

## **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 (50.7 percent) goes to support the state's public schools. County governments claim the next largest share (27.2 percent), followed by special districts (16.0 percent), municipal governments (5.1 percent), and junior colleges (1.0 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 direction of the Property Tax Administrator (administrator), coordinates the implementation of property tax law throughout the sixty-four counties.

Revenue derived from 2005 property taxes (payable 2006) will increase statewide for every local government type. The combined revenue increase from taxes payable in 2006 is 9.56 percent. Table 1 lists the percentage increases in property tax revenue between taxes payable in 2005 and taxes payable in 2006.

**Table 1**  
**Revenue Change by Entity Type for Tax Years 2004-2005**

<u>Taxing Entity</u>	<u>% Increase</u>
School District K-12 .....	+ 5.29%
Junior Colleges .....	+ 17.31%
Counties.....	+ 18.10%
Municipalities .....	+ 7.26%
Special Districts .....	+ 10.46%
<b>Combined Increase.....</b>	<b>+ 9.56%</b>

Although the table above indicates that Colorado property tax revenue increased for 2005, 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 2005 were Lyle C. Kyle, Chairperson and appointee of Governor Bill Owens; Heather Witwer, Vice-Chair and designee of Governor Owens; Michael Schuster, designee of Joan Fitzgerald, President of the Senate; Representative Val Vigil, designee of Andrew Romanoff, 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 the 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, Colorado 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 importance of the state board's equalization function is due in part 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:

### **2005 Enforcement and Repayment**

On October 11, 2005, the state board met to review the findings and conclusions of

Rocky Mountain Valuation Specialists, Inc., annual study contractor for Legislative Council. Based on the findings, the state board issued a reappraisal order for Costilla County, it ordered Rio Grande County to change a classification procedure, and it ordered Jackson County to submit a plan for inspecting agricultural outbuildings. The board also reviewed the results of a reappraisal order issued to Fremont County in 2004, and pursuant to the reappraisal, it ordered the repayment of excess state aid to schools and the cost of supervising the reappraisal.

Costilla County was ordered to reappraise the residential class of property. The annual study contractor had determined that the coefficient of dispersion for residential property was 19.3 percent, exceeding the standard of 15.99 percent.

Rio Grande County was ordered to comply with a procedural requirement stated in Volume 3, Chapter 5 of the Assessor's Reference Library, that it use a soil survey conducted by the United States Natural Resource Conservation Service (NRCS) when classifying and valuing agricultural land. The order is effective beginning with assessment year 2007.

Jackson County was ordered to submit a plan detailing the methodologies and timeframes the county will use to physically inspect agricultural outbuildings. The auditor had reported that although the value for the subclass was in compliance, the outbuildings had not been physically inspected for a number of years. The assessor submitted her plan at the December 2, 2005, meeting of the state board, and it was approved. The assessor must present a yearly report to the state board showing the status of the project.

The state board reviewed the results of a reappraisal ordered in 2004 for commercial and industrial property in Fremont County. The board determined that the reappraisal was successfully completed, and it ordered the county to make the following paybacks and reimbursements.

<u>County</u>	<u>Supervision Reimbursement</u>	<u>State Aid to Schools Payback</u>
Fremont .....	\$54,751	\$131,263
+ interest on state aid payback at 4% annually		

Since 1988, the state board has allowed counties to choose an alternative method of repaying the costs associated with the state's supervision of the reappraisal. This method, known as the "Bledsoe Plan," authorizes counties to apply the supervision reimbursement money to the budgets of their assessors' offices to enhance their operational effectiveness.

The Fremont County Commissioners submitted a plan detailing how they would direct the assessor to use the reimbursement money. The board approved the county's proposal and authorized repayment under the Bledsoe Plan.

A history of prior year enforcement and repayment actions is described below.

**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 requiring 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 36.

**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 35.

**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 . . . . .	\$64
Saguache . . . . .	\$15,160 . . . . .	\$90

The Saguache County Commissioners chose to employ the Bledsoe 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 farmland 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.

**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 .....	\$ 0
Routt .....	\$ 878 .....	\$82
Hinsdale.....	\$ 959 .....	\$ 7

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 a five-year term, and, until a successor is appointed and qualified.

A 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 its 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**

Administrative Resources prepares and publishes administrative manuals, procedures and instructions. It conducts schools and seminars regarding the administrative functions of the assessors' offices. It conducts field studies and provides statewide assistance in title conveyance, mapping, abstracting valuations, certification of values to taxing entities, and feasibility studies. The section also investigates taxpayer complaints. It is responsible for various studies and reports such as the residential assessment rate study and the Property Tax Administrator's Annual Report to the General Assembly and state board. It also coordinates with agencies having an interest in property taxation. In addition, the field staff works closely with assessors in all areas of property taxation.

**Appraisal Standards**

Appraisal Standards prepares and publishes appraisal manuals, procedures and instructions. It holds schools and seminars regarding all areas of appraisal. It conducts field studies and provides statewide assistance in agricultural land classification, natural resources and personal property valuation, as well as assistance in the valuation of residential, commercial and industrial properties. The section assists in reappraisal efforts, reviews internal appraisal forms used by assessors, and investigates and responds to taxpayer complaints.

## **Exempt Properties**

The Exemptions section is responsible for determining qualification for exemption from property taxation for properties that are owned and used for religious, charitable and private school purposes. Currently exempt property owners are required to file annual reports with the Division to continue exemption. The section provides assistance to counties and taxpayers with inquiries about exempt properties, conducts hearings on denied exemption applications and revocations of exemption, and defends appeals of such denials and revocations.

Some exemptions statistics include:  
Annual reports filed and reviewed - approx. 9,300 annually  
Applications received - about 700 annually  
Exemptions forfeited for failure to file annual report - 150–200 annually  
Decisions issued annually by the Administrator - approximately 750

## **State Assessed Properties**

State Assessed values all public utilities and rail transportation companies doing business in Colorado. The company valuations are then apportioned to the counties for collection of local property tax. The section conducts research projects in connection with state assessed companies, assists counties and taxpayers with inquiries on the assessment of public utilities and rail transportation companies, hears protests of the assigned values, and defends appeals of such valuations.

## **2005 VALUE INFORMATION**

### **Statewide Assessed Values for 2005**

In Colorado, taxable property is classified according to its use as of January 1 of each year. The property classes are listed below in Table 2. Taxable property is divided into real property (land and buildings) and personal property. For most classes, real property is valued for tax purposes during odd numbered years to an appraisal date of June 30 of the year preceding the year in which it is valued.

However, certain property is valued every year, including personal property, state assessed real and personal property, producing mines and oil and gas leaseholds and land.

The assessed value of taxable property is a percentage of the actual value determined by the assessor. That percentage is found in statute. For most non-residential property, the assessed value is fixed at 29 percent of the actual value. For residential property, the assessment percentage is adjusted during odd-numbered years to maintain a consistent relationship over time between the tax revenue generated from residential versus non-residential property. For 2005 and 2006, the residential assessment rate stated in statute is 7.96 percent, the same rate that was effective for tax years 2003 and 2004. The residential assessment rate is discussed more beginning on page 17.

For 2005, Colorado assessed values increased by \$5.99 billion, or 9.3 percent from the prior year. The increase resulted from the general reappraisal of property to the 2004 level of value. It also reflects property constructed or placed in service during 2004. Table 2 displays the percentage changes by property class.

**Table 2**  
**Value Changes by Class**

<b>Class</b>	<b>2004-2005 Change</b>	<b>Percentage of Total</b>
Vacant Land	+ 13.7%	6.6%
Residential	+ 8.7%	46.9%
Commercial	+ 6.8%	27.9%
Industrial	+ 2.7%	3.9%
Agricultural	+ 1.2%	1.2%
Natural Resources	+ 16.2%	0.4%
Producing Mines	+ 37.3%	0.1%
Oil & Gas	+ 29.4%	7.2%
State Assessed	+ 6.1%	5.8%
<b>Net Total</b>	<b>+ 9.3%</b>	<b>100.0%</b>

For real property classified as vacant land, residential, commercial and industrial, the increases in value reflect market value changes that occurred between June 30, 2002 and June 30, 2004, a time of low

interest rates, a gradually improving economy, and changing priorities of investors. The increases also reflect property newly constructed or placed in service during 2004.

