105,759,120	73,281,980	32,428,230	105,710,210	-1.00%	2.40%	0.05%
Arapahoe	3,129,687,930	3,525,994,730	6,655,682,660	3,143,742,500	3,442,883,070	6,586,625,570	-0.45%	2.41%	1.05%
Archuleta	111,583,590	88,496,590	200,080,180	110,009,150	105,798,510	215,807,660	1.43%	-16.35%	-7.29%
Baca	54,982,991	5,703,092	60,686,083	52,297,440	5,581,630	57,879,070	5.14%	2.18%	4.85%
Bent	44,371,391	6,624,280	50,995,671	44,614,010	6,598,550	51,212,560	-0.54%	0.39%	-0.42%
Boulder	2,157,052,866	2,598,029,250	4,755,082,116	2,148,618,049	2,559,055,400	4,707,673,449	0.39%	1.52%	1.01%
Broomfield	592,966,550	302,925,893	895,892,443	613,351,590	286,010,105	899,361,695	-3.32%	5.91%	-0.39%
Chaffee	147,605,040	116,325,290	263,930,330	146,666,120	111,408,790	258,074,910	0.64%	4.41%	2.27%
Cheyenne	102,643,502	3,173,397	105,816,899	91,794,490	3,141,180	94,935,670	11.82%	1.03%	11.46%
Clear Creek	90,506,450	84,523,160	175,029,610	110,034,290	83,219,900	193,254,190	-17.75%	1.57%	-9.43%
Conejos	24,008,150	18,471,930	42,480,080	26,052,930	17,548,730	43,601,660	-7.85%	5.26%	-2.57%
Costilla	57,510,583	6,559,558	64,070,141	58,877,360	6,205,000	65,082,360	-2.32%	5.71%	-1.56%
Crowley	21,143,549	5,452,470	26,596,019	22,989,700	5,441,100	28,430,800	-8.03%	0.21%	-6.45%
Custer	34,787,360	33,445,140	68,232,500	35,342,810	31,416,050	66,758,860	-1.57%	6.46%	2.21%
Delta	110,559,880	94,124,960	204,684,840	117,835,340	90,514,980	208,350,320	-6.17%	3.99%	-1.76%
Denver	4,886,081,740	3,666,381,820	8,552,463,560	4,845,628,990	3,584,737,170	8,430,366,160	0.83%	2.28%	1.45%
Dolores	24,698,090	6,952,240	31,650,330	25,897,580	6,260,970	32,158,550	-4.63%	11.04%	-1.58%
Douglas	1,462,282,900	1,996,143,870	3,458,426,770	1,394,121,350	1,879,994,460	3,274,115,810	4.89%	6.18%	5.63%
Eagle	828,570,770	1,181,545,040	2,010,115,810	840,631,740	1,148,795,330	1,989,427,070	-1.43%	2.85%	1.04%
El Paso	2,503,572,270	2,508,449,620	5,012,021,890	2,508,837,100	2,396,616,040	4,905,453,140	-0.21%	4.67%	2.17%
Elbert	70,174,112	151,578,680	221,752,792	71,090,130	146,858,420	217,948,550	-1.29%	3.21%	1.75%
Fremont	199,133,818	130,896,611	330,030,429	229,285,590	128,060,900	357,346,490	-13.15%	2.21%	-7.64%
Garfield	941,228,950	313,873,410	1,255,102,360	623,951,170	298,081,630	922,032,800	50.85%	5.30%	36.12%
Gilpin	230,716,430	44,007,850	274,724,280	229,537,390	45,892,720	275,430,110	0.51%	-4.11%	-0.26%
Grand	256,112,300	238,208,030	494,320,330	260,255,290	226,543,130	486,798,420	-1.59%	5.15%	1.55%
Gunnison	238,755,330	167,653,830	406,409,160	234,261,580	161,308,360	395,569,940	1.92%	3.93%	2.74%
Hinsdale	20,795,740	15,494,020	36,289,760	21,622,030	14,898,150	36,520,180	-3.82%	4.00%	-0.63%
Huerfano	79,064,320	27,083,190	106,147,510	83,964,330	26,092,280	110,056,610	-5.84%	3.80%	-3.55%
Jackson	19,230,428	7,915,844	27,146,272	18,648,240	8,272,890	26,921,130	3.12%	-4.32%	0.84%
Jefferson	2,494,321,110	3,836,440,760	6,330,761,870	2,523,308,810	3,790,724,810	6,314,033,620	-1.15%	1.21%	0.26%
Kiowa	27,391,900	1,783,280	29,175,180	25,841,260	1,754,130	27,595,390	6.00%	1.66%	5.72%
Kit Carson	74,981,502	17,325,768	92,307,270	75,783,380	16,999,650	92,783,030	-1.06%	1.92%	-0.51%
La Plata	1,797,140,330	333,398,350	2,130,538,680	1,202,267,300	316,467,950	1,518,735,250	49.48%	5.35%	40.28%
Lake	44,960,815	32,823,083	77,783,898	45,422,170	32,048,960	77,471,130	-1.02%	2.42%	0.40%
Larimer	1,423,073,967	1,766,718,000	3,189,791,967	1,410,752,930	1,703,515,640	3,114,268,570	0.87%	3.71%	2.43%
Las Animas	376,270,440	40,391,430	416,661,870	231,230,260	39,116,600	270,346,860	62.73%	3.26%	54.12%
Lincoln	54,031,174	9,897,227	63,928,401	51,738,100	9,754,480	61,492,580	4.43%	1.46%	3.96%
Logan	109,699,010	50,683,080	160,382,090	108,984,390	49,506,610	158,491,000	0.66%	2.38%	1.19%
Mesa	532,416,230	521,755,440	1,054,171,670	516,371,120	496,194,820	1,012,565,940	3.11%	5.15%	4.11%
Mineral	11,452,070	10,465,670	21,917,740	11,398,970	10,097,130	21,496,100	0.47%	3.65%	1.96%
Moffat	305,416,380	35,964,440	341,380,820	261,174,870	34,950,290	296,125,160	16.94%	2.90%	15.28%
Montezuma	186,140,800	73,748,070	259,888,870	176,848,620	70,734,790	247,583,410	5.25%	4.26%	4.97%
Montrose	195,984,684	134,557,566	330,542,250	188,739,790	127,415,710	316,155,500	3.84%	5.61%	4.55%
Morgan	280,197,850	71,432,830	351,630,680	291,530,040	69,331,540	360,861,580	-3.89%	3.03%	-2.56%
Otero	65,627,074	39,078,196	104,705,270	65,890,370	38,695,910	104,586,280	-0.40%	0.99%	0.11%
Ouray	63,771,910	43,136,930	106,908,840	62,793,324	40,669,337	103,462,661	1.56%	6.07%	3.33%
Park	155,314,045	160,160,410	315,474,455	158,007,310	153,495,460	311,502,770	-1.70%	4.34%	1.28%
Phillips	31,331,220	10,884,860	42,216,080	31,657,810	10,683,170	42,340,980	-1.03%	1.89%	-0.29%
Pitkin	640,086,960	1,143,274,500	1,783,361,460	655,675,220	1,120,415,150	1,776,090,370	-2.38%	2.04%	0.41%
Prowers	103,037,999	21,655,124	124,693,123	71,233,370	21,301,450	92,534,820	44.65%	1.66%	34.75%
Pueblo	504,668,520	466,472,230	971,140,750	511,558,230	449,440,280	960,998,510	-1.35%	3.79%	1.06%
Rio Blanco	319,674,480	20,110,870	339,785,350	285,495,120	19,366,710	304,861,830	11.97%	3.84%	11.46%
Rio Grande	78,247,210	43,653,800	121,901,010	78,882,650	41,439,020	120,321,670	-0.81%	5.34%	1.31%
Routt	381,218,790	313,034,970	694,253,760	386,590,560	300,866,420	687,456,980	-1.39%	4.04%	0.99%
Saguache	34,713,999	11,482,382	46,196,381	36,583,790	11,332,310	47,916,100	-5.11%	1.32%	-3.59%
San Juan	21,013,930	7,272,800	28,286,730	21,563,600	6,998,640	28,562,240	-2.55%	3.92%	-0.96%
San Miguel	313,436,550	263,300,530	576,737,080	279,150,530	252,074,320	531,224,850	12.28%	4.45%	8.57%
Sedgwick	27,557,650	4,424,330	31,981,980	26,122,120	4,397,060	30,519,180	5.50%	0.62%	4.79%
Summit	512,345,581	686,760,403	1,199,105,984	531,387,020	669,022,960	1,200,409,980	-3.58%	2.65%	-0.11%
Teller	213,715,690	146,682,300	360,397,990	207,787,360	141,447,430	349,234,790	2.85%	3.70%	3.20%
Washington	76,793,837	9,092,259	85,886,096	67,021,290	8,867,550	75,888,840	14.58%	2.53%	13.17%
Weld	2,074,367,550	918,193,420	2,992,560,970	1,629,778,190	853,159,900	2,482,938,090	27.28%	7.62%	20.52%
Yuma	175,742,160	21,329,220	197,071,380	134,725,180	20,925,610	155,650,790	30.44%	1.93%	26.61%
Total	34,160,080,997	30,470,840,993	64,630,921,990	32,425,627,413	29,523,577,562	61,949,204,975	2.37%	2.20%	2.29%