Unlike other classes, property classified as state assessed is valued annually by the Division of Property Taxation using unitary valuation procedures. The state assessed class includes property owned by public utilities, airlines and railroads. The State Assessed Section of the Division values each company and assigns a portion of the value to Colorado. That value is then distributed to the appropriate counties based on where the company's operating property or business activity is located. The 6.1 percent increase in state assessed value reflects a general improvement in the Colorado and national economies.

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.

**Oil & Gas and Other Production Classes**

Since 2000, Colorado has experienced a 240 percent increase in the total assessed value of the oil and gas class. Among the classes of taxable property, oil and gas now contains the third highest total assessed value, up from sixth highest in 2000. A recent history of the assessed value for the class is shown below.

**Table 3**  
**Oil and Gas Class**

<b>Year</b>	<b>Value (Billions)</b>	<b>% of Total</b>	<b>Change</b>
2000	\$1.49	3.05%	+ 7.8%
2001	\$2.65	4.51%	+78.5%
2002	\$2.80	4.62%	+ 5.6%
2003	\$2.20	3.55%	- 21.4%
2004	\$3.91	6.04%	+77.6%
2005	\$5.06	7.16%	+29.4%

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. Like oil and gas, 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.

**Regional and Local Values in 2005**

The 9.3 percent increase did not occur uniformly across Colorado. At the county level, the changes in value ranged from an increase of 43.65 percent in San Juan County to a decrease of 5.74 percent in Huerfano County. The range of value changes is more dramatic when observed at the taxing entity level.

Counties with the greatest increases fall primarily into two groups: those with large

percentage increases to the residential class and those with a large portion of their value comprised of oil and gas property. Twelve of the thirteen counties with the greatest increases in residential value for 2005 are western slope counties. Generally, these counties also saw large increases in the values of commercial property and vacant land.

Although oil and gas property comprises only 7.16 percent of the state's total assessed value, over 95 percent of that value is concentrated in ten counties. Two of those counties, Las Animas and Rio Blanco, have about 70 percent of their taxable value classified as oil and gas. This is significant because the Constitutional Taxpayer Bill of Rights (TABOR) prohibits a mill levy increase without voter approval. The restriction can subject the tax base of certain local governments to the volatility inherent to the oil and gas class. Table 4 lists the top ten oil and gas producing counties for 2005 along with their increases in total value.

**Table 4**  
**Counties With Highest Oil & Gas Value**

<u>County</u>	<u>% Change</u>	<u>% in O&amp;G</u>
1) La Plata	+ 16.76%	60.72%
2) Weld	+ 20.74%	35.42%
3) Garfield	+ 41.22%	55.54%
4) Las Animas	+ 15.58%	70.08%
5) Rio Blanco	+ 27.69%	69.82%
6) Moffat	+ 14.33%	24.38%
7) Montezuma	+ 15.70%	30.71%
8) Yuma	+ 8.55%	42.86%
9) Cheyenne	+ 12.35%	66.67%
10) San Miguel	+ 28.92%	9.15%

Table 5 lists the value changes for each county for 2005.