Table 6

DISTRIBUTION OF PERSONAL PROPERTY IN 2004

County	State Assd. Personal	% of Total	Locally Assd. Personal	% of Total	Total Personal	% of Total	Total Real	Total Assd. Value
Adams	276,923,030	7.35%	330,942,790	8.79%	607,865,820	16.14%	3,157,908,280	3,765,774,100
Alamosa	8,961,690	8.47%	6,201,710	5.86%	15,163,400	14.34%	90,595,720	105,759,120
Arapahoe	245,797,460	3.69%	433,938,040	6.52%	679,735,500	10.21%	5,975,947,160	6,655,682,660
Archuleta	8,227,330	4.11%	5,292,330	2.65%	13,519,660	6.76%	186,560,520	200,080,180
Baca	21,809,849	35.94%	1,759,988	2.90%	23,569,837	38.84%	37,116,246	60,686,083
Bent	10,108,031	19.82%	1,004,658	1.97%	11,112,689	21.79%	39,882,982	50,995,671
Boulder	121,660,470	2.56%	372,658,776	7.84%	494,319,246	10.40%	4,260,762,870	4,755,082,116
Broomfield	31,699,140	3.54%	103,467,090	11.55%	135,166,230	15.09%	760,726,213	895,892,443
Chaffee	12,537,270	4.75%	7,497,930	2.84%	20,035,200	7.59%	243,895,130	263,930,330
Cheyenne	11,704,284	11.06%	12,044,116	11.38%	23,748,400	22.44%	82,068,499	105,816,899
Clear Creek	10,940,070	6.25%	15,504,230	8.86%	26,444,300	15.11%	148,585,310	175,029,610
Conejos	3,166,460	7.45%	945,510	2.23%	4,111,970	9.68%	38,368,110	42,480,080
Costilla	3,741,675	5.84%	647,751	1.01%	4,389,426	6.85%	59,680,715	64,070,141
Crowley	3,089,900	11.62%	493,377	1.86%	3,583,277	13.47%	23,012,742	26,596,019
Custer	3,107,880	4.55%	588,530	0.86%	3,696,410	5.42%	64,536,090	68,232,500
Delta	20,928,160	10.22%	19,807,740	9.68%	40,735,900	19.90%	163,948,940	204,684,840
Denver	677,482,200	7.92%	731,771,740	8.56%	1,409,253,940	16.48%	7,143,209,620	8,552,463,560
Dolores	8,264,720	26.11%	916,650	2.90%	9,181,370	29.01%	22,468,960	31,650,330
Douglas	101,732,732	2.94%	178,667,550	5.17%	280,400,282	8.11%	3,178,026,488	3,458,426,770
Eagle	47,772,580	2.38%	71,198,030	3.54%	118,970,610	5.92%	1,891,145,200	2,010,115,810
El Paso	235,769,010	4.70%	452,676,870	9.03%	688,445,880	13.74%	4,323,576,010	5,012,021,890
Elbert	13,368,807	6.03%	3,478,149	1.57%	16,846,956	7.60%	204,905,836	221,752,792
Fremont	20,918,207	6.34%	69,436,086	21.04%	90,354,293	27.38%	239,676,136	330,030,429
Garfield	46,407,625	3.70%	86,544,650	6.90%	132,952,275	10.59%	1,122,150,085	1,255,102,360
Gilpin	3,385,100	1.23%	27,882,600	10.15%	31,267,700	11.38%	243,456,580	274,724,280
Grand	23,521,900	4.76%	14,622,010	2.96%	38,143,910	7.72%	456,176,420	494,320,330
Gunnison	8,969,910	2.21%	26,024,190	6.40%	34,994,100	8.61%	371,415,060	406,409,160
Hinsdale	577,980	1.59%	429,450	1.18%	1,007,430	2.78%	35,282,330	36,289,760
Huerfano	13,695,320	12.90%	4,946,010	4.66%	18,641,330	17.56%	87,506,180	106,147,510
Jackson	1,494,599	5.51%	1,095,508	4.04%	2,590,107	9.54%	24,556,165	27,146,272
Jefferson	208,038,960	3.29%	401,728,190	6.35%	609,767,150	9.63%	5,720,994,720	6,330,761,870
Kiowa	2,799,930	9.60%	730,820	2.50%	3,530,750	12.10%	25,644,430	29,175,180
Kit Carson	10,271,013	11.13%	3,775,794	4.09%	14,046,807	15.22%	78,260,463	92,307,270
La Plata	51,142,200	2.40%	160,149,480	7.52%	211,291,680	9.92%	1,919,247,000	2,130,538,680
Lake	9,083,012	11.68%	3,785,448	4.87%	12,868,460	16.54%	64,915,438	77,783,898
Larimer	70,985,380	2.23%	275,766,649	8.65%	346,752,029	10.87%	2,843,039,938	3,189,791,967
Las Animas	34,581,900	8.30%	61,552,680	14.77%	96,134,580	23.07%	320,527,290	416,661,870
Lincoln	17,400,135	27.22%	1,638,045	2.56%	19,038,180	29.78%	44,890,221	63,928,401
Logan	30,744,900	19.17%	9,614,380	5.99%	40,359,280	25.16%	120,022,810	160,382,090
Mesa	78,627,220	7.46%	73,279,220	6.95%	151,906,440	14.41%	902,265,230	1,054,171,670
Mineral	829,990	3.79%	1,007,980	4.60%	1,837,970	8.39%	20,079,770	21,917,740
Moffat	120,454,730	35.28%	22,362,520	6.55%	142,817,250	41.84%	198,563,570	341,380,820
Montezuma	29,972,500	11.53%	17,363,360	6.68%	47,335,860	18.21%	212,553,010	259,888,870
Montrose	37,641,587	11.39%	18,813,838	5.69%	56,455,425	17.08%	274,086,825	330,542,250
Morgan	121,562,180	34.57%	39,715,720	11.29%	161,277,900	45.87%	190,352,780	351,630,680
Otero	16,943,341	16.18%	6,950,316	6.64%	23,893,657	22.82%	80,811,613	104,705,270
Ouray	3,585,000	3.35%	1,069,260	1.00%	4,654,260	4.35%	102,254,580	106,908,840
Park	10,771,974	3.41%	2,498,082	0.79%	13,270,056	4.21%	302,204,399	315,474,455
Phillips	2,268,860	5.37%	1,958,530	4.64%	4,227,390	10.01%	37,988,690	42,216,080
Pitkin	13,853,820	0.78%	33,274,510	1.87%	47,128,330	2.64%	1,736,233,130	1,783,361,460
Prowers	42,992,754	34.48%	5,890,788	4.72%	48,883,542	39.20%	75,809,581	124,693,123
Pueblo	105,836,190	10.90%	98,306,920	10.12%	204,143,110	21.02%	766,997,640	971,140,750
Rio Blanco	29,511,130	8.69%	41,010,310	12.07%	70,521,440	20.75%	269,263,910	339,785,350
Rio Grande	6,951,690	5.70%	5,889,780	4.83%	12,841,470	10.53%	109,059,540	121,901,010
Routt	73,295,880	10.56%	33,476,620	4.82%	106,772,500	15.38%	587,481,260	694,253,760
Saguache	4,607,132	9.97%	895,665	1.94%	5,502,797	11.91%	40,693,584	46,196,381
San Juan	1,323,060	4.68%	767,120	2.71%	2,090,180	7.39%	26,196,550	28,286,730
San Miguel	11,125,060	1.93%	12,782,890	2.22%	23,907,950	4.15%	552,829,130	576,737,080
Sedgwick	9,700,090	30.33%	849,090	2.65%	10,549,180	32.98%	21,432,800	31,981,980
Summit	26,626,241	2.22%	58,371,828	4.87%	84,998,069	7.09%	1,114,107,915	1,199,105,984
Teller	11,108,264	3.08%	37,751,040	10.47%	48,859,304	13.56%	311,538,686	360,397,990
Washington	10,010,157	11.66%	1,914,219	2.23%	11,924,376	13.88%	73,961,720	85,886,096
Weld	262,821,900	8.78%	220,226,500	7.36%	483,048,400	16.14%	2,509,512,570	2,992,560,970
Yuma	17,504,320	8.88%	11,715,370	5.94%	29,219,690	14.83%	167,851,690	197,071,380
TOTALS	3,482,735,889	5.39%	4,649,367,021	7.19%	8,132,102,910	12.58%	56,498,819,080	64,630,921,990

RESIDENTIAL ASSESSMENT RATE

In 1982, the electorate passed Constitutional Amendment One. A portion of the amendment dealt with the residential assessment rate, and that part of the amendment is referred to as the "Gallagher Amendment."

The intent of Gallagher was to stabilize residential real property's share of the property tax base. Residential real property's share of total assessed value had increased from 29 percent in 1958 to 44 percent in 1982. By allowing the residential assessment rate to "float," residential real property would not continue to bear an ever-increasing share of the property tax burden. The floating rate would increase if residential real property's share of total taxable assessed value appreciably declined below 44.60 percent. Similarly, the rate would decrease if residential real property's share of total taxable assessed value appreciably exceeded 44.60 percent.

The 44.60 percent figure, which is now referred to as the "residential target percentage," was calculated based upon residential real property's share of total assessed value for 1986. The Legislature (General Assembly) provided for changes in the target percentage based upon new construction and changes in the volume of natural resource production. The target percentage is adjusted during the year preceding each change in the level of value, i.e. during even-numbered years.

Property is reappraised by county assessors every odd-numbered year. In a reappraisal year, Section 3(1)(b) of Article X of the Colorado Constitution and § 39-1-104.2(5)(a), C.R.S., require an adjustment in the residential assessment rate in order to maintain a balance between residential and all other property. The legislature must adjust the residential assessment rate to ensure that the percentage of residential real property assessed value (target percentage), when compared to the assessed value of all property, remains essentially the same as it was the

preceding year. Section 39-1-104.2(5)(c), C.R.S., requires the Property Tax Administrator to complete a documented study that estimates the residential assessment rate for each level of value period. Three major calculations are required (NOTE: our example portrays the calculation for the 2003-2004 level of value period):

2003 Residential Rate Calculation

Using the total actual 2001 assessed value for non-residential property, calculate what the total 2001 residential real property value should have been to exactly achieve the 2001 residential real property target percentage of 46.61 percent. Then, adjust the 46.61 percent target percentage to account for 2001 and 2002 net changes in new construction and the production volumes of producing natural resource properties, oil and gas wells, and earth and stone operations. From these adjustments, the 2003 residential real property target percentage is calculated to be 47.08 percent.

Estimate the 2003 values and determine residential real property's share of the tax base assuming the residential assessment rate remains the same. The residential assessment rate for 2001 and 2002 was 9.15 percent. Based on our study of the reappraised values, if the assessment rate of 9.15 percent does not change, the estimated tax base share for residential real property would be 49.87 percent, instead of the required 47.08 percent calculated above.

Calculate the estimated residential assessment rate necessary to ensure that residential real property's share of the 2003 tax base is 47.08 percent of the total assessed value of all taxable property. From this calculation, the residential assessment rate requires an adjustment to 7.96 percent.

A history of changes to the residential assessment rate is shown in Table 8.

Table 8

<u>Years</u>	<u>Residential Assessment Rate</u>
Prior to 1983	30%
1983-1986	21%
1987.....	18%
1988.....	16%
1989-1990	15%
1991-1992	14.34%
1993-1994	12.86%
1995-1996	10.36%
1997-1998	9.74%
1999-2000	9.74%
2001-2002	9.15%
2003-2004.....	7.96%

Shift of Assessed Values & Tax Burden

Table 9, on the following page, calculates the savings to residential taxpayers from the inception of the Gallagher Amendment through 2004. It does so by comparing the taxes paid by residential property owners to an estimate of the taxes they would have paid had the Gallagher Amendment not been enacted. The estimated savings to residential property owners is \$8,969,002,140.

The table begins with 1987, because the residential assessment rate remained at 21 percent until 1987. The contents of each row in the table are described below.

- Row 1. Hypothetical residential assessment rate of 21 percent.
- Row 2. Actual residential assessment rate for each particular year.
- Row 3. Actual average mill levy.
- Row 4. Hypothetical average mill levy, had the residential rate been 21 percent every year. This is calculated by dividing the total actual revenue received in each year (Row 9), by the total assessed value, had the residential rate been 21 percent (Row 8).
- Row 5. Actual total residential assessed value.

- Row 6. Actual total statewide assessed value as certified by county commissioners when mill levies were certified.
- Row 7. Total hypothetical residential assessed value, had the residential rate remained at 21 percent.
- Row 8. Hypothetical total assessed value, had the residential assessment rate remained at 21 percent.
- Row 9. Total actual statewide property tax revenue.
- Row 10. Total hypothetical tax revenue attributable to residential property, had the residential rate remained at 21 percent. This is calculated by multiplying the hypothetical mill levy at 21 percent (Row 4) by the hypothetical residential assessed value at 21 percent (Row 7).
- Row 11. Total actual property tax revenue.
- Row 12. Savings to residential taxpayers, Row 10 minus Row 11.

Table 10, illustrates the effect of Gallagher on the statewide assessed value of residential property since 1983. As the table shows, the percentage of actual value attributable to residential property has increased dramatically during the last 21 years, from 53.20 percent in 1983 to 77.71 percent today. At the same time, the percentage of assessed value comprising residential property remained essentially stable, with only slight changes over time resulting from new construction and increased minerals production.