**Personal Property in 2005**

Colorado is one of 39 states that impose a tax on business personal property ( *Fair & Equitable*, P. 6, 05/04). In 2005, personal property accounted for 12.08 percent of Colorado's property tax base, but that percentage varied substantially from county to county. Although most personal property is assessed locally, nearly 44 percent of personal property is classified as state assessed. In 2005, 90.8 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	2005 ASSESSED VALUES			2004 ASSESSED VALUES			INCREASE OR DECREASE		
	Non-Residential	Residential	Total	Non-Residential	Residential	Total	Non-Res	Residential	Total
Adams	2,112,703,540	2,005,601,680	4,118,305,220	1,941,558,750	1,824,215,350	3,765,774,100	8.81%	9.94%	9.36%
Alamosa	77,969,900	35,231,910	113,201,810	72,551,800	33,207,320	105,759,120	7.47%	6.10%	7.04%
Arapahoe	3,098,587,790	3,694,072,400	6,792,660,190	3,129,687,930	3,525,994,730	6,655,682,660	-0.99%	4.77%	2.06%
Archuleta	137,390,346	98,480,117	235,870,463	111,583,590	88,496,590	200,080,180	23.13%	11.28%	17.89%
Baca	56,796,281	5,598,642	62,394,923	54,982,991	5,703,092	60,686,083	3.30%	-1.83%	2.82%
Bent	45,487,821	7,553,121	53,040,942	44,371,391	6,624,280	50,995,671	2.52%	14.02%	4.01%
Boulder	2,275,690,470	2,698,184,160	4,973,874,630	2,157,052,866	2,598,029,250	4,755,082,116	5.50%	3.86%	4.60%
Broomfield	566,662,520	330,235,820	896,898,340	592,966,550	302,925,893	895,892,443	-4.44%	9.02%	0.11%
Chaffee	159,671,420	129,796,220	289,467,640	147,605,040	116,325,290	263,930,330	8.17%	11.58%	9.68%
Cheyenne	115,586,315	3,303,665	118,889,980	102,643,502	3,173,397	105,816,899	12.61%	4.11%	12.35%
Clear Creek	113,479,840	90,679,980	204,159,820	90,506,450	84,523,160	175,029,610	25.38%	7.28%	16.64%
Conejos	24,413,670	20,328,090	44,741,760	24,008,150	18,471,930	42,480,080	1.69%	10.05%	5.32%
Costilla	64,395,624	6,756,321	71,151,945	57,510,583	6,559,558	64,070,141	11.97%	3.00%	11.05%
Crowley	26,848,392	5,551,265	32,399,657	21,143,549	5,452,470	26,596,019	26.98%	1.81%	21.82%
Custer	37,664,830	37,351,060	75,015,890	34,787,360	33,445,140	68,232,500	8.27%	11.68%	9.94%
Delta	121,108,440	110,605,380	231,713,820	110,559,880	94,124,960	204,684,840	9.54%	17.51%	13.21%
Denver	5,078,899,210	3,840,437,420	8,919,336,630	4,886,081,740	3,666,381,820	8,552,463,560	3.95%	4.75%	4.29%
Dolores	27,213,275	7,064,218	34,277,493	24,698,090	6,952,240	31,650,330	10.18%	1.61%	8.30%
Douglas	1,634,836,710	2,238,651,880	3,873,488,590	1,462,282,900	1,996,143,870	3,458,426,770	11.80%	12.15%	12.00%
Eagle	854,409,590	1,350,698,090	2,205,107,680	828,570,770	1,181,545,040	2,010,115,810	3.12%	14.32%	9.70%
El Paso	2,647,389,350	2,882,040,080	5,529,429,430	2,503,572,270	2,508,449,620	5,012,021,890	5.74%	14.89%	10.32%
Elbert	82,545,870	161,104,750	243,650,620	70,174,112	151,578,680	221,752,792	17.63%	6.28%	9.87%
Fremont	214,748,695	151,213,967	365,962,662	199,133,818	130,896,611	330,030,429	7.84%	15.52%	10.89%
Garfield	1,432,117,620	340,387,010	1,772,504,630	941,228,950	313,873,410	1,255,102,360	52.15%	8.45%	41.22%
Gilpin	249,397,580	51,769,660	301,167,240	230,716,430	44,007,850	274,724,280	8.10%	17.64%	9.63%
Grand	293,061,230	279,210,330	572,271,560	256,112,300	238,208,030	494,320,330	14.43%	17.21%	15.77%
Gunnison	292,343,640	196,290,790	488,634,430	238,755,330	167,653,830	406,409,160	22.44%	17.08%	20.23%
Hinsdale	24,685,750	15,999,740	40,685,490	20,795,740	15,494,020	36,289,760	18.71%	3.26%	12.11%
Huerfano	71,572,376	28,479,594	100,051,970	79,064,320	27,083,190	106,147,510	-9.48%	5.16%	-5.74%
Jackson	21,274,018	8,042,420	29,316,438	19,230,428	7,915,844	27,146,272	10.63%	1.60%	7.99%
Jefferson	2,724,635,230	3,940,744,430	6,665,379,660	2,494,321,110	3,836,440,760	6,330,761,870	9.23%	2.72%	5.29%
Kiowa	28,712,150	1,821,350	30,533,500	27,391,900	1,783,280	29,175,180	4.82%	2.13%	4.66%
Kit Carson	80,266,161	18,938,198	99,204,359	74,981,502	17,325,768	92,307,270	7.05%	9.31%	7.47%
La Plata	2,078,963,240	408,548,180	2,487,511,420	1,797,140,330	333,398,350	2,130,538,680	15.68%	22.54%	16.76%
Lake	48,342,209	36,584,178	84,926,387	44,960,815	32,823,083	77,783,898	7.52%	11.46%	9.18%
Larimer	1,546,179,902	1,914,831,240	3,461,011,142	1,423,073,967	1,766,718,000	3,189,791,967	8.65%	8.38%	8.50%
Las Animas	436,264,330	45,325,150	481,589,480	376,270,440	40,391,430	416,661,870	15.94%	12.21%	15.58%
Lincoln	55,542,110	10,709,322	66,251,432	54,031,174	9,897,227	63,928,401	2.80%	8.21%	3.63%
Logan	119,831,540	53,078,810	172,910,350	109,699,010	50,683,080	160,382,090	9.24%	4.73%	7.81%
Mesa	640,416,810	618,901,530	1,259,318,340	532,416,230	521,755,440	1,054,171,670	20.28%	18.62%	19.46%
Mineral	12,683,810	11,247,360	23,931,170	11,452,070	10,465,670	21,917,740	10.76%	7.47%	9.19%
Moffat	350,188,080	40,107,200	390,295,280	305,416,380	35,964,440	341,380,820	14.66%	11.52%	14.33%
Montezuma	214,331,270	86,363,130	300,694,400	186,140,800	73,748,070	259,888,870	15.14%	17.11%	15.70%
Montrose	231,246,580	166,464,760	397,711,340	195,984,684	134,557,566	330,542,250	17.99%	23.71%	20.32%
Morgan	296,329,250	78,980,970	375,310,220	280,197,850	71,432,830	351,630,680	5.76%	10.57%	6.73%
Otero	69,019,467	40,186,100	109,205,567	65,627,074	39,078,196	104,705,270	5.17%	2.84%	4.30%
Ouray	83,060,130	57,064,910	140,125,040	63,771,910	43,136,930	106,908,840	30.25%	32.29%	31.07%
Park	176,400,974	177,053,280	353,454,254	155,314,045	160,160,410	315,474,455	13.58%	10.55%	12.04%
Phillips	31,368,940	12,326,630	43,695,570	31,331,220	10,884,860	42,216,080	0.12%	13.25%	3.50%
Pitkin	658,110,690	1,230,529,310	1,888,640,000	640,086,960	1,143,274,500	1,783,361,460	2.82%	7.63%	5.90%
Prowers	104,106,360	22,996,060	127,102,420	103,037,999	21,655,124	124,693,123	1.04%	6.19%	1.93%
Pueblo	532,952,480	517,531,560	1,050,484,040	504,668,520	466,472,230	971,140,750	5.60%	10.95%	8.17%
Rio Blanco	410,581,080	23,307,270	433,888,350	319,674,480	20,110,870	339,785,350	28.44%	15.89%	27.69%
Rio Grande	87,861,810	47,107,850	134,969,660	78,247,210	43,653,800	121,901,010	12.29%	7.91%	10.72%
Routt	420,977,710	369,801,360	790,779,070	381,218,790	313,034,970	694,253,760	10.43%	18.13%	13.90%
Saguache	36,447,929	13,120,608	49,568,537	34,713,999	11,482,382	46,196,381	4.99%	14.27%	7.30%
San Juan	31,126,420	9,507,310	40,633,730	21,013,930	7,272,800	28,286,730	48.12%	30.72%	43.65%
San Miguel	418,899,400	324,624,810	743,524,210	313,436,550	263,300,530	576,737,080	33.65%	23.29%	28.92%
Sedgwick	26,476,190	4,795,220	31,271,410	27,557,650	4,424,330	31,981,980	-3.92%	8.38%	-2.22%
Summit	535,648,368	750,537,041	1,286,185,409	512,345,581	686,760,403	1,199,105,984	4.55%	9.29%	7.26%
Teller	226,250,150	161,499,690	387,749,840	213,715,690	146,682,300	360,397,990	5.87%	10.10%	7.59%
Washington	91,109,748	9,842,131	100,951,879	76,793,837	9,092,259	85,886,096	18.64%	8.25%	17.54%
Weld	2,561,541,090	1,051,660,420	3,613,201,510	2,074,367,550	918,193,420	2,992,560,970	23.49%	14.54%	20.74%
Yuma	190,178,790	23,744,240	213,923,030	175,742,160	21,329,220	197,071,380	8.21%	11.32%	8.55%
<b>Total</b>	<b>37,515,002,511</b>	<b>33,110,601,388</b>	<b>70,625,603,899</b>	<b>34,160,080,997</b>	<b>30,470,840,993</b>	<b>64,630,921,990</b>	<b>9.82%</b>	<b>8.66%</b>	<b>9.28%</b>