Table 9

Shift of Property Tax Burden Due to the Gallagher Amendment

	1987	1988	1989	1990	1991	1992	1993	1994	1995
1. Res. Rate w/o Gallagher	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%
2. Actual Res. Rate	18.00%	16.00%	15.00%	15.00%	14.34%	14.34%	12.86%	12.86%	10.36%
3. Ave. Actual Mill Levy	0.061631	0.068941	0.076599	0.077543	0.082883	0.084618	0.084215	0.084423	0.082287
4. Ave. Mill Levy @ 21%	0.057041	0.060260	0.064812	0.065465	0.068395	0.069563	0.065064	0.065084	0.055600
5. Total True Res. Assd. Val.	\$16,082,851,000	\$14,565,525,000	\$13,246,081,000	\$13,393,681,000	\$12,886,606,000	\$13,256,627,000	\$13,373,489,410	\$13,970,427,000	\$15,155,126,840
6. Total True Assd. Val.	\$33,305,709,386	\$31,594,514,873	\$29,132,506,180	\$29,039,235,830	\$28,254,712,020	\$28,447,544,980	\$28,758,329,600	\$29,761,160,460	\$32,428,020,970
7. Total Res. Assd. Val. @ 21%	\$18,763,326,167	\$19,117,251,563	\$18,544,513,400	\$18,751,153,400	\$18,871,598,745	\$19,413,470,502	\$21,838,513,033	\$22,813,294,479	\$30,719,851,703
8. Total Assd. Val. @ 21%	\$35,986,184,553	\$36,146,241,436	\$34,430,938,580	\$34,396,708,230	\$34,239,704,765	\$34,604,388,482	\$37,223,353,223	\$38,604,027,939	\$47,992,745,833
9. Total True Revenue	\$2,052,676,764	\$2,178,165,007	\$2,231,532,285	\$2,251,797,175	\$2,341,834,706	\$2,407,175,164	\$2,421,892,140	\$2,512,514,138	\$2,668,403,530
10. Res. Revenue @ 21%	\$1,070,273,054	\$1,152,001,612	\$1,201,903,929	\$1,227,553,345	\$1,290,728,562	\$1,350,453,688	\$1,420,896,252	\$1,484,786,121	\$1,708,028,147
11. Res. Rev. @ True Rate	\$991,208,269	\$1,004,165,343	\$1,014,641,762	\$1,038,589,762	\$1,068,080,296	\$1,121,749,638	\$1,126,252,788	\$1,179,419,579	\$1,247,069,440
12. Savings to Res. Taxpayers	<u>\$79,064,785</u>	<u>\$147,836,269</u>	<u>\$187,262,167</u>	<u>\$188,963,583</u>	<u>\$222,648,266</u>	<u>\$228,704,050</u>	<u>\$294,643,464</u>	<u>\$305,366,542</u>	<u>\$460,958,707</u>

Table 9

Shift of Property Tax Burden Due to the Gallagher Amendment

	1996	1997	1998	1999	2000	2001	2002	2003	2004
1. Res. Rate w/o Gallagher	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%
2. Actual Res. Rate	10.36%	9.74%	9.74%	9.74%	9.74%	9.15%	9.15%	7.96%	7.96%
3. Ave. Actual Mill Levy	0.082951	0.078773	0.080042	0.074927	0.075733	0.070416	0.072350	0.074335	0.074969
4. Ave. Mill Levy @ 21%	0.055931	0.051464	0.052162	0.048756	0.049182	0.043633	0.044696	0.041705	0.042274
5. Total True Res. Assd. Val.	\$15,788,272,000	\$17,673,602,010	\$18,452,519,220	\$21,633,354,370	\$22,729,547,584	\$27,699,298,175	\$28,882,504,491	\$29,523,577,562	\$30,470,840,993
6. Total True Assd. Val.	\$33,563,472,960	\$38,502,250,770	\$39,910,771,429	\$46,590,805,330	\$48,673,508,510	\$58,440,166,120	\$60,456,523,380	\$61,816,965,320	\$64,541,293,358
7. Total Res. Assd. Val. @ 21%	\$32,003,254,054	\$38,105,302,075	\$39,784,692,363	\$46,642,755,829	\$49,006,211,423	\$63,572,159,746	\$66,287,715,225	\$77,888,835,277	\$80,387,897,092
8. Total Assd. Val. @ 21%	\$49,778,455,014	\$58,933,950,835	\$61,242,944,572	\$71,600,206,789	\$74,950,172,349	\$94,313,027,691	\$97,861,734,114	\$110,182,223,035	\$114,458,349,457
9. Total True Revenue	\$2,784,139,391	\$3,032,955,892	\$3,194,557,668	\$3,490,910,908	\$3,686,192,349	\$4,115,123,689	\$4,374,011,505	\$4,595,136,111	\$4,838,584,603
10. Res. Revenue @ 21%	\$1,789,961,545	\$1,961,037,718	\$2,075,251,197	\$2,274,095,459	\$2,410,218,895	\$2,773,819,343	\$2,962,784,501	\$3,248,344,331	\$3,398,298,534
11. Res. Rev. @ True Rate	\$1,309,660,357	\$1,392,210,956	\$1,476,985,652	\$1,620,923,103	\$1,721,377,541	\$1,950,474,231	\$2,089,640,619	\$2,194,621,762	\$2,284,362,993
12. Savings to Res. Taxpayers	<u>\$480,301,188</u>	<u>\$568,826,762</u>	<u>\$598,265,545</u>	<u>\$653,172,356</u>	<u>\$688,841,354</u>	<u>\$823,345,112</u>	<u>\$873,143,882</u>	<u>\$1,053,722,569</u>	<u>\$1,113,935,541</u>
An Estimate of Total Savings to Residential Taxpayers from Inception to 2004 = \$8,969,002,140									

TABLE 10

COLORADO ASSESSED VALUES

ASSESSED VALUES				DISTRIBUTION OF VALUE			
Year	Total	Residential	Non-Residential	Year	Total	Residential	Non-Residential
1983	\$17,185,698,000	\$7,424,951,000	\$9,760,747,000	1983	100.00%	43.20%	56.80%
1984	\$17,905,089,000	\$7,921,865,470	\$9,983,223,530	1984	100.00%	44.24%	55.76%
1985	\$18,730,104,000	\$8,327,520,240	\$10,402,583,760	1985	100.00%	44.46%	55.54%
1986	\$19,216,096,000	\$8,646,958,180	\$10,569,137,820	1986	100.00%	45.00%	55.00%
1987	\$33,261,142,000	\$16,082,850,600	\$17,178,291,400	1987	100.00%	48.35%	51.65%
1988	\$31,660,568,730	\$14,565,865,580	\$17,094,703,150	1988	100.00%	46.01%	53.99%
1989	\$29,131,941,640	\$13,247,498,311	\$15,884,443,329	1989	100.00%	45.47%	54.53%
1990	\$29,082,011,770	\$13,393,681,560	\$15,688,330,210	1990	100.00%	46.05%	53.95%
1991	\$28,285,335,860	\$12,886,606,790	\$15,398,729,070	1991	100.00%	45.56%	54.44%
1992	\$28,490,629,640	\$13,256,627,100	\$15,234,002,540	1992	100.00%	46.53%	53.47%
1993	\$28,820,035,320	\$13,373,489,410	\$15,446,545,910	1993	100.00%	46.40%	53.60%
1994	\$29,831,046,660	\$13,970,427,000	\$15,860,619,660	1994	100.00%	46.83%	53.17%
1995	\$32,469,922,680	\$15,155,131,610	\$17,314,791,070	1995	100.00%	46.67%	53.33%
1996	\$33,606,775,890	\$15,788,272,000	\$17,818,503,890	1996	100.00%	46.98%	53.02%
1997	\$38,536,664,720	\$17,673,602,020	\$20,863,062,700	1997	100.00%	45.86%	54.14%
1998	\$40,165,596,490	\$18,452,519,220	\$21,713,077,270	1998	100.00%	45.94%	54.06%
1999	\$46,711,921,473	\$21,633,354,370	\$25,078,567,103	1999	100.00%	46.31%	53.69%
2000	\$48,757,383,218	\$22,729,547,584	\$26,027,835,634	2000	100.00%	46.62%	53.38%
2001	\$58,812,663,875	\$27,699,298,175	\$31,113,365,700	2001	100.00%	47.10%	52.90%
2002	\$60,564,946,027	\$28,888,969,314	\$31,675,976,713	2002	100.00%	47.70%	52.30%
2003	\$61,949,204,975	\$29,523,577,562	\$32,425,627,413	2003	100.00%	47.66%	52.34%
2004	\$64,630,921,990	\$30,470,840,993	\$34,160,080,997	2004	100.00%	47.15%	52.85%

COLORADO ACTUAL VALUES

ACTUAL VALUES				DISTRIBUTION OF VALUE			
Year	Total	Residential	Non-Residential	Year	Total	Residential	Non-Residential
1983	\$66,459,485,820	\$35,356,909,524	\$31,102,576,296	1983	100.00%	53.20%	46.80%
1984	\$69,718,797,755	\$37,723,168,905	\$31,995,628,850	1984	100.00%	54.11%	45.89%
1985	\$72,958,307,363	\$39,654,858,286	\$33,303,449,078	1985	100.00%	54.35%	45.65%
1986	\$75,118,950,953	\$41,175,991,333	\$33,942,959,620	1986	100.00%	54.81%	45.19%
1987	\$146,891,450,388	\$89,349,170,000	\$57,542,280,388	1987	100.00%	60.83%	39.17%
1988	\$148,225,023,177	\$91,036,659,875	\$57,188,363,302	1988	100.00%	61.42%	38.58%
1989	\$141,342,075,160	\$88,316,655,407	\$53,025,419,753	1989	100.00%	62.48%	37.52%
1990	\$141,421,555,163	\$89,291,210,400	\$52,130,344,763	1990	100.00%	63.14%	36.86%
1991	\$140,967,103,411	\$89,864,761,437	\$51,102,341,974	1991	100.00%	63.75%	36.25%
1992	\$142,906,267,259	\$92,445,098,326	\$50,461,168,932	1992	100.00%	64.69%	35.31%
1993	\$155,096,689,828	\$103,992,919,207	\$51,103,770,621	1993	100.00%	67.05%	32.95%
1994	\$160,946,706,538	\$108,634,735,614	\$52,311,970,923	1994	100.00%	67.50%	32.50%
1995	\$203,663,083,533	\$146,285,054,151	\$57,378,029,382	1995	100.00%	71.83%	28.17%
1996	\$211,793,556,887	\$152,396,447,876	\$59,397,109,011	1996	100.00%	71.96%	28.04%
1997	\$250,804,220,896	\$181,453,819,507	\$69,350,401,389	1997	100.00%	72.35%	27.65%
1998	\$261,128,074,968	\$189,450,916,016	\$71,677,158,951	1998	100.00%	72.55%	27.45%
1999	\$306,002,830,219	\$222,108,361,088	\$83,894,469,131	1999	100.00%	72.58%	27.42%
2000	\$320,312,771,175	\$233,362,911,540	\$86,949,859,635	2000	100.00%	72.85%	27.15%
2001	\$404,716,127,139	\$302,724,570,219	\$101,991,556,920	2001	100.00%	74.80%	25.20%
2002	\$419,294,563,373	\$315,726,440,590	\$103,568,122,783	2002	100.00%	75.30%	24.70%
2003	\$478,546,478,821	\$370,899,215,603	\$107,647,263,218	2003	100.00%	77.51%	22.49%
2004	\$492,572,877,562	\$382,799,509,962	\$109,773,367,599	2004	100.00%	77.71%	22.29%

PROTESTS, APPEALS, ABATEMENTS

Protests and Appeals

Colorado statutes mandate a process that allows taxpayers the opportunity to challenge the actual value established by the assessor. The process begins with the taxpayer's protest to the assessor. Upon receiving a protest, the assessor reviews the issues raised, and either adjusts or maintains the actual value established for the property. Taxpayers who disagree with the assessor's decision can appeal to the county board of equalization. Taxpayers who disagree with the county board's decision have three choices for further appeal; they can appeal to the State Board of Assessment Appeals (BAA), district court, or binding arbitration. Decisions of the BAA and district court can be appealed to the Colorado Court of Appeals and ultimately to the Colorado Supreme Court. Decisions of an arbitrator are final.

The number of protests and appeals varies greatly from county to county. During 2003 (the last reappraisal year), Larimer County received the greatest number of appeals with 17,275 while Kiowa County received none. For many counties, the protest process places a significant strain on the resources of the assessor's office, resulting in many hours of overtime or compensated time. Table 11 lists the protests and county board appeals for each county during the last three reappraisal years, organized according to the county officer pay categories established in § 30-2-102, C.R.S. For the purpose of this table, The Cities and Counties of Denver and Broomfield are placed in category one. Table 12 provides a summary of protest and appeal statistics.

Taxpayers can protest and appeal in both reappraisal years, odd numbered years, and in intervening years, even numbered years. However, the number of protests and appeals is higher in reappraisal years.

Abatements

Abatement petitions can be filed for taxes erroneously or illegally levied, for overvaluation, or for an assessment error. Taxpayers who filed a protest can file an abatement petition only for a clerical error or an illegality, but not for an overvaluation. The question of overvaluation involves appraisal judgment, which was reviewed during the protest, if a protest was filed.

Abatement petitions can be filed up to two years after the date the taxes are due. Because abatement petitions are filed on taxes already levied, the abated or refunded taxes constitute lost revenue to the affected local governments; however, § 39-10-114(1)(a)(I)(B), C.R.S., and case law, authorize local governments to recover abated taxes through an increase in mill levies. Table 13 displays the taxes abated during 2002, 2003, and 2004.

Table 11

<u>County</u>	<u>Protests to Assessor</u>			<u>Protests to Assessor</u>			<u>Appeals to CBOE</u>		
	(PER EMPLOYEE)								
<u>Category 1</u>	<u>1999</u>	<u>2001</u>	<u>2003</u>	<u>1999</u>	<u>2001</u>	<u>2003</u>	<u>1999</u>	<u>2001</u>	<u>2003</u>
Adams	5,601	4,558	9,295	133	109	227	648	1,059	2,459
Arapahoe	9,132	9,836	7,442	145	141	103	3,314	1,040	2,593
Boulder	9,682	8,618	10,910	202	180	235	1,623	978	1,620
Broomfield			1,260			144			206
Denver	9,293	7,521	9,356	93	74	108	1,860	1,742	2,441
Douglas	5,825	6,730	7,030	121	143	143	330	2,001	2,115
El Paso	5,780	6,240	5,300	85	106	331	1,350	1,210	1,230
Jefferson	9,025	9,566	14,419	133	139	257	1,685	1,208	2,271
Larimer	9,769	13,422	17,275	199	274	353	818	916	2,681
Pueblo	910	794	690	24	23	20	15	5	12
Weld	3,194	4,969	5,075	86	121	134	124	133	380
Category 2									
Eagle	3,696	4,985	2,968	154	208	135	901	1,325	947
Fremont	925	1,498	669	71	136	51	17	31	0
Garfield	1,473	1,230	1,774	109	88	111	22	35	704
La Plata	1,006	721	1,854	54	42	103	68	35	57
Mesa	4,284	4,143	3,011	165	153	112	605	421	311
Pitkin	1,773	1,543	1,733	177	171	173	446	416	530
Summit	4,152	4,236	4,532	231	212	239	117	343	587
Category 3									
Archuleta	1,248	750	1,041	178	94	110	24	9	268
Chaffee	1,489	1,551	1,128	149	141	125	74	118	110
Clear Creek	628	976	1,017	97	174	182	31	41	37
Delta	775	845	731	82	89	66	17	66	24
Grand	1,121	1,862	1,209	102	177	114	67	152	100
Gunnison	1,706	1,624	1,516	155	148	138	102	86	146
Las Animas	748	738	573	94	74	57	29	15	18
Logan	1,355	364	246	169	33	25	294	18	23
Moffat	310	181	295	44	26	42	3	9	38
Montrose	1,034	575	605	103	52	53	62	37	88
Morgan	501	320	382	39	27	29	8	5	13
Otero	333	204	185	39	26	21	7	4	2
Park	3,200	2,100	3,029	267	191	263	104	170	184
Rio Blanco	66	123	151	11	19	25	1	1	6
Routt	1,195	1,899	1,552	109	181	148	155	547	131
San Miguel	232	937	1,041	29	117	116	12	85	196
Teller	2,632	1,737	1,523	155	109	95	103	338	99
Category 4									
Alamosa	245	277	181	31	35	23	9	28	18
Custer	237	163	192	47	41	38	2	1	2
Elbert	487	449	639	35	32	46	17	18	21
Gilpin	447	218	1,062	89	44	266	14	6	24
Huerfano	289	211	173	41	35	29	9	9	42
Kit Carson	323	232	200	81	58	50	0	8	3
Lake	479	649	247	96	130	41	25	58	28
Montezuma	866	569	554	96	57	55	68	30	23
Ouray	472	267	359	118	67	120	17	13	22
Prowers	633	880	350	106	147	58	2	2	0
Rio Grande	596	430	349	75	61	50	10	10	1
Washington	200	50	61	33	10	12	0	1	36
Yuma	5	353	372	1	59	74	1	0	102
Category 5									
Baca	53	25	34	12	6	10	1	0	0
Bent	150	75	92	38	25	23	0	1	2
Cheyenne	48	68	36	16	23	12	0	3	1
Conejos	399	297	427	100	66	95	6	3	0
Costilla	280	194	101	70	39	20	11	3	9
Crowley	70	25	46	47	25	46	0	0	2
Dolores	118	89	57	39	27	18	2	2	1
Hinsdale	168	142	133	84	71	67	2	6	10
Jackson	9	60	10	6	30	5	1	5	2
Kiowa	0	2	0	0	1	0	0	0	0
Lincoln	39	41	38	8	8	8	0	0	1
Mineral	25	300	10	17	226	7	2	4	1
Phillips	134	97	39	45	32	13	1	5	1
Saguache	209	94	208	52	24	38	2	1	2
San Juan	82	24	41	55	16	27	1	0	0
Sedgwick	63	58	7	32	29	4	1	0	0

Table 12

<u>Assessors:</u>	<u>1999</u>	<u>2001</u>	<u>2003</u>
*Total Parcels	2,410,820	2,390,325	2,440,708
Parcels/Schedules Protested	111,219	113,735	126,835
Protests as a Percent of Total Parcels	4.61%	4.76%	5.20%
Percent Change from Prior Reappraisal	-13.40%	2.30%	11.50%
<u>County Boards of Equalization (CBOE):</u>			
Parcels/Schedules Appealed to CBOE	15,240	14,816	22,981
Percent of CBOE Appeals to Protests	13.70%	13.03%	18.12%
<u>Board of Assessment Appeals (BAA):</u>			
**BAA Dockets	1,888	2,111	2,279
Percent of BAA Appeals to CBOE Appeals	12.39%	14.25%	9.92%
Percent of BAA Appeals to Protests	1.70%	1.86%	1.80%
Percent of BAA Appeals to Total Parcels	0.08%	0.09%	0.09%
<u>Additional Assessor Costs:</u>			
***Dollars of Overtime Paid	\$166,750	\$135,702	\$184,007
***Hours of Compensation Time Granted	10,856	10,412	7,131
<u>Parcels Protested Per Assessor's Employee:</u>			
Average Number Protested Per Employee	87	86	137
Maximum Number Protested Per Employee	267	274	353
Minimum Number Protested Per Employee	0	0	0
<u>Parcels Protested Per Employee – Frequency Distribution:</u>			
1 – 50	23	26	27
51 – 100	18	13	11
101 – 200	19	20	18
201 – 300	3	4	6
301 – 400	0	0	2
Counties Reporting	<u>63</u>	<u>63</u>	<u>64</u>
* Parcel count derived from county abstracts of assessment. Includes condominium units.			
** BAA dockets include appeals from CBOE and county abatement decisions.			
*** overtime/comp time figures not available from all counties.			

Table 13

Abatements, Refunds, and Cancellations of Taxes Reported by Treasurers

County	2004 Abatement Amounts	2004 Abatement Counts	2004 Average Abated	2003 Abatement Amounts	2003 Abatement Counts	2003 Average Abated	2002 Abatement Amounts	2002 Abatement Counts	2002 Average Abated
Adams	\$1,262,430	850	\$1,043	\$3,206,764	687	\$4,668	\$1,791,696	791	\$2,265
Alamosa	\$83,899	79	\$1,062	\$21,846	44	\$497	\$21,074	19	\$1,109
Arapahoe	\$7,936,426	2,586	\$3,069	\$10,779,228	6,105	\$1,766	\$8,860,002	2,776	\$3,192
Archuleta	\$69,834	41	\$1,703	\$133,479	88	\$1,517	\$45,487	43	\$1,058
Baca	\$24,521	49	\$500	\$8,102	69	\$117	\$12,929	75	\$172
Bent	\$305,479	13	\$23,498	\$55,699	40	\$1,392	\$1,444	10	\$144
Boulder	\$2,471,330	1,440	\$1,716	\$2,672,348	1,489	\$1,795	\$1,429,372	978	\$1,462
Broomfield	\$1,950,541	564	\$3,458	\$1,051,880	560	\$1,878	\$383,861	1,039	\$369
Chaffee	\$41,889	76	\$551	\$15,336	40	\$383	\$18,504	36	\$514
Cheyenne	\$34,272	31	\$1,106	\$2,619	46	\$57	\$24,481	24	\$1,020
Clear Creek	\$711,987	161	\$4,422	\$36,080	99	\$364	\$27,174	139	\$195
Conejos	\$34,328	129	\$266	\$9,909	78	\$127	\$21,801	111	\$196
Costilla	\$1,869	7	\$267	\$233	1	\$233	\$1,336	3	\$445
Crowley	\$1,430	9	\$159	\$1,848	7	\$264	\$2,698	4	\$675
Custer	\$16,875	16	\$1,055	\$2,280	11	\$207	\$989	13	\$76
Delta	\$68,089	128	\$532	\$53,104	351	\$151	\$69,570	284	\$245
Denver	\$7,037,842	2,717	\$2,590	\$7,673,471	2,153	\$3,564	\$2,794,482	2,036	\$1,373
Dolores	\$2,710	14	\$194	\$43,603	26	\$1,677	\$3,214	20	\$161
Douglas	\$4,260,407	773	\$5,512	\$1,600,648	842	\$1,901	\$1,765,150	1,484	\$1,189
Eagle	\$1,073,632	345	\$3,112	\$590,914	337	\$1,753	\$1,925,774	531	\$3,627
Elbert	\$123,532	81	\$1,525	\$188,715	171	\$1,104	\$127,570	125	\$1,021
El Paso	\$3,343,601	1,795	\$1,863	\$2,788,047	893	\$3,122	\$2,326,890	2,195	\$1,060
Fremont	\$686,068	1,132	\$606	\$621,434	401	\$1,550	\$131,049	338	\$388
Garfield	\$679,747	115	\$5,911	\$485,162	47	\$10,323	\$465,148	111	\$4,191
Gilpin	\$189,867	180	\$1,055	\$56,796	200	\$284	\$138,731	42	\$3,303
Grand	\$225,373	129	\$1,747	\$160,936	67	\$2,402	\$337,346	128	\$2,636
Gunnison	\$119,859	360	\$333	\$101,062	63	\$1,604	\$33,074	196	\$169
Hinsdale	\$19,586	28	\$700	\$1,902	17	\$112	\$6,516	18	\$362
Huerfano	\$76,020	183	\$415	\$329,631	73	\$4,515	\$5,866	24	\$244
Jackson	\$5,296	44	\$120	\$13,129	155	\$85	\$11,031	36	\$306
Jefferson	\$4,975,944	2,063	\$2,412	\$4,140,319	1,877	\$2,206	\$4,087,515	3,001	\$1,362
Kiowa	\$996	4	\$249	\$2,656	16	\$166	\$5,868	6	\$978
Kit Carson	\$61,522	59	\$1,043	\$86,528	22	\$3,933	\$10,624	64	\$166
Lake	\$100,490	341	\$295	\$47,297	186	\$254	\$75,118	117	\$642
La Plata	\$447,656	819	\$547	\$106,146	182	\$583	\$107,270	135	\$795
Larimer	\$2,580,222	1,529	\$1,688	\$1,254,955	941	\$1,334	\$1,176,939	1,878	\$627
Las Animas	\$11,240	43	\$261	\$74,469	15	\$4,965	\$276,681	324	\$854
Lincoln	\$7,390	14	\$528	\$17,837	25	\$713	\$10,171	43	\$237
Logan	\$29,537	16	\$1,846	\$34,512	60	\$575	\$12,593	48	\$262
Mesa	\$483,023	731	\$661	\$614,247	807	\$761	\$202,355	510	\$397
Mineral	\$0	0	\$0	\$636	1	\$636	\$0	0	\$0
Moffat	\$297,881	112	\$2,660	\$113,310	97	\$1,168	\$31,251	48	\$651
Montezuma	\$138,526	105	\$1,319	\$66,316	84	\$789	\$183,033	142	\$1,289
Montrose	\$53,342	169	\$316	\$51,185	262	\$195	\$78,884	197	\$400
Morgan	\$462,673	873	\$530	\$25,517	50	\$510	\$161,185	105	\$1,535
Otero	\$22,591	21	\$1,076	\$15,427	15	\$1,028	\$18,871	35	\$539
Ouray	\$23,612	49	\$482	\$38,831	59	\$658	\$29,893	91	\$328
Park	\$146,985	638	\$230	\$82,703	1,005	\$82	\$118,803	365	\$325
Phillips	\$6,503	19	\$342	\$1,368	18	\$76	\$9,213	35	\$263
Pitkin	\$350,975	254	\$1,382	\$316,841	115	\$2,755	\$402,467	181	\$2,224
Prowers	\$79,083	50	\$1,582	\$20,219	21	\$963	\$16,881	34	\$497
Pueblo	\$613,932	321	\$1,913	\$596,090	1,402	\$425	\$4,994,842	342	\$14,605
Rio Blanco	\$484,921	39	\$12,434	\$416,010	43	\$9,675	\$2,788	359	\$8
Rio Grande	\$32,038	86	\$373	\$61,777	37	\$1,670	\$39,039	98	\$398
Routt	\$699,543	236	\$2,964	\$466,588	294	\$1,587	\$1,545,347	710	\$2,177
Saguache	\$15,344	62	\$247	\$34,904	57	\$612	\$12,832	134	\$96
San Juan	\$0	0	\$0	\$5,081	8	\$635	\$72	1	\$72
San Miguel	\$80,031	96	\$834	\$120,002	97	\$1,237	\$130,382	108	\$1,207
Sedgwick	\$1,892	17	\$111	\$1,306	4	\$327	\$3,410	8	\$426
Summit	\$581,703	447	\$1,301	\$1,554,087	1,319	\$1,178	\$478,842	672	\$713
Teller	\$237,048	151	\$1,570	\$134,205	141	\$952	\$144,076	147	\$980
Washington	\$13,636	17	\$802	\$84	5	\$17	\$15,289	27	\$566
Weld	\$1,357,785	927	\$1,465	\$1,498,040	3,122	\$480	\$785,735	949	\$828
Yuma	\$178,572	48	\$3,720	\$20,561	89	\$231	\$15,586	313	\$50
Totals:	\$47,435,375	24,431	\$1,942	\$44,726,259	27,636	\$1,618	\$37,968,114	24,856	\$1,528

SENIOR CITIZEN EXEMPTION

In 2003, budget constraints forced the Colorado Legislature to temporarily suspend state funding for the senior citizen property tax homestead exemption, eliminating the tax benefit for property tax years 2003-2005. The exemption is scheduled to return for 2006, taxes payable January 2007.