**Table 6**

**DISTRIBUTION OF PERSONAL PROPERTY IN 2005**

<b>County</b>	<b>State Assd. Personal</b>	<b>% of Total</b>	<b>Locally Assd. Personal</b>	<b>% of Total</b>	<b>Total Personal</b>	<b>% of Total</b>	<b>Total Real</b>	<b>Total Assd. Value</b>
Adams	282,965,110	6.87%	351,544,610	8.54%	634,509,720	15.41%	3,483,795,500	4,118,305,220
Alamosa	10,003,620	8.84%	5,948,810	5.26%	15,952,430	14.09%	97,249,380	113,201,810
Arapahoe	259,337,420	3.82%	427,177,070	6.29%	686,514,490	10.11%	6,106,145,700	6,792,660,190
Archuleta	9,197,409	3.90%	5,706,377	2.42%	14,903,786	6.32%	220,966,677	235,870,463
Baca	22,929,674	36.75%	1,812,535	2.90%	24,742,209	39.65%	37,652,714	62,394,923
Bent	10,956,458	20.66%	1,014,795	1.91%	11,971,253	22.57%	41,069,689	53,040,942
Boulder	129,377,540	2.60%	376,484,250	7.57%	505,861,790	10.17%	4,468,012,840	4,973,874,630
Broomfield	33,375,390	3.72%	102,494,480	11.43%	135,869,870	15.15%	761,028,470	896,898,340
Chaffee	11,932,460	4.12%	8,354,180	2.89%	20,286,640	7.01%	269,181,000	289,467,640
Cheyenne	11,436,342	9.62%	12,920,606	10.87%	24,356,948	20.49%	94,533,032	118,889,980
Clear Creek	11,094,860	5.43%	16,142,770	7.91%	27,237,630	13.34%	176,922,190	204,159,820
Conejos	3,494,170	7.81%	960,730	2.15%	4,454,900	9.96%	40,286,860	44,741,760
Costilla	3,779,514	5.31%	600,228	0.84%	4,379,742	6.16%	66,772,203	71,151,945
Crowley	2,944,871	9.09%	585,470	1.81%	3,530,341	10.90%	28,869,316	32,399,657
Custer	3,433,580	4.58%	557,960	0.74%	3,991,540	5.32%	71,024,350	75,015,890
Delta	20,648,750	8.91%	18,243,990	7.87%	38,892,740	16.78%	192,821,080	231,713,820
Denver	720,165,310	8.07%	705,922,430	7.91%	1,426,087,740	15.99%	7,493,248,890	8,919,336,630
Dolores	8,903,535	25.97%	951,619	2.78%	9,855,154	28.75%	24,422,339	34,277,493
Douglas	108,911,190	2.81%	194,571,290	5.02%	303,482,480	7.83%	3,570,006,110	3,873,488,590
Eagle	46,610,700	2.11%	78,414,690	3.56%	125,025,390	5.67%	2,080,082,290	2,205,107,680
El Paso	230,582,510	4.17%	451,535,310	8.17%	682,117,820	12.34%	4,847,311,610	5,529,429,430
Elbert	13,478,945	5.53%	3,711,570	1.52%	17,190,515	7.06%	226,460,105	243,650,620
Fremont	19,733,500	5.39%	73,090,421	19.97%	92,823,921	25.36%	273,138,741	365,962,662
Garfield	46,220,220	2.61%	136,864,110	7.72%	183,084,330	10.33%	1,589,420,300	1,772,504,630
Gilpin	3,869,200	1.28%	22,215,950	7.38%	26,085,150	8.66%	275,082,090	301,167,240
Grand	23,762,400	4.15%	16,186,260	2.83%	39,948,660	6.98%	532,322,900	572,271,560
Gunnison	9,073,290	1.86%	36,286,510	7.43%	45,359,800	9.28%	443,274,630	488,634,430
Hinsdale	666,760	1.64%	436,800	1.07%	1,103,560	2.71%	39,581,930	40,685,490
Huerfano	13,896,629	13.89%	4,913,155	4.91%	18,809,784	18.80%	81,242,186	100,051,970
Jackson	1,947,493	6.64%	1,171,389	4.00%	3,118,882	10.64%	26,197,556	29,316,438
Jefferson	209,771,280	3.15%	398,583,550	5.98%	608,354,830	9.13%	6,057,024,830	6,665,379,660
Kiowa	2,700,805	8.85%	811,970	2.66%	3,512,775	11.50%	27,020,725	30,533,500
Kit Carson	16,012,553	16.14%	3,889,405	3.92%	19,901,958	20.06%	79,302,401	99,204,359
La Plata	55,515,930	2.23%	180,023,910	7.24%	235,539,840	9.47%	2,251,971,580	2,487,511,420
Lake	8,876,426	10.45%	4,318,439	5.08%	13,194,865	15.54%	71,731,522	84,926,387
Larimer	75,431,540	2.18%	283,704,320	8.20%	359,135,860	10.38%	3,101,875,282	3,461,011,142
Las Animas	36,437,980	7.57%	73,651,210	15.29%	110,089,190	22.86%	371,500,290	481,589,480
Lincoln	17,226,228	26.00%	1,762,196	2.66%	18,988,424	28.66%	47,263,008	66,251,432
Logan	34,004,000	19.67%	8,839,260	5.11%	42,843,260	24.78%	130,067,090	172,910,350
Mesa	82,264,460	6.53%	79,399,710	6.30%	161,664,170	12.84%	1,097,654,170	1,259,318,340
Mineral	943,360	3.94%	1,240,530	5.18%	2,183,890	9.13%	21,747,280	23,931,170
Moffat	128,951,650	33.04%	25,440,850	6.52%	154,392,500	39.56%	235,902,780	390,295,280
Montezuma	30,999,170	10.31%	17,357,400	5.77%	48,356,570	16.08%	252,337,830	300,694,400
Montrose	39,914,620	10.04%	20,290,770	5.10%	60,205,390	15.14%	337,505,950	397,711,340
Morgan	130,134,290	34.67%	41,122,790	10.96%	171,257,080	45.63%	204,053,140	375,310,220
Otero	17,789,760	16.29%	7,470,096	6.84%	25,259,856	23.13%	83,945,711	109,205,567
Ouray	4,852,610	3.46%	1,226,860	0.88%	6,079,470	4.34%	134,045,570	140,125,040
Park	10,828,583	3.06%	2,282,278	0.65%	13,110,861	3.71%	340,343,393	353,454,254
Phillips	2,396,180	5.48%	1,931,560	4.42%	4,327,740	9.90%	39,367,830	43,695,570
Pitkin	14,039,600	0.74%	36,109,680	1.91%	50,149,280	2.66%	1,838,490,720	1,888,640,000
Prowers	45,252,520	35.60%	6,395,350	5.03%	51,647,870	40.63%	75,454,550	127,102,420
Pueblo	108,066,270	10.29%	100,932,140	9.61%	208,998,410	19.90%	841,485,630	1,050,484,040
Rio Blanco	30,813,350	7.10%	55,975,830	12.90%	86,789,180	20.00%	347,099,170	433,888,350
Rio Grande	7,940,970	5.88%	6,232,290	4.62%	14,173,260	10.50%	120,796,400	134,969,660
Routt	74,423,380	9.41%	34,937,760	4.42%	109,361,140	13.83%	681,417,930	790,779,070
Saguache	4,896,473	9.88%	919,147	1.85%	5,815,620	11.73%	43,752,917	49,568,537
San Juan	1,439,280	3.54%	773,070	1.90%	2,212,350	5.44%	38,421,380	40,633,730
San Miguel	10,436,660	1.40%	13,885,570	1.87%	24,322,230	3.27%	719,201,980	743,524,210
Sedgwick	9,425,850	30.14%	851,870	2.72%	10,277,720	32.87%	20,993,690	31,271,410
Summit	26,202,140	2.04%	55,523,474	4.32%	81,725,614	6.35%	1,204,459,795	1,286,185,409
Teller	12,008,273	3.10%	43,936,100	11.33%	55,944,373	14.43%	331,805,467	387,749,840
Washington	19,345,010	19.16%	2,722,810	2.70%	22,067,820	21.86%	78,884,059	100,951,879
Weld	356,719,130	9.87%	225,776,680	6.25%	582,495,810	16.12%	3,030,705,700	3,613,201,510
Yuma	21,553,900	10.08%	11,305,990	5.29%	32,859,890	15.36%	181,063,140	213,923,030
<b>TOTALS</b>	<b>3,722,343,081</b>	<b>5.27%</b>	<b>4,806,445,230</b>	<b>6.81%</b>	<b>8,528,788,311</b>	<b>12.08%</b>	<b>62,096,815,588</b>	<b>70,625,603,899</b>

**RESIDENTIAL ASSESSMENT RATE**

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

The purpose of the Gallagher Amendment is to stabilize residential real property’s share of the statewide property tax base. From 1958 to 1982, the percentage of total assessed value comprised of residential property increased from 29 to 44 percent. This occurred primarily because market value increases to residential property greatly outpaced market value increases to non-residential property.

To counter this trend, The Gallagher Amendment requires a biennial adjustment of the residential assessment rate to ensure that the rate of change to the state’s total assessed value be the same for both residential and non-residential property, after excluding certain categories of value. The excluded categories are new construction, destroyed property, and changes in production volumes of natural resources property. The current residential assessment rate is 7.96 percent of assessed value. In contrast, the assessment rate for most classes of non-residential property is fixed at 29 percent. A history of changes to the residential assessment rate is shown in Table 7.

**Table 7**

<b><u>Years</u></b>	<b><u>Residential Assessment Rate</u></b>
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%
2005-2006.....	7.96%

Adjustment of the residential assessment rate is governed by § 3(1)(b) of Article X of the Colorado Constitution and § 39-1-104.2(5), C.R.S. During years of change in the level of value (odd numbered years), the legislature is required to enact into law the residential assessment rate estimated to achieve the same percentage split between residential and non-residential property that existed in the prior year, except for the excluded categories. The residential portion of the split, or “target percentage,” is also enacted into law. The target percentage itself is adjusted to account for the excluded items. The current residential target percentage is 47.22 percent.

Section 39-1-104.2(5)(c), C.R.S., requires the Property Tax Administrator to complete a documented study, calculating the target percentage and estimating the residential assessment rate needed to achieve it. The findings are used by the legislature for enacting the new target percentage and residential assessment rate.

**2005 Residential Rate Calculation**

Three major calculations are required to determine the residential assessment rate. (NOTE: our example portrays the calculations for the 2005-2006 level of value period):

- 1) Calculate the 2005 Target Percentage - The 2003 target percentage was adjusted to account for new construction, destroyed property and changes to the volumes of natural resources production. To do so, a hypothetical total assessed value of residential property in 2003 was calculated that, if achieved, would have resulted in residential property comprising exactly 47.08 percent (rounded) of the total taxable assessed value. The value of 2003 and 2004 residential net new construction was then added to that figure. The value of 2003 and 2004 non-residential net new construction and the values associated with changes in production volumes of the natural resources classes were added to the total assessed value of 2003 non-residential property. The new target

percentage of 47.22 percent represents the residential portion of the total adjusted value.

2) Estimate 2005 values – Because the residential assessment rate study is completed prior to the establishment of new actual and assessed values, the most sensitive step involves an estimation of what those values will be. In November/December 2004, employees of the Administrative Resources Section interviewed the assessor and appropriate staff in every county to obtain their estimates of value changes. In addition, a linear regression technique known as time trending was used to develop estimates from county sales data. For the oil and gas class, a statewide estimate was developed using data obtained from the Colorado Oil and Gas Conservation Commission. For state assessed property, appraisers in the State Assessed Section estimated value changes for the industries they value, resulting in an overall estimate for the state assessed class. The value estimates in this step do not include 2005 new construction.

3) Calculate the new rate – The 2005 study calculated a new residential assessment rate of 8.17 percent. That figure, when multiplied by the estimated actual value of residential property, results in an assessed value estimate that is 47.22 percent (rounded) of the estimated 2005 total taxable value. In other words, it is the rate estimated to achieve the 2005 target percentage.

Although the study indicated that the rate should be adjusted upward to 8.17 percent, Section 20(4) of Article X of the Colorado Constitution, prohibits an increase of the rate without statewide voter approval. Therefore, the legislature maintained the residential assessment rate at 7.96 percent for tax years 2005 and 2006.

**Shift of Assessed Values & Tax Burden**

Table 8, on the following page, calculates the savings to residential taxpayers from the inception of the Gallagher Amendment through 2005. 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 \$10,191,284,817.

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 9, 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 77.78 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 8**

**Shift of Property Tax Burden Due to the Gallagher Amendment**

	1987	1988	1989	1990	1991	1992	1993	1994	1995
1. <b>Res. Rate w/o Gallagher</b>	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%	21.00%
2. <b>Actual Res. Rate</b>	18.00%	16.00%	15.00%	15.00%	14.34%	14.34%	12.86%	12.86%	10.36%
3. <b>Avg. Actual Mill Levy</b>	0.061631	0.068941	0.076599	0.077543	0.082883	0.084618	0.084215	0.084423	0.082287
4. <b>Avg. Mill Levy @ 21%</b>	0.057041	0.060260	0.064812	0.065465	0.068395	0.069563	0.065064	0.065084	0.055600
5. <b>Total True Res. Assd. Val.</b>	\$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. <b>Total True Assd. Val.</b>	\$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. <b>Total Res. Assd. Val. @ 21%</b>	\$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. <b>Total Assd. Val. @ 21%</b>	\$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. <b>Total True Revenue</b>	\$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. <b>Res. Revenue @ 21%</b>	\$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. <b>Res. Rev. @ True Rate</b>	\$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. <b>Savings to Res. Taxpayers</b>	<b><u>\$79,064,785</u></b>	<b><u>\$147,836,269</u></b>	<b><u>\$187,262,167</u></b>	<b><u>\$188,963,583</u></b>	<b><u>\$222,648,266</u></b>	<b><u>\$228,704,050</u></b>	<b><u>\$294,643,464</u></b>	<b><u>\$305,366,542</u></b>	<b><u>\$460,958,707</u></b>

**Table 8 (continued)**

<b>Shift of Property Tax Burden Due to the Gallagher Amendment</b>										
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
1. Res. Rate w/o Gallagher	21.00%	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%	7.96%
3. Avg. Actual Mill Levy	0.082951	0.078773	0.080042	0.074927	0.075733	0.070416	0.072350	0.074335	0.074969	0.075228
4. Avg. Mill Levy @ 21%	0.055931	0.051464	0.052162	0.048756	0.049182	0.043633	0.044696	0.041705	0.042274	0.042507
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	\$33,110,601,388
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	\$70,466,165,655
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	\$87,352,089,089
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	\$124,707,653,356
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	\$5,301,008,623
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	\$3,713,117,560
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	\$2,490,834,883
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>	<u>\$1,222,282,677</u>
<b>An Estimate of Total Savings to Residential Taxpayers from Inception to 2005 =</b>										<b>\$10,191,284,817</b>

**Table 9**

**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%
2005	\$70,625,603,899	\$33,110,601,388	\$37,515,002,511	2005	100.00%	46.88%	53.12%

**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%
2005	\$534,826,428,655	\$415,962,328,995	\$118,864,099,660	2005	100.00%	77.78%	22.22%

## **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 2005, Larimer County received the greatest number of appeals with 14,783 while Kiowa County received none. For many counties, the protest process places a significant strain on the resources of the assessor's office. Table 10 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 11 provides a summary of protest and appeal statistics.

Taxpayers can protest and appeal in 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 12 displays the taxes abated during 2003, 2004, and 2005.

**Table 10**

<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>2001</u>	<u>2003</u>	<u>2005</u>	<u>2001</u>	<u>2003</u>	<u>2005</u>	<u>2001</u>	<u>2003</u>	<u>2005</u>
Adams	4,558	9,295	8,404	109	227	195	1,059	2,459	1,488
Arapahoe	9,836	7,442	5,119	141	103	71	1,040	2,593	1,337
Boulder	8,618	10,910	6,741	180	235	145	978	1,620	648
Broomfield		1,260	939		144	104		206	111
Denver	7,521	9,356	5,784	74	108	70	1,742	2,441	1,807
Douglas	6,730	7,030	6,360	143	143	127	2,001	2,115	2,512
El Paso	6,240	5,300	7,000	106	90	113	1,210	1,230	1,440
Jefferson	9,566	14,419	8,285	139	257	145	1,208	2,271	1,557
Larimer	13,422	17,275	14,783	274	353	279	916	2,681	2,035
Pueblo	794	690	733	23	20	23	5	12	3
Weld	4,969	5,075	4,626	121	134	119	133	380	468
<b>Category 2</b>									
Eagle	4,985	2,968	2,550	208	135	116	1,325	947	495
Fremont	1,498	669	1,221	136	51	94	31	0	17
Garfield	1,230	1,774	1,166	88	111	69	35	704	339
La Plata	721	1,854	1,466	42	103	75	35	57	57
Mesa	4,143	3,011	2,658	153	112	95	421	311	2,658
Pitkin	1,543	1,733	963	171	173	96	416	530	181
Summit	4,236	4,532	3,283	212	239	173	343	587	300
<b>Category 3</b>									
Archuleta	750	1,041	1,303	94	110	118	9	268	32
Chaffee	1,551	1,128	1,177	141	125	131	118	110	164
Clear Creek	976	1,017	779	174	182	139	41	37	12
Delta	845	731	609	89	66	57	66	24	14
Grand	1,862	1,209	1,047	177	114	95	152	100	91
Gunnison	1,624	1,516	943	148	138	86	86	146	64
Las Animas	738	573	403	74	57	40	15	18	4
Logan	364	246	231	33	25	26	18	23	13
Moffat	181	295	289	26	42	48	9	38	6
Montrose	575	605	645	52	53	61	37	88	97
Morgan	320	382	504	27	29	46	5	13	29
Otero	204	185	103	26	21	13	4	2	6
Park	2,100	3,029	2,324	191	263	186	170	184	348
Rio Blanco	123	151	77	19	25	13	1	6	0
Routt	1,899	1,552	837	181	148	73	547	131	150
San Miguel	937	1,041	761	117	116	109	85	196	134
Teller	1,737	1,523	917	109	95	61	338	99	110
<b>Category 4</b>									
Alamosa	277	181	151	35	23	19	28	18	7
Custer	163	192	98	41	38	20	1	2	1
Elbert	449	639	612	32	46	47	18	21	175
Gilpin	218	1,062	378	44	266	63	6	24	10
Huerfano	211	173	127	35	29	21	9	42	2
Kit Carson	232	200	194	58	50	49	8	3	5
Lake	649	247	246	130	41	41	58	28	7
Montezuma	569	554	486	57	55	54	30	23	71
Ouray	267	359	413	67	120	103	13	22	21
Prowers	880	350	350	147	58	70	2	0	0
Rio Grande	430	349	332	61	50	83	10	1	4
Washington	50	61	90	10	12	18	1	36	1
Yuma	353	372	256	59	74	51	0	102	1
<b>Category 5</b>									
Baca	25	34	5	6	10	1	0	0	0
Bent	75	92	134	25	23	34	1	2	2
Cheyenne	68	36	60	23	12	20	3	1	3
Conejos	297	427	137	66	95	137	3	0	0
Costilla	194	101	54	39	20	11	3	9	5
Crowley	25	46	11	25	46	11	0	2	0
Dolores	89	57	112	27	18	37	2	1	0
Hinsdale	142	133	81	71	67	41	6	10	6
Jackson	60	10	1	30	5	1	5	2	1
Kiowa	2	0	0	1	0	0	0	0	0
Lincoln	41	38	24	8	8	5	0	1	0
Mineral	300	10	6	226	7	4	4	1	0
Phillips	97	39	37	32	13	12	5	1	0
Saguache	94	208	43	24	38	9	1	2	0
San Juan	24	41	56	16	27	56	0	0	2
Sedgwick	58	7	14	29	4	7	0	0	14