The exemption was enacted by voters in 2000 with the passage of Section 3.5, Article X of the Colorado Constitution. It became effective in 2002. As enacted, the exemption reduced the actual value of a residential property by 50 percent, up to a maximum reduction of \$100,000. The amendment authorized the Colorado Legislature to adjust the amount of value to which the 50 percent exemption is applied. For tax years 2003-2005, Senate Bill 03-265 changed the exemption amount from 50 percent of the first \$200,000 to 50 percent of \$0. It returns to 50 percent of the first \$200,000 for assessment year 2006.

Although funding has been suspended, counties and the state continue to administer the program. Each year, the assessor is required to mail a notice to all residential property owners that explains the existence of the exemption. Qualifying seniors have until July 15 to apply for the exemption, and once granted, the exempt status remains in effect for future years until a change in the ownership or occupancy requires its removal. To qualify, on January 1 a senior must be at least 65 years old and must have owned and occupied the property as his or her primary residence for ten or more consecutive years.

In 2004, counties processed approximately 3,000 new applications, and the exemption was granted to most of them. Currently 137,419 properties are approved for the exemption. Applicants denied the exemption have the right to appeal the denial to the county board of equalization, comprised of the county commissioners.

No later than October 10, the assessor is required to send the Division an electronic list of the exemptions granted, including the names and social security numbers of each person occupying the property. The Division then uses that data to identify individuals who were granted the exemption on more than one property, and denies the exemption on each. In 2004, the Division denied exemptions on 18 properties owned by 9 applicants.

The senior exemption program does not result in a loss of revenue to local governments. Instead, the state reimburses the local governments for the tax revenue exempted.

No later than April 1, county treasurers send the State Treasurer an itemized list of the exemptions granted and taxes exempted. No later than April 15, the State Treasurer reimburses the local governments for the lost revenue. In 2003, the State Treasurer reimbursed local governments \$61,490,941 for exemptions granted in 2002.

AGRICULTURAL TIMBERLAND

In 1990, the Colorado Legislature passed HB 90-1229, expanding the definition of "agricultural land" to include forested land that meets certain requirements. The definition reads as follows:

"A parcel of land that consists of at least forty acres, that is forest land, that is used to produce tangible wood products that originate from the productivity of such land for the primary purpose of obtaining a monetary profit, that is subject to a forest management plan, and that is not a farm or ranch, as defined in subsections (3.5) and (13.5) of this section. "Agricultural land" under this subparagraph (II) includes land underlying any residential improvement located on such agricultural land." § 39-1-102(1.6)(a)(II), C.R.S.

Since the enactment of the statute, numerous owners have taken advantage of it to secure significant tax reductions by developing "forest management plans" on what otherwise would be classified as vacant or residential improved land. This has resulted in a loss of revenue for the 2004 tax year to the following counties that have "agricultural timberland." The results are detailed in Table 14.

Table 14

<u>County</u>	<u>Assessed Value Difference</u>	<u>Loss of Revenue</u>
Archuleta	\$ 1,376,136	\$ 79,583
Boulder	\$ 4,834,770	\$ 318,608
Chaffee	\$ 1,185,886	\$ 53,846
Clear Creek	\$ 363,570	\$ 31,793
Custer	\$ 453,050	\$ 26,469
Douglas	\$ 4,751,292	\$ 410,121
Eagle	\$ 2,954,180	\$ 125,231
El Paso	\$ 563,600	\$ 42,848
Elbert	\$ 143,887	\$ 10,996
Garfield	\$ 384,390	\$ 22,789
Gilpin	\$ 1,434,253	\$ 64,276
Grand	\$ 6,066,690	\$ 357,910
Gunnison	\$ 45,240	\$ 2,173
Hinsdale	\$ 17,310	\$ 655
Jackson	\$ 9,138	\$ 461
Jefferson	\$ 10,974,065	\$ 953,804
Lake	\$ 485,064	\$ 40,016
La Plata	\$ 11,410,755	\$ 342,323
Larimer	\$ 2,866,721	\$ 205,544
Mesa	\$ 44,800	\$ 2,978
Montrose	\$ 20,590	\$ 1,199
Ouray	\$ 80,010	\$ 3,370
Park	\$ 547,370	\$ 28,196
Pitkin	\$ 161,660	\$ 12,379
Rio Blanco	\$ 155,079	\$ 5,745
Routt	\$ 5,545,809	\$ 312,588
San Juan	\$ 1,106,233	\$ 48,434
San Miguel	\$ 2,182,438	\$ 75,831
Summit	\$ 2,198,145	\$ 493,204
Teller	\$ 1,225,170	\$ 81,915
TOTAL	\$63,587,301	\$4,155,285

An estimated 52.7 percent of this lost revenue, or \$2,189,835 would have gone to the local school districts.

HISTORY OF POSSESSORY INTEREST

Overview

Generally, a possessory interest constitutes a right to the possession and use of government property for a period of time less than perpetuity. It represents a portion of the bundle of rights that would normally be included in a fee ownership; and its value, therefore, is typically something less than the value in perpetuity of the whole bundle of rights. For property tax purposes, the Division of Property Taxation defines possessory interest as: A private property interest in government-owned property or the right to the occupancy and use of any benefit in government-owned property that has been granted under lease, permit, license, concession, contract, or other agreement.

A question of considerable concern to Colorado assessors has been whether a possessory interest in government owned property, such as a ski resort's permit to use Forest Service land, represents a taxable interest, even though the government's fee interest in the land is exempt. The issue has evolved through a series of court decisions and legislation, culminating in the February 26, 2001, Colorado Supreme Court decision in the consolidated cases *Board of County Commissioners, County of Eagle, State of Colorado v. Vail Associates Inc. and the Board of Assessment Appeals and Allen S. Black et al. v. Colorado State Board of Equalization*, 19 P.3d 1263 (Colo 2001).

By a four to three majority, the Supreme Court reversed decisions of the Court of Appeals, and affirmed the taxable status of possessory interests in government-owned property. The court declared that portions of the recently enacted statute, § 39-3-136, C.R.S., were unconstitutional, because they created an exemption that did not fall within any of the exemption categories specified in Article X, of the Colorado Constitution. Section 3 of Article X is quoted in part as follows: "Each property tax levy shall be uniform upon all real and

personal property not exempt from taxation under this article...."

To better understand the decision, the following narrative traces the history of the possessory interest debate, from the original Mesa Verde case to the court's recent decision in Vail Associates.

Mesa Verde I

In 1967, Mesa Verde Company filed an abatement/refund petition with Montezuma County seeking a refund of property taxes paid "under protest" since 1937. Mesa Verde claimed that the improvements on which the company was taxed were exempt, because they were owned by the federal government. The petition was denied by the county board of equalization, and the company appealed to district court. The court dismissed the appeal, ruling it must look "behind the shadow of the United States' title to the substantive ownership of plaintiff." The court ruled that Mesa Verde "had substantially all the incidents of ownership of these improvements" making them subject to taxation. Mesa Verde appealed the court's decision to the Supreme Court.

In *Mesa Verde Company v. Montezuma County Board of Commissioners, et al.*, 178 Colo 49, 495 P. 2d 229 (Colo. 1972), the Colorado Supreme Court affirmed the district court's ruling. The court noted that the contracts with the Secretary of the Interior granted Mesa Verde "...a possessory interest in all concessionaire's improvements consisting of all incidents of ownership...." The court stated that based on "...the contracts' terms, the language of relevant statutes, and the actions of the parties while under contract..." it was able to conclude there was support in the record for the trial court's finding. Of significance is the court's finding that legal title vested in the United States only for collateral security purposes for performance conditions is not conclusive evidence of ownership by the United States. In addition, since significant incidents of the plaintiff's ownership exist,

the property should not be exempt from taxation.

Enactment of § 39-3-112, C.R.S. (amendments followed)

The legislature entered the debate in 1975 with the passage of an act titled concerning the taxation of a possessory interest in property otherwise exempt from taxation. The act created § 39-3-112, C.R.S., which is quoted in part as follows.

“When any property which for any reason is exempt from taxation is leased, loaned, or otherwise made available to and used by a private individual, association, or corporation in connection with a business conducted for profit, the lessee or user thereof shall be subject to taxation in the same amount and to the same extent as though the lessee or user were the owner of such property,...”
§ 39-3-112(1), C.R.S.

Although § 39-3-112, C.R.S., clearly stated the legislature’s intention that most possessory interests be taxed, it exempted certain possessory interests, such as agricultural land and public utility easements, from the provisions of the statute.

During the years that followed, the legislature amended the statute with several new exemptions to possessory interest taxation.

- SB 76-029 amended § 39-3-112(4), C.R.S., to exempt, for the term of an existing lease, property owned by a municipality and leased to a private entity in connection with a business, when the lease was initiated prior to July 1, 1976.
- HB 79-1531 amended § 39-3-112(4)(c), C.R.S., to exempt possessory interests in publicly owned property when the use “...is by way of lease of or a concession in or relative to the use of public airport, park, market, fairground,

or similar property which is available to the use of the general public.” Ski area property was specifically excluded from the exemption, and it continued to be valued by procedures stated in subsection six for federal lands used for recreational purposes.

- HB 79-1021 amended § 39-3-112(1), C.R.S., to exempt real property furnished to a government contractor that “...maintains permanent records substantiating the terms of such contract,” and to exempt possessory interests in property used by airline companies. The bill also amended § 39-3-112(5), C.R.S., to exempt possessory interests in land owned by the state of Colorado and managed by the State Board of Land Commissioners.
- HB 83-1575 amended the “public airport” exemption found in § 39-3-112(4)(c), C.R.S, to include property owned by an authority created by the Public Airport Authority Act, and to limit the exemption to property located “...within the boundaries of a public airport [that] is directly related to the ordinary function of the airport.”
- HB 88-1015 amended § 39-3-112(6), C.R.S., to specify that “the possessory interest, and only the possessory interest...” in federal lands used for recreational purposes be taxed. It also provided more detailed procedures for the valuation of possessory interests in recreational lands.

Rockwell Case

In 1980, the U.S. 10th Circuit Court of Appeals ruled in the *United States of America v. State of Colorado, et al.* , 627 F.2d 217 (1980) (Rockwell Case), that management contracts do not create a possessory interest in property that is used in conjunction with the agreement. This case concerned the Rocky Flats Nuclear Weapons Plant and the operator/manager, Rockwell International. The court

determined the relationship between the government and Rockwell was such that the company operated under a management contract and any use of the property was strictly delineated by the contract, making it not fall under the description of possessory interest.

Southern Cafeteria Case

In 1983, the Colorado Court of Appeals cited the “Rockwell Case” in *Southern Cafeteria, Inc. v. Property Tax Administrator, et al.*, 677 P.2d 362 (Colo. App. 1983) (Southern Cafeteria) ruling that management contracts cannot be valued as a possessory interest. Once again, the court found that the taxpayer had no “incidents of ownership” over the property. The government provided essentially all equipment, fixtures, and real property, monitored the pricing structure, and maintained control over the amount of profit Southern Cafeteria could realize.

§ 39-3-112, C.R.S., Repealed and § 39-3-135, C.R.S., Enacted

As part of a 1989 recodification of article three, HB-1098 repealed § 39-3-112, C.R.S., and reenacted the statute as § 39-3-135, C.R.S. No substantive changes to the law were made.

Mesa Verde II

Mesa Verde Company reentered the debate in 1992 when, under an order from the Montezuma County Board of Equalization, the assessor placed an omitted property assessment on four parcels of land on which the company operated its concessions. Mesa Verde Company still operated under a contract with the United States Government to manage the improvements for the benefit of the general public. Mesa Verde protested, then appealed to the county board of equalization, but was denied. The taxpayer then appealed to district court, which ruled that: 1. “Mesa Verde (did) not enjoy a taxable ‘ownership interest’ in the subject land.” (p. 3)
2. “Mesa Verde’s use and possessory interest in the subject land was “...exempt

from Colorado property tax under the plain language of sections, § 39-3-135(1) and § 39-3-135(4)(c)...” (p.3), and 3. Montezuma County had no standing to challenge the constitutionality of those portions of the statute. *Mesa Verde Company v. the Montezuma County Board of Equalization et al.*, 898 P.2d 1 (Colo. 1995).

The Montezuma County Board of Equalization appealed the issue of standing directly to the Supreme Court. In *Mesa Verde Company v. Montezuma County Board of Equalization et al.*, 831 P.2d 482 (Colo. 1992), the Supreme Court affirmed that the county board of equalization and assessor lacked standing to challenge the constitutionality of statute.

Mesa Verde III

The legislature passed SB 93-046 the following year, enacting § 30-11-105.1, C.R.S., to authorize counties or county officers, in defending an action in court, to contest the constitutionality of a statute. Subsequently, Montezuma County filed a motion in district court to vacate its judgment in Mesa Verde II. The court agreed to vacate part of its order regarding the county’s standing, but kept other parts of the order in force until it could rule on the constitutionality of exemptions cited in § 39-3-135(1) and § 39-3-135(4)(c), C.R.S.

In October 1993, the district court denied the county’s motion to vacate its judgment, and instead ruled that the entirety of § 39-3-135, C.R.S., was unconstitutional as applied to users of federal land because it violated the Supremacy Clause of the United States Constitution. The court held that neither the federal land nor any alleged interest of Mesa Verde in the federal land is subject to Colorado property taxation, and that the county had no authority to tax Mesa Verde’s use and possessory interest. Montezuma County appealed to the Colorado Supreme Court.

On April 24, 1995, in *Mesa Verde Co. v. Montezuma County Board of Equalization et al.*, 898 P.2d 1 (Colo. 1995), the

Supreme Court reversed the judgment of the district court, ruling that:

- Mesa Verde Company's possessory interest was "real property" within the meaning of statutory provisions defining real property for property tax purposes.
- Mesa Verde Company's possessory interest fell within the Government Contractor Exemption and the Public Park Exemption. However, those exemptions were invalid; they represented attempts by the legislature to exempt real property that the Colorado Constitution did not authorize the legislature to exempt.
- The Supremacy Clause did not preclude the state's taxation of the concessionaire's possessory and usufructuary interests in federally owned land.
- The resulting tax was valid because the Ski Area Valuation Rule (and not the unqualified As-if owned Rule) applied to determine valuation, § 39-3-135(6), C.R.S.

In reaching its decision, the Supreme Court ruled that the second sentence of §§ 39-3-135(1) and all of (4)(c) were unconstitutional because they created exemptions not authorized by Article X of the Colorado Constitution. The court also stated: "...Furthermore, sections 9 and 10 of Article X specifically proscribe the legislative power 'to impair the financial base of government operations' by exempting corporate bodies, such as Mesa Verde, from their share of taxation. *Allardice v. Adams County*, 173 Colo. 133, 158, 476 P.2d 982, 995 (1970); see also Colo. Const. Art. X; Sections 9 & 10...." (p. 8)

§ 39-3-135, C.R.S., Repealed and § 39-3-136 and § 39-1-103(17), C.R.S. Enacted

In response to the Supreme Court's decision in Mesa Verde III, the legislature passed SB 96-218. The bill repealed § 39-3-135, C.R.S., and enacted § 39-3-

136 and § 39-1-103(17), C.R.S. The legislation had the following effect on the taxation of possessory interests in exempt property:

- It stated that possessory interests should not be taxed with the exception of: 1. equities in state lands, 2. mines, quarries, or minerals, including hydrocarbons, and 3. public utilities. § 39-3-136(1)(h), C.R.S.
- It repealed § 39-3-135, C.R.S., in its entirety and further stated that possessory interests in real or personal property exempt from taxation under § 39-3-136, C.R.S., shall not be subject to taxation unless specific statutory provisions are enacted directing the taxation of possessory interests.
- It established procedures for valuing possessory interests that take effect if possessory interests are found to be taxable under the Constitution, § 39-1-103(17), C.R.S.

The stated concern of the legislature was the Supreme Court's holding that certain possessory interests in land are "real property" and, therefore, subject to property taxation. The legislature felt the decision opened the door for a variety of possessory interests such as grazing leases, permits on government land, or government employees' parking spaces in government-owned garages becoming subject to property taxation. Further, those interests could be valued by different methods.

SB 96-218 was signed by Governor Romer on June 5, 1996, a month after the statutory date for mailing notices of valuation to taxpayers. When the state board met on October 16, 1996, eighteen counties had not yet removed possessory interest valuations because they believed the legislation was unconstitutional. The state board continued the hearing on possessory interests to October 28, 1996, so that counties had time to prepare presentations. The board also informed

the counties of its intention to uphold § 39-3-136, C.R.S.

Counties' Challenge to 39-3-136, C.R.S.

When the state board met on October 28, 1996, fourteen counties had not removed the possessory interest valuations. The state board issued orders to each of the counties to remove the valuations, and it further ordered the counties to report back by November 13, 1996, that the order had been implemented.

The state board met on November 19, 1996, to review the counties' responses. Ten counties notified the state board that they had not removed the possessory interest valuations. To protect remedies, Boulder County filed an appeal in Denver District Court November 13, 1996; Clear Creek County filed in Denver District Court November 13, 1996, and seven counties filed an action November 25, 1996. The seven counties were Eagle, Grand, Jefferson, Montezuma, Pitkin, Routt, and Summit. Gunnison County chose not to file an appeal in anticipation of the state board's filing a petition for writ of mandamus with the Supreme Court.

In December, 1996, the state board filed a petition for writ of mandamus with the Supreme Court asking the court to order the ten counties to show cause why they should not comply with the state board's order to remove the possessory interest valuations from the county. The state board also requested the court to stay the proceedings pending in Denver District Court. On December 19, 1996, the court denied the petition without comment.

On August 11, 1997, Denver District Court ruled in favor of the state board and upheld the constitutionality of SB 96-218. The court based its ruling on the following points:

- The Supreme Court's decision in *Mesa Verde Co. v. Montezuma* is clearly based on a statutory definition of possessory interests as "real property." "The Supreme Court did not hold, or

even suggest, that the subject land-use rights were inherently 'real property' as that term is defined in Article X, Section 3," of the Constitution. Subsequent to the Supreme Court's decision, the legislature enacted § 39-3-136, C.R.S., (SB 96-218) to exclude possessory interests from the statutory definition of "real property."

- The counties did not meet the burden to prove SB 96-218 unconstitutional beyond a reasonable doubt.
- There is no requirement in the Colorado Constitution to tax possessory interests.
- The state board did not abuse its discretion in ordering all counties with 1996 possessory interest assessments to remove them from their assessment.

The counties appealed to the Court of Appeals, and on December 24, 1998, the court issued its decision that affirmed the decision of the district court. In doing so, the court cited the reasoning in *Vail Associates, Inc. v. Eagle County Board of County Commissioners*, 983 P.2d 49 (Colo. App. 1998). This closely related case came before the court when Eagle County appealed the Board of Assessment Appeal's decision requiring it to remove Vail Associates' possessory interest value from the assessment roll.

In *Vail Associates*, the court based its decision on an understanding that the taxation of property requires implementing legislation; therefore, "the General Assembly has the discretion to determine questions of time, method, nature, purpose, and extent in respect to the imposition of taxes, the subjects upon which the taxing power is to be exercised, and the proceedings concerning taxation." (p. 54) The court said the Constitution is a document that sets the limits in which the legislature can operate, but there is no restriction against the legislature taking actions within those limits. In the court's opinion, the legislature recognized its limitations "noting that it could not create a class of property to be taxed and then

exempt certain members of that class.” (p. 56) Therefore, the legislature “decided that it simply would not create that class consisting of possessory interests.” (p. 56)

The court also addressed the county’s objection that upon enacting § 39-3-136, C.R.S., the legislature did not amend §§ 39-1-102(14) or 111, C.R.S. These are the statutes cited in Mesa Verde III as defining possessory interests as real property subject to taxation. By not amending them, the county argued possessory interests were still defined by statute as real property. The court disagreed. “It is not for the reviewing court to determine that the legislature could have addressed an issue in a different or ‘better’ manner. Rather, the court’s function is to uphold the intent of the legislature and determine whether a statute is constitutional.” (p. 56) The counties appealed the decisions of both cases to the Colorado Supreme Court.

Vail Associates

The Supreme Court consolidated the two cases, and in *Board of County Commissioners, County of Eagle, State of Colorado v. Vail Associates Inc. and the Board of Assessment Appeals and Allen S. Black et al. v. Colorado State Board of Equalization*, 19 P.3d 1263 (Colo 2001), the court overturned the decisions of the Court of Appeals. In its decision, the court found that § 39-3-136, C.R.S., “unconstitutionally exempts some private possessory interests in tax-exempt property from taxation, contrary to Article X ... and (the court’s) controlling decision in (Mesa Verde III).” (p.1267) As previously stated, the Colorado Constitution provides that “...each property tax levy shall be uniform upon all real and personal property not exempt from taxation under this article....” COLO. CONST. art. X, § 3(1)(a).

The court agreed with the Court of Appeals, that the taxation of property requires implementing legislation, but it said the legislature’s authority is not unconstrained. “First, the General Assembly cannot refuse to exercise its

taxation authority; it must enact tax statutes so that governmental operations may be funded.... Second, it cannot provide purely statutory exemptions from taxation that are not within the constitutional exemption categories of Article X.... Third, it must not enact provisions that exempt certain private interests from bearing their fair and proportionate burden of taxation.” (p. 1274)

The court found that the enactment of § 39-3-136, C.R.S., violated each of these constraints. Its decision rests in part on reasoning stated in Mesa Verde III, that possessory interests in real property are themselves real property as defined by § 39-1-102(14)(a), C.R.S.

“Real Property” means: (a) All lands or interests in lands to which title or the right of title has been acquired from the government of the United States or from sovereign authority ratified by treaties entered into by the United States, or from the state,.... 39-1-102(14)(a), C.R.S. (emphasis added by court) (p. 1274)

Although § 39-3-136(1)(g), C.R.S., is quoted as saying that provisions of § 39-1-102(14)(a), C.R.S., “...do not direct the taxation of possessory interests in exempt properties...,” the court disagreed with the appellate court’s opinion that its enactment removed possessory interests from the statutory definition of real property. “Defining property for taxation purposes and directing taxation of that property are different concepts...,” (p. 1275) the court said.