**Table 11**

<b><u>Assessors:</u></b>	<b><u>2001</u></b>	<b><u>2003</u></b>	<b><u>2005</u></b>
Total Parcels	2,390,325	2,440,708	2,353,265
Parcels/Schedules Protested	113,735	126,835	99,538
Protests as a Percent of Total Parcels	4.76%	5.20%	4.23%
Percent Change from Prior Reappraisal	2.26%	11.52%	-21.52%
<b><u>County Boards of Equalization (CBOE):</u></b>			
Parcels/Schedules Appealed to CBOE	14,816	22,981	19,065
Percent of CBOE Appeals to Protests	13.03%	18.12%	19.15%
<b><u>Board of Assessment Appeals (BAA):</u></b>			
BAA Dockets	2,111	2,279	1,768
Percent of BAA Appeals to CBOE Appeals	14.25%	9.92%	9.27%
Percent of BAA Appeals to Protests	1.86%	1.80%	1.78%
Percent of BAA Appeals to Total Parcels	0.09%	0.09%	0.08%
<b><u>Additional Assessor Costs:</u></b>			
Dollars of Overtime Paid	\$135,702	\$184,007	\$93,226
Hours of Compensation Time Granted	10,412	7,131	2,825
<b><u>Parcels Protested Per Assessor's Employee:</u></b>			
Average Number Protested Per Employee	116	137	109
Maximum Number Protested Per Employee	274	353	279
Minimum Number Protested Per Employee	0	0	0
<b><u>Parcels Protested Per Employee – Frequency Distribution:</u></b>			
0 – 50	26	27	28
51 – 100	13	11	19
101 – 200	20	18	16
201 – 300	4	6	1
301 – 400	0	2	0
Counties Reporting	<u>63</u>	<u>64</u>	<u>64</u>
Parcel count derived from county Abstracts of Assessment. Includes condominium units.			
Board of Assessment Appeal (BAA) dockets include appeals from County Board of Equalization (CBOE) and county abatement decisions			
Overtime/comp time figures not available from all counties.			

Table 12

**Abatements, Refunds, and Cancellations of Taxes  
Reported by Treasurers for 2005, 2004 and 2003**

County	2005 Abatement Amounts	2005 Abatement Counts	2005 Average Abated	2004 Abatement Amounts	2004 Abatement Counts	2004 Average Abated	2003 Abatement Amounts	2003 Abatement Counts	2003 Average Abated
Adams	\$1,600,299	282	\$5,675	\$1,262,430	850	\$1,043	\$3,206,764	687	\$4,668
Alamosa	\$15,899	29	\$548	\$83,899	79	\$1,062	\$21,846	44	\$497
Arapahoe	\$12,011,410	1,809	\$6,640	\$7,936,426	2,586	\$3,069	\$10,779,228	6,105	\$1,766
Archuleta	\$26,346	34	\$775	\$69,834	41	\$1,703	\$133,479	88	\$1,517
Baca	\$3,855	33	\$117	\$24,521	49	\$500	\$8,102	69	\$117
Bent	\$4,258	33	\$129	\$305,479	13	\$23,498	\$55,699	40	\$1,392
Boulder	\$2,688,995	1,537	\$1,750	\$2,471,330	1,440	\$1,716	\$2,672,348	1,489	\$1,795
Broomfield	\$3,163,395	819	\$3,863	\$1,950,541	564	\$3,458	\$1,051,880	560	\$1,878
Chaffee	\$76,858	63	\$1,220	\$41,889	76	\$551	\$15,336	40	\$383
Cheyenne	\$1,471	29	\$51	\$34,272	31	\$1,106	\$2,619	46	\$57
Clear Creek	\$44,203	113	\$391	\$711,987	161	\$4,422	\$36,080	99	\$364
Conejos	\$20,347	62	\$328	\$34,328	129	\$266	\$9,909	78	\$127
Costilla	\$483	7	\$69	\$1,869	7	\$267	\$233	1	\$233
Crowley	\$86,231	8	\$10,779	\$1,430	9	\$159	\$1,848	7	\$264
Custer	\$3,639	14	\$260	\$16,875	16	\$1,055	\$2,280	11	\$207
Delta	\$81,954	95	\$863	\$68,089	128	\$532	\$53,104	351	\$151
Denver	\$8,992,189	2,220	\$4,051	\$7,037,842	2,717	\$2,590	\$7,673,471	2,153	\$3,564
Dolores	\$10,724	8	\$1,341	\$2,710	14	\$194	\$43,603	26	\$1,677
Douglas	\$2,017,745	1,282	\$1,574	\$4,260,407	773	\$5,512	\$1,600,648	842	\$1,901
Eagle	\$647,105	436	\$1,484	\$1,073,632	345	\$3,112	\$590,914	337	\$1,753
Elbert	\$284,433	151	\$1,884	\$123,532	81	\$1,525	\$188,715	171	\$1,104
El Paso	\$2,592,135	1,260	\$2,057	\$3,343,601	1,795	\$1,863	\$2,788,047	893	\$3,122
Fremont	\$236,156	409	\$577	\$686,068	1,132	\$606	\$621,434	401	\$1,550
Garfield	\$78,748	81	\$972	\$679,747	115	\$5,911	\$485,162	47	\$10,323
Giipin	\$6,159	25	\$246	\$189,867	180	\$1,055	\$56,796	200	\$284
Grand	\$130,970	86	\$1,523	\$225,373	129	\$1,747	\$160,936	67	\$2,402
Gunnison	\$382,934	480	\$798	\$119,859	360	\$333	\$101,062	63	\$1,604
Hinsdale	\$848	1	\$848	\$19,586	28	\$700	\$1,902	17	\$112
Huerfano	\$175,900	283	\$622	\$76,020	183	\$415	\$329,631	73	\$4,515
Jackson	\$3,402	16	\$213	\$5,296	44	\$120	\$13,129	155	\$85
Jefferson	\$3,770,432	2,013	\$1,873	\$4,975,944	2,063	\$2,412	\$4,140,319	1,877	\$2,206
Kiowa	\$980	5	\$196	\$966	4	\$249	\$2,656	16	\$166
Kit Carson	\$79,269	58	\$1,367	\$61,522	59	\$1,043	\$86,528	22	\$3,933
Lake	\$43,332	188	\$230	\$100,490	341	\$295	\$47,297	186	\$254
La Plata	\$119,750	131	\$914	\$447,656	819	\$547	\$106,146	182	\$583
Larimer	\$2,802,321	1,251	\$2,240	\$2,580,222	1,529	\$1,688	\$1,254,955	941	\$1,334
Las Animas	\$62,011	38	\$1,632	\$11,240	43	\$261	\$74,469	15	\$4,965
Lincoln	\$29,660	41	\$723	\$7,390	14	\$528	\$17,837	25	\$713
Logan	\$5,741	10	\$574	\$29,537	16	\$1,846	\$34,512	60	\$575
Mesa	\$308,778	385	\$802	\$483,023	731	\$661	\$614,247	807	\$761
Mineral	\$0	0	\$0	\$0	0	\$0	\$636	1	\$636
Moffat	\$19,158	67	\$286	\$297,881	112	\$2,660	\$113,310	97	\$1,168
Montezuma	\$23,859	63	\$379	\$138,526	105	\$1,319	\$66,316	84	\$789
Montrose	\$87,498	130	\$673	\$53,342	169	\$316	\$51,185	262	\$195
Morgan	\$13,664	240	\$57	\$462,673	873	\$530	\$25,517	50	\$510
Otero	\$2,609	9	\$290	\$22,591	21	\$1,076	\$15,427	15	\$1,028
Ouray	\$24,651	26	\$948	\$23,612	49	\$482	\$38,831	59	\$658
Park	\$90,752	422	\$215	\$146,985	638	\$230	\$82,703	1,005	\$82
Phillips	\$17,294	29	\$596	\$6,503	19	\$342	\$1,368	18	\$76
Pitkin	\$238,149	111	\$2,127	\$350,975	254	\$1,382	\$316,841	115	\$2,755
Prowers	\$222,608	51	\$4,365	\$79,083	50	\$1,582	\$20,219	21	\$963
Pueblo	\$149,331	332	\$450	\$613,932	321	\$1,913	\$596,090	1,402	\$425
Rio Blanco	\$28,731	38	\$756	\$484,921	39	\$12,434	\$416,010	43	\$9,675
Rio Grande	\$21,462	39	\$550	\$32,038	86	\$373	\$61,777	37	\$1,670
Routt	\$95,080	289	\$329	\$699,543	236	\$2,964	\$466,588	294	\$1,587
Saguache	\$7,639	27	\$283	\$15,344	62	\$247	\$34,904	57	\$612
San Juan	\$0	0	\$0	\$0	0	\$0	\$5,081	8	\$635
San Miguel	\$119,296	28	\$4,261	\$80,031	96	\$834	\$120,002	97	\$1,237
Sedgwick	\$5,196	48	\$108	\$1,892	17	\$111	\$1,306	4	\$327
Summit	\$480,169	838	\$573	\$581,703	447	\$1,301	\$1,554,087	1,319	\$1,178
Teller	\$290,866	95	\$3,062	\$237,048	151	\$1,570	\$134,205	141	\$952
Washington	\$38,654	74	\$522	\$13,636	17	\$802	\$84	5	\$17
Weid	\$2,820,759	2,068	\$1,364	\$1,357,785	927	\$1,465	\$1,498,040	3,122	\$480
Yuma	\$33,442	55	\$608	\$178,572	48	\$3,720	\$20,561	89	\$231
<b>Totals:</b>	<b>\$47,440,232</b>	<b>20,904</b>	<b>\$2,269</b>	<b>\$47,435,375</b>	<b>24,431</b>	<b>\$1,942</b>	<b>\$44,726,259</b>	<b>27,636</b>	<b>\$1,618</b>