Instead, the court found that § 39-3-136, C.R.S., imposed the following changes on the taxation of possessory interests:

- The statute “defines a class of property known as ‘possessory interests.’” (p. 1277)
- It “prohibits taxation of a subclass of that property – possessory interests in otherwise tax-exempt property – from

taxation while continuing taxation of other possessory interests.” (p. 1277)

- And it “carves out certain interests within the subclass for continued taxation.” (p. 1277)

“This disparate tax treatment within the same class of property is only permissible if the property exempted in the statute is also exempted in the constitution,” (p. 1277) the court said. However, the only constitutional exemption from the taxation of possessory interests in exempt property is specific to the taxation of non-producing unpatented mining claims. (p. 1278) Therefore, “the express language of section § 39-3-136 operates as a purely legislative exemption to taxation that is not authorized under Article X.” (p. 1278)

Accordingly, the court severed § 39-3-136, C.R.S., and the final sentence of § 39-1-106, C.R.S., and left in place the valuation provisions found in section § 39-1-103(17), C.R.S., that the legislature intended to apply if the court required the taxation of possessory interests in exempt property. (p. 1280) On March 30, 2001, the State Board of Equalization voted that upon receiving the remands from district court, appropriate orders would be issued to the counties.

State Board Orders Assessment of Possessory Interests

The Supreme Court’s decision affirmed the taxable status of the possessory interest property assessed by counties who were parties to Vail Associates. Their possessory interests were taxable for the years in which they were placed on the assessment rolls and for future years. However, the question remained as to whether other possessory interest property was taxable for the years in which the state board ordered its removal, or whether it was taxable beginning in 2001, the year the court issued its decision. This included possessory interests that had been removed by counties in response to the state board’s 1996 order and possessory

interests, such as grazing rights that had not been previously assessed.

The state board addressed the question during its November 21 meeting, in which members voted unanimously to order “... all county assessors except those who were parties to (Vail Associates), to value possessory interests for property tax years 2001, 2002 and forward.”

The order explained that the intent of the legislature was expressed in statute, including section § 39-10-101(2)(a)(II), C.R.S., (amended in 1996) that reads in part: “...the treasurer shall not treat any possessory interest in exempt property, as described in section § 39-3-136(1)(a), as taxable property omitted from the tax list and warrant for any year if the exclusion of the possessory interest from the assessment roll was based upon any provision of law created or repealed by Senate Bill 96-218....” The state board said “the courts will defer to clear legislative intent regarding the retrospective application of court decisions. *Kuhn v. State Department of Revenue*, 817 P.2d 101, 110 (Colo. 1991).”

During an October 7, 2002, hearing of the state board, several county assessors disclosed that they had not valued all of the taxable possessory interests in their jurisdictions. The counties were Delta, Eagle, Jackson, Jefferson, Moffat, Pitkin, and Rio Grande. On November 4, 2002, the state board sent the assessors a letter reminding them of their obligation to comply with the state board’s November 21, 2001, order and explaining the actions the board would take to enforce compliance if necessary. The assessors subsequently valued the taxable possessory interests in their counties for tax year 2002.

During the same meeting, the state board heard testimony from the Division of Property Taxation that the Mesa County Board of Equalization had incorrectly ordered the removal of possessory interest values placed on two properties by the

Mesa County Assessor. The state board ordered the county board of equalization to rescind its decision and restore the actual values of \$5,130 on one property and \$80 on the other.

2003 Legislative Changes

Two bills were passed in 2003 that changed the valuation procedures for certain possessory interests. Senate Bill 03-167 affected the valuation of possessory interests in land leased by the state board of land commissioners. The bill amends § 39-1-103(17)(a)(II)(A), C.R.S., to say that the actual value of such land "...shall be the actual amount of the annual rent paid for the property tax year." This differs from most possessory interests, which are valued according to the "...present value of the reasonably estimated future annual rents or fees...through the stated initial term of the lease or other instrument granting the possessory interest," § 39-1-103(17)(a)(II)(A), C.R.S.

Senate Bill 03-347 concerns the valuation of possessory interests in land involving timber contracts. The bill amends § 39-1-103(17)(a)(II)(B), C.R.S., to exclude from the value calculation "any amount paid under a timber sales contract or similar agreement for the purchase of timber or for the right to acquire and remove timber." The bill effectively excludes from taxation a possessory interest created from a timber sales contract.

2004 Legislative Changes

Senate Bill 04-059 expands to all agricultural possessory interest land the exception to the valuation methodology established in 2003 for possessory interests in land leased by the state board of land commissioners. The bill amends § 39-1-103(17)(a)(II)(A), C.R.S., to say that the actual value of agricultural possessory interest land "...shall be the actual amount of the annual rent paid for the property tax year."

2004 PROPERTY TAX LEGISLATION

SENATE BILLS

SB 04-001

Concerning the exemption of business personal property from property taxation.

Section 1 amends article 2 of title 2, C.R.S., with the addition of a new part. This part (11) creates a legislative interim committee on stimulating economic development through business personal property tax exemptions and other methods. The committee will study the following:

- Tax policy changes that have the effect of creating and retaining jobs in Colorado. This includes business personal property tax exemptions that eliminate or phase out the business personal property tax;
- An analysis of the cumulative fiscal impact of such tax policy changes on the state and local governments. This includes the fiscal impact of business personal property tax exemptions that eliminate or phase out the business personal property tax;
- Dynamic economic models, including the multiplier effect, that use existing resources and that demonstrate net long-term revenue gains;
- Ensuring that such tax policy changes would encourage economic development in rural areas; and
- What other actions can be taken by the state to encourage, promote, and stimulate economic development in Colorado.

The committee will meet six times during the 2004 interim. The meetings are open

to the public. The committee will solicit the testimony of the public, especially those with expertise related to the fiscal impacts of tax policy changes.

Signed by Governor Owens: May 21, 2004

Effective: January 1, 2005

SB 04-047

Concerning Documents Filed with a County Official

Section 1 amends § 30-10-407, C.R.S., by adding subsection (4.3) to allow three-business days to pass after a document has been recorded before the county clerk and recorder must provide legible size prints. Previously, there was no waiting period.

Section 2 amends § 30-10-408, C.R.S., by adding subsection (2.5), which requires the clerk and recorder to enter a recorded document in the grantor and grantee indices no later than seven business days after it is filed/recorded.

Section 3 amends § 30-10-409(2), C.R.S., to move the "endorsement" deadline from 3:00 p.m. to 1:00 p.m. That is, if a document is received electronically by 1:00 p.m. on a business day, it must be endorsed by the end of that day. Documents received after 1:00 p.m. on a business day must be endorsed by 5:00 p.m. the following business day.

"Endorsed" means that the document itself must reflect the date, hour, and minute of its filing, the index or reception number, the volume, film or page where recorded if such are used, and the recording fee. The document also must be immediately recorded in the "reception book."

Further, subsection (6) is added to state that the deadlines set forth sections 30-10-407(4.3) and 30-10-408(2.5) and 30-10-409(2), C.R.S., can be extended for a reasonable period of time if an extenuating circumstance prevents the clerk and recorder from meeting the deadlines. The

subsection goes on to define “extenuating circumstance” and provides direction for the clerk to make a written finding of the circumstances. The written statement must be available to the public.

30-10-409(6)(b) As used in this subsection (6), “extenuating circumstance” means a disaster, as defined in section 24-32-2103(1.5), C.R.S., or a technical difficulty related to computer hardware or software that is outside the control of the clerk and recorder.

24-32-2103(1.5) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion existing in the state or in any county, city, town, or district in the state.

The bill was in response to title companies' concerns that so many homes were being refinanced, county clerks could not keep up with the work. Further, the clerks were not able to hire part-time help. The companies wanted dates put into statute to ensure that the work gets done. County clerks worked with the companies on the language in the bill.

Signed by Governor Owens: April 8, 2004
Effective: July 1, 2004

SB 04-059

Concerning the valuation of possessory interests in agricultural land.

Section 1 amends § 39-1-103(17)(a)(II)(A), C.R.S., by stating the actual value of a possessory interest in agricultural land, including land leased by the state board of land commissioners other than land subject to development leased pursuant to § 36-1-120.5, C.R.S., should be determined by the actual amount of the annual rent paid for the property tax year.

The actual rent paid is now the actual value of an agricultural possessory interest.

Signed by Governor Owens: May 27, 2004
Effective: January 1, 2005

SB 04-120

Concerning charitable trusts, and, in connection therewith, permitting a charitable trust to be eligible to provide community or useful public service jobs and requiring that property that is owned and used by a charitable trust be treated the same as property that is owned and used by any other type of nonprofit organization for the purpose of claiming a religious purpose property tax exemption.

Section 1 amends § 18-1.3-507, C.R.S., subsection (2) to include “charitable trusts” and also amends subsection (2.5) to state that a charitable trust that is exempt from taxation under section 501(c)(3) of the IRS Code of 1986 is eligible to provide community or useful public jobs as established under § 18-1.3-507, C.R.S., or any other provision of law as long as the charitable trust meets any other requirement related to the provisions of such jobs.

Note: § 18-1.3-507(2)(a), C.R.S., describes the purpose of the various entities, including charitable trusts, as being for the purpose of:

- To provide community or useful public service jobs,
- To interview persons who have been ordered by the court to perform community or useful public service and to assign such persons to suitable community or useful public service jobs
- To monitor compliance or noncompliance of such persons in performing community or useful public service assignments within the time established by the court.

Section 2 amends § 18-18-432, C.R.S., by adding charitable trusts to the list of entities that the useful public service program can seek the cooperation of when searching for useful public service jobs.

Section 3 amends § 39-3-106, C.R.S., to say that any property that is owned and used by a charitable trust that is exempt from taxation under section 501(c)(3) shall be treated the same as property that is owned and used by any other type of nonprofit organization. This applies to charitable trusts seeking religious exemptions.

Section 4 amends § 42-4-1301.4, C.R.S., adding charitable trusts to the list of entities that the useful public service program can seek the cooperation of when searching for useful public service jobs.

Overall, the bill will not affect the Division's current exemption procedures. Any organization exempt under 501(c)(3) has a presumptive claim to be taken seriously while still having to qualify under article 3 of title 39, C.R.S., no matter which type of exemption is being sought.

Signed by Governor Owens: April 20, 2004
Effective: August 4, 2004

SB 04-157

Concerning the exclusion from lobbying of persons who limit their activities to providing formal testimony.

Section 1 adds subsection 24-6-301(3.5)(d)(III), C.R.S.

The General Assembly hereby declares its support of the "Colorado Sunshine Act of 1972" and the open process that it has brought to the legislative process in Colorado. The General Assembly's intent in enacting this subparagraph (III) is to achieve a more uniform application of the lobbying laws to witness testimony and to clarify the ability of the public to provide testimony to the general assembly and to state agencies.

"Lobbying" excludes persons who are not otherwise registered as lobbyists and who limit their activities to appearances to give testimony or provide information to committees of the General Assembly or at public hearings of state agencies or who give testimony or provide information at the request of public officials or employees and who clearly identify themselves and the interest for whom they are testifying or providing information.

The bill removes the previous definition of lobbying which included lobbying as:

". . . such communications by any person who makes more than three such appearances before any committee, board, or commission in a calendar year. "Appearance," for the purpose of this paragraph (d), means the testimony given before a committee, board, or commission on a single issue, rule, rate, or bill, regardless of the actual number of physical appearances necessary to present the testimony.

Signed by Governor Owens: April 13, 2004
Effective: August 4, 2004

SB 04-221

Concerning the authority of a metropolitan district to exercise specified enforcement activities of other entities within the boundaries of the district.

The bill amends § 32-1-1004, C.R.S. It allows the board of a metropolitan district to furnish security services in any area within the special district. The purpose is to increase security around homes in secluded areas.

Signed by Governor Owens: May 21, 2004
Effective: May 21, 2004

SB 04-239

Concerning the revision of statutes in the Colorado Revised Statutes, as amended, amending or repealing obsolete, inconsistent, and conflicting provisions of law and clarifying the language to reflect the legislative intent of the laws.

Section 86 amends § 39-1-102(1.6)(l), C.R.S., to correct the name of a federal agency from “the natural resource conservation service” to “the natural resources conservation service.”

Section 87 amends § 39-4-102(1)(b), C.R.S. to change a statutory citation from § 29-11-101(14) to §29-11-101(13), C.R.S.

Section 92 amends § 39-22-611, C.R.S., to correct a statutory citation from § 29-11-101(14) to §29-11-101(13), C.R.S.