## 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 2005, counties processed approximately 1,5000 new applications, and the exemption was granted to most of them. Currently 138,674 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 2005, the Division denied exemptions on 33 properties owned by 19 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 2005 tax year to the following counties that have "agricultural timberland." The results are detailed in Table 13.

**Table 13**

<u>County</u>	<u>Assessed Value Difference</u>	<u>Loss of Revenue</u>
Archuleta	\$ 2,627,490	\$ 141,216
Boulder	\$ 5,375,870	\$ 361,402
Chaffee	\$ 2,315,979	\$ 98,677
Clear Creek	\$ 649,910	\$ 50,454
Custer	\$ 506,660	\$ 28,467
Douglas	\$ 7,056,559	\$ 603,586
Eagle	\$ 2,259,260	\$ 92,361
El Paso	\$ 563,600	\$ 41,447
Elbert	\$ 107,421	\$ 7,942
Garfield	\$ 60,950	\$ 3,367
Gilpin	\$ 1,516,781	\$ 64,998
Grand	\$14,178,050	\$1,345,660
Gunnison	\$ 38,500	\$ 1,623
Hinsdale	\$ 21,120	\$ 764
Jackson	\$ 12,202	\$ 563
Jefferson	\$ 10,130,419	\$ 883,923
Lake	\$ 585,243	\$ 45,049
La Plata	\$15,876,907	\$ 476,307
Larimer	\$ 3,298,436	\$ 233,167
Mesa	\$ 68,410	\$ 4,155
Montrose	\$ 24,330	\$ 1,370
Ouray	\$ 41,705	\$ 3,019
Park	\$ 672,464	\$ 34,027
Pitkin	\$ 83,140	\$ 5,616
Rio Blanco	\$ 778,453	\$ 5,655
Routt	\$ 6,834,124	\$ 376,548
San Miguel	\$ 3,122,023	\$ 100,532
Summit	\$ 1,260,815	\$ 57,977
Teller	\$ 2,256,000	\$ 146,351
<b>TOTAL</b>	<b>\$82,322,821</b>	<b>\$5,216,223</b>

An estimated 50.7 percent of this lost revenue, or \$2,644,625 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 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 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 that 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 so it did 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 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 § 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 would 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 of Equalization (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...,” the court said, (p. 1275).

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,” the court said, (p. 1277). 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."

## 2005 PROPERTY TAX LEGISLATION

### SENATE BILLS

#### SB 05-045

**Concerning authorization for certain special water districts to provide park and recreation services in connection with a reservoir.**

The Reuter-Hess Reservoir is being managed by the Parker Water and Sanitation District. To resolve any conflicts between the water management and the recreation management, SB 05-045 allows a water district or water and sanitation district to provide park and recreation improvement services unless another entity is already providing the same services.

Section 1 amends § 32-1-1006 C.R.S., by the addition of a new subsection (8)(a) that allows a water district or water and sanitation district to provide park and recreation improvements and services if no other entity is currently providing such improvements and services.

Subsection (8)(b) prohibits other entities from providing such services and improvements without the consent of the district's board once the board adopts a resolution to provide the services and improvements.

Subsection (8)(c) specifies the district's powers including the ability to impose fees or charges in connection with improvements and services, and that the provision of the services and improvements is not a material modification of the district's service plan.

Section 2 amends § 37-45-118(1), C.R.S. by the addition of a new paragraph (q) to the general powers of a water conservancy district that is essentially the same as the above amendments in § 32-1-1006, C.R.S.

Signed by Governor Owens: April 5, 2005  
Effective Date: Upon signature

#### SB 05-056

**Concerning amounts paid in connection with a property tax appeal, and, in connection therewith, establishing that, in the event of a sustained appeal, the appellant shall provide the assessor notice of a sustained appeal, and that the assessor shall provide the treasurer copies of such notice prior to the appellant receiving a refund of taxes, delinquent interest, cost, and witness fees.**

Because of delay in the decisions of the Board of Assessment Appeals, district court, court of appeals, and Supreme Court, county treasurers were having trouble identifying who should get the refund of taxes on a sustained appeal. The treasurer's records indicate the owner at the time the tax warrant was issued or who paid the taxes. The appellant in the case may have sold the property after filing an appeal, possibly causing the treasurer to refund the taxes to the wrong taxpayer. To solve this problem, the Broomfield and Larimer County Treasurers promoted this bill, which causes the treasurer to receive a copy of the decision from the assessor.