NOTE: The latter portion of the statute, which concerns intangible property, refers to state assessed property:

39-22-611. Property exempt from ad valorem taxes.

Notwithstanding any other provisions of law, all intangible personal property, whether or not owned by a resident of Colorado, and whether or not such property or evidence thereof is situated

or held or has its legal situs within the state, shall be exempt from ad valorem tax imposed by the state of Colorado, or by any political subdivision thereof; but nothing in this section shall be construed to repeal, or in any way affect the use or inclusion of intangible property other than licenses granted by the federal communications commission to a wireless carrier, as defined in section 29-11-101(13), C.R.S., as a factor in arriving at the valuation of public utility property assessed by the property tax administrator under provisions of articles 1 to 13 of this title. (emphasis added)

HOUSE BILLS

HB 04-1048

Concerning beneficiary deeds

Section 1 amends article 15 of title 15, C.R.S., by adding a new Part 4 titled Transfer of Real Property Effective on Death – §§ 15-15-401 through 15-15-415, C.R.S.

The legislation creates a process whereby an interest in real property can be conveyed that is effective on the death of the owner. Subsection 15-15-401(1), C.R.S., the definitions subsection, names the document a “beneficiary deed.” Some highlights from the legislation are:

- The deed is revocable by the owner (grantor) if the revocation is recorded prior to the death of the grantor.
- The most recently executed beneficiary deed or revocation recorded prior to the grantor’s death shall control, regardless of the order of recording.
- The transfer is effective only upon the death of the owner.
- The deed need not be supported by consideration.

- A beneficiary deed may not be revoked, altered, or amended by the provisions of the will of the owner.
- The grantee-beneficiary does not have to be notified prior to the death of the owner, but the grantee-beneficiary can disclaim or refuse to accept all or any part of the real property interest.
- During the lifetime of the owner, the grantee-beneficiary has no right, title, or interest in or to the property. The owner retains the full power and authority with respect to the property.
- A beneficiary deed does not sever a joint tenancy. If a joint-tenant-grantor is not the last joint tenant to die, the beneficiary deed shall not be effective, and the beneficiary deed shall not make the grantee-beneficiary an owner in joint tenancy with the surviving joint tenant or tenants.
- A beneficiary deed is not a testamentary disposition and cannot be invalidated due to nonconformity with the provisions of the "Colorado Probate Code" governing wills.
- Medicaid eligibility exclusion: No individual who is an applicant for or recipient of medical assistance for which it would be permissible for the Department of Health Care Policy and Financing to assert a claim under the Colorado Medical Assistance Act, specifically §§ 26-4-403 or 26-4-403.3, C.R.S., shall be entitled to the medical assistance if the individual has in effect a beneficiary deed.
- Further, the execution of a beneficiary deed by an applicant for or recipient of such medical assistance shall cause the property to be considered "a countable resource" in accordance with § 26-4-403.3(6), C.R.S., and applicable rules and regulations.

Unless otherwise designated, a beneficiary deed has the same force and effect as a conveyance made using a bargain and sale deed. It is not deemed to contain any warranties of title.

Rights of creditors and others are protected if other assets of the estate of the deceased owner are insufficient to pay all claims against the estate and statutory allowances to the surviving spouse and children. The proceeding must begin within one year after the death.

Sections 2-4 make conforming amendments to §§ 15-11-706(1), 15-15-101(1.5) and 38-30-113.5, C.R.S.

Signed by Governor Owens: May 12, 2004
Effective: August 4, 2004.

HB 04-1067

Concerning the conversion of state refunds of business personal property taxes owed by the Department of Revenue to a taxpayer into unclaimed property for which a claim may be filed under the "Unclaimed Property Act" when the refund is represented by a warrant that has been cancelled in accordance with the law.

The following statutes are amended:

- § 38-13-102(7)(a), C.R.S.
- § 38-13-109.7, C.R.S.
- § 39-21-108, C.R.S.
- § 39-21-113(12), C.R.S.

The Department of Revenue is given a procedure to deal with business personal property refund checks that are not cashed. If refund checks are not cashed, the refund amount is sent to the State Treasurer's Office. By doing this, the refund is treated like other "unclaimed property."

Signed by Governor Owens: April 7, 2004
Effective: August 4, 2004

HB 04-1129

Concerning Property Taken by a County for Delinquent Taxes

Section 1 amends subsection 39-10-111(3), C.R.S., to require county treasurers to publish notice of the seizure and sale of personal property due to delinquent taxes within 180 days after the seizure.

Subsection (5) was amended to require that if the amount bid is less than the fixed minimum price, which includes taxes, delinquent interest, and costs of making the seizure and advertising the sale, the treasurer or the deputy treasurer may declare the property purchased by the county. If the county declares the property purchased, the personal property must be sold within another 150 days as determined by the county commissioners.

Subsection (13) was added to state that the county cannot operate the business in which the county seized the personal property.

Section 2 amends § 39-11-143(2), C.R.S., by adding that the board of county commissioners now has the ability to retain real property that is acquired by the county via a tax deed under § 39-11-142, C.R.S., in addition to having the power to rent, lease, or sell such real property.

Subsection (2.5) was added to place restrictions and requirements on the county commissioners when real property is retained for a present or future public project. The commissioners may rent or lease the lot or parcel retained for a present or future project and must pass a resolution describing the project for which the property is retained. Further, it states that using property to generate revenue for the county is not a public project. Subsection 30-20-301(2), C.R.S., defines public project as:

(2) "Public project" means any lands, buildings, structures, works, machinery, equipment, or facilities suitable for and

intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public education (where county boundaries and school district boundaries are coterminous), public welfare, or the conservation of natural resources, including the planning of any such lands, buildings, improvements, structures, works, machinery, equipment, or facilities, and shall also include existing lands, buildings, improvements, structures, works, and facilities, as well as improvements, renovations, or additions to any such lands, buildings, improvements, structures, works, or facilities.

Subsection (3) allows the commissioners to lease the real property to an affiliated entity, but the lease cannot exceed five years. An affiliated entity is defined as, "a nonprofit entity with which the county enters into a contract for the delivery of goods or services to the county or to third parties on behalf of the county."

Subsection (4) was amended to state that property that is not retained or leased in accordance with subsection (2.5) or (3) must be sold at a public sale within one year after the property is conveyed to the county, except the commissioners may reject any bid that is less than the value of the property as determined by the assessor.

Signed by Governor Owens: March 17, 2004
Effective: August 4, 2004

HB 04-1157

Concerning the procedures for purging title to a manufactured home.

Section 1 amends section 38-29-112, C.R.S., by adding subsection (1.3):

Prior to the sale or transfer of a manufactured home for which a certificate of title has been issued, a holder of a mortgage that is the legal holder of the certificate of title shall

provide a copy of the certificate of title to any title insurance agent, title insurance company, or financial institution requesting information related to the payoff of the mortgage within fourteen days of the request.

The section also amends subsection 38-29-112(1.5), C.R.S., to state in part:

...The manufactured home for which a Colorado certificate of title has been issued shall continue to be valued and taxed separately from the land on which it sits until such time that the manufactured home becomes real property pursuant to this subsection (1.5). (emphasis added)

NOTE: The first part of subsection 1.5 states:

The purchaser or transferee of a manufactured home that becomes permanently affixed at an existing site or is transported to a site and is permanently affixed to the ground so that it is no longer capable of being drawn over the public highways **shall present a certificate of transfer** as required in subsection (1) of this section, together **with his or her application for purging** a manufactured home title, . . . and said manufactured home shall become real property. . . (emphasis added)

It also adds subsection 38-29-112(1.7), C.R.S., regarding the certificate of title. 38-29-112(1.7)(b) states that if:

- A title insurance agent acts as a settlement agent related to the sale of a manufactured home; AND
- The manufactured home that is sold is the subject of one or more mortgages that have been filed pursuant to section 37-29-128; AND
- All holders of a mortgage on the manufactured home that have been

filed pursuant to 38-29-128 have been paid in full from the proceeds of the sale. THEN

The legal holder of the certificate of title (defined in [1.3] as, “. . . a holder of a mortgage that is the legal holder of certificate of title . . .”) must deliver the certificate of title within 45 days to the title insurance agent who is the settlement agent. If the title has been lost, evidence must be provided that a duplicate title has been requested from the Department of Revenue (Division of Motor Vehicle). It must be delivered to the title company within five (5) days of receipt from Motor Vehicle. The owner, the authorized agent, or attorney of the owner executes the formal transfer (signs the title over to the new owner/mortgage holder).

NOTE: If a certificate of title does not exist because the Division of Motor Vehicle purged and removed a certificate of title from its database, Motor Vehicle requires the legal holder of the title to follow the bonding procedure for a new certificate of title. Bonding information is available on the state motor vehicle web site at www.mv.state.co.us/titlereg.html or at the county motor vehicle department.

Section 2 amends 38-29-118(2), C.R.S., by adding the language:

...The manufactured home for which a Colorado certificate of title has been issued shall continue to be valued and taxed separately from the land on which it sits until such time that the manufactured home becomes real property pursuant to this subsection (2). (emphasis added)

NOTE; The first part of subsection 2 states:

The owner of any manufactured home for which a Colorado certificate of title has been issued, upon its being permanently affixed to the ground so that it is no longer capable of being

drawn over the public highways, **may surrender his certificate of title thereto** and file with the authorized agent of the county or city and county in which such manufactured home is located a request for purging of the manufactured home title; . . .

NOTE: Subsection 38-29-118(2), C.R.S., was originally passed in HB 83-1428, and the permissive “may” was placed in statute at that time.

We teach that the purging language in this subsection is permissive from the standpoint that the title to an older manufactured home that is made permanent some period after it’s moved to the site does not have to be purged unless the owner wants the manufactured home and land valued together or needs some type of financing. Mortgage companies will not finance manufactured homes that are separate from the land. A new owner may also demand that the title be purged.

Section 3 adds the citation § 38-29-112(1.7), C.R.S., to § 38-29-131(1), C.R.S. The statute concerns the release of a mortgage on a manufactured home certificate of title, and so indicating on the title.

The bill did not include language allowing the amendment to be applied retroactively; therefore, the change applies to property tax year 2005 and forward. *Mission Viejo Company v. Board of Equalization of Douglas County*, 942 P.2d 1251 (Colo.App. 1996).

Signed by Governor Owens: May 21, 2004
Effective Date: August 4, 2004
Applies to property tax years beginning 2005.

HB 04-1311
Concerning identity theft.

Among other things, this bill amends § 24-72.3-102, C.R.S., to state that a public entity shall not request a person’s social security number over the telephone, internet, or via mail unless the public entity

determines that receiving the social security number is required by federal law or is essential to the provision of services by the public entity.

Subsection 39-3-205(2)(a)(I) and (III), C.R.S.; require the Division of Property Taxation to request the social security numbers of all Senior Homestead Exemption applicants. The Division considers this requirement essential to the provision of services. Therefore, the amendment does not prevent the Division from requiring an applicant’s social security number.

Signed by Governor Owens: June 4, 2004
Effective: August 4, 2004

HB 04-1356
Concerning an increase in the amount of income that an owner of certain tax-exempt property may earn from the rental of the property.

Section 1 amends § 39-3-106.5(2)(b), C.R.S., by increasing the dollar amount that an organization with exempt property can receive from the rental of such property. The increase is from \$10,000 gross rental income per year to \$25,000.

Subsection 39-3-106.5(2), C.R.S., allows for non-qualifying use of exempt property as long as the exempt property owner does not receive more than \$25,000 in gross rental income. However, the statute applies only to “occasional, non-continuous” use. An example might be the occasional rental for a party at a fraternal organization’s property.

NOTE When the non-qualifying use is not “occasional, non-continuous,” the Division applies § 39-3-116, C.R.S., which can result in some tax liability even if the income from the rental of the property is under \$25,000. The statute is designed to allow one exempt organization to let another exempt organization use its property and recover its expenses, but not to make any more than recovery of expenses. If

the conditions of the statute are met,
there is no change to the exempt status
of the property.

Section 2 states that the act applies to
property tax years beginning January 1,
2005.

Signed by Governor Owens: April 7, 2004
Effective: August 4, 2004, and applies to property
tax years beginning 2005.