Section 1 amends § 39-8-109, C.R.S., by requiring the appellant in a sustained appeal to provide a copy of the order or judgment of the Board of Assessment Appeals or district court to the county assessor. If appealed, the appellant shall give the county assessor a copy of the original order or judgment and copies of all further decisions of the Board of Assessment Appeals, district court, court of appeals, and Supreme Court. The assessor forwards copies of all orders or judgments to the treasurer. Upon receiving the copies, the treasurer will issue the appellant, identified in the order or judgment of the Board of Assessment Appeals or district court, the appropriate refund of taxes and delinquent interest.

The assessor will receive two copies of the decision, one from the appeal body and another from the appellant. If the appellant fails to furnish copies to the assessor, the

assessor should give the treasurer a copy of the decision received from the appeal body. The treasurer does not care which copy he/she receives. The important issue is that the treasurer can identify that the transaction is different from any abatements that are processed and that they must refund the money to the taxpayer named in the order.

Signed by Governor Owens: April 05, 2005  
Effective Date: April 05, 2005.

### **SB 05-105**

#### **Concerning the alternative protest and appeal procedure for taxpayers to contest the valuation of taxable property for property tax purposes in specified counties that elect to use the alternative procedure.**

Under current law, Denver, Jefferson, El Paso, and Boulder counties are authorized to set a different appeal procedure for real property tax appeals. The legislation authorizing the alternative appeal process was passed in 1998 (SB 98-093); business personal property tax appeals were left out of the statute. The original draft of this bill allowed conformity by adding business personal property assessment appeals to the alternate appeal process and added Larimer County to the list of authorized counties. The House Local Government Committee amended the bill to give the option to all counties in the state.

Section 1 amends § 39-5-122(2), C.R.S., by including personal property to the extended protest period allowed under Section 39-5-122.7(1). When a county utilizes an alternate protest period, the assessor mails the notices of determination on or before the last working day in August in the case of both real and personal property.

Section 2 amends § 39-5-122.7(1), C.R.S., by removing specific counties and allowing that any county may, at the request of the assessor and approval by the county commissioners, elect to use an alternate protest and appeal procedure to determine

objections and protests concerning valuations of taxable property.

Section 3 amends § 39-8-106(1)(a), C.R.S., by adding personal property to the existing language, which establishes a deadline of September 15 for filing appeals with the county board of equalization under the alternate protest period allowed in § 39-5-122.7(1), C.R.S.

Note: The deadline for the personal property report to the county commissioners, required by § 39-8-105(2), C.R.S., was not amended. The Division of Property Taxation recommends the report be made the second Monday in September for counties utilizing the alternate protest and appeal procedure.

§ 39-8-105, C.R.S. Reports of assessor.

(1) At a meeting of the county board of equalization on the second Monday in July, or on the second Monday in September in a county that has made an election pursuant to section 39-5-122.7(1), C.R.S., the assessor shall report the valuation for assessment of all taxable real property in the county. The assessor shall submit a list of all persons who have appeared before him or her to present objections or protests concerning real property and his or her action in each case.

(2) At a meeting of the board on July 15, the assessor shall report the valuation of all taxable personal property in the county and shall note any valuations for assessment of portable or movable equipment which have been apportioned pursuant to the provisions of section 39-5-113, C.R.S. He shall submit a list of all persons in the county who have failed to return any schedules and shall report his action in each case. He shall also submit a list of persons who have appeared before him to present objections or protests and his action in each case.

Signed by Governor Owens: April 27, 2005  
Effective Date: Upon signature  
Note: Applies to property tax years beginning 2006.

**SB 05-106**  
**Concerning the categorization of Gilpin County for the purposes of establishing salaries of county officers.**

Limited gaming officially started in Gilpin County on October 1, 1991. Since that time, the county has seen extreme growth in assessed valuation and new construction of commercial property. Because of this growth, the county has had a strain on services. In addition the county's close proximity to the metro area requires that employee salaries be competitive. As a category IV county, it would be entirely possible that if an office holder did not finish a term, the chief deputy would have to take a pay cut to assume the job of the vacating office holder. Because of this type of situation, the county commissioners felt the county category needed to be changed to a Category III.

Section 1 amends §§ 30-2-102 (1)(c) and (1)(d), C.R.S., changing the categorization of Gilpin County from Category IV to Category III for the purposes of establishing salaries of county officers.

Signed by Governor Owens: April 22, 2005  
Effective Date: August 10, 2005, if no referendum petition is filed.

Note: The category change is effective January 2007, as 39-2-102(3)(e), C.R.S., states in part, "No elected officer shall have his compensation increased or decreased during the term of office to which he has been elected or appointed..."

**SB 05-154**  
**Concerning the payment of taxes to the county treasurer.**

A taxpayer in Douglas County submitted or mailed payment for his property taxes that did not include the interest assessed as a penalty for late payment. The county treasurer refused to accept this partial payment of the total amount due. The taxpayer went to small claims court and got a ruling that the county treasurer had to accept his payment of taxes less the delinquent interest.

The ruling is not binding on any other property tax partial payment, but it did identify a lack of clarity in the statute governing failure to pay and delinquency. If this lack of clarity continued, property taxpayers could delay paying until the day before the tax lien sale without incurring additional cost. Such a delay in payment would cause hardship for those governmental entities that depend on property taxes to meet their obligations.

The bill clarifies the language in § 39-10-104.5, C.R.S., by stating that any payment under this section shall be deemed received by the treasurer on the date that the installment or full payment, including any penalties or fees due, is actually received in the treasurer's office. The receipt is presumed as of the date of the US Postal Service postmark.

Section 1 amends § 39-10-104.5 C.R.S., by adding language that the payment may be an installment or full payment, including any penalties or fees due.

Signed by Governor Owens: April 14, 2005  
Effective Date: Upon signature

**SB 05-188**  
**Concerning the establishment of a county elected officials' salary commission.**

The act creates the County Elected Officials' Salary Commission by establishing article 3 title 30, C.R.S., and it

states that the creation came about because “the salaries for county elected officials should be based upon equitable and proper standards in order that such salaries accurately reflect the duties and responsibilities . . . and that citizens of the highest quality may be attracted to public service.”

The Commission has 13 members – 12 members appointed by the President of the Senate and the Speaker of the House and 1 member appointed by the Executive Director of the Department of Local Affairs. Provision is made if the President and Speaker cannot agree on appointments. Four of the commission members initially appointed by the President and Speaker will serve two-year terms and the remainder of the commission members will serve four-year terms. Subsequent members will serve four-year terms. A commission member may be reappointed once. The bill states that the members shall serve without compensation and shall not be entitled to reimbursement for expenses.

The 12 legislatively appointed members must be composed of:

seven members that include a:  
County Commissioner,  
County Sheriff,  
County Clerk and Recorder,  
County Assessor,  
County Treasurer,  
County Coroner, AND  
County Surveyor.

Two members must be employees of county departments of personnel or human resources as follows:

One appointee from a Category I County  
One appointee from a Category II, III, IV, or V County

Three members representing the general public

The commission must study:

1. Salaries paid to county elected officials
2. Responsibilities of each county elected official and the scope of authority of the entity in which the official serves
3. The relative level of difficulty in performing the duties of each county elected official
4. The amount of time directly or indirectly related to the performance of the duties, functions, and services of each county elected official
5. The current level of salaries for comparable employment in other places of public and private employment competitive labor markets

The commission members had to be appointed by July 15, 2005, and hold the first meeting by August 1. Then, a report must be presented to the Local Government Committees of the General Assembly no later than the 1st day of the 2nd regular session of the 65th General Assembly – January 2006. Thereafter, the reports must be submitted every four years.

The report must contain, “recommendations of the commission as to the appropriate levels of salaries to be paid to county elected officials in each category of county as set forth in section 30-2-102 for the quadrennial period following the submission of the report and any additional facts and information in the judgment of the commission that are relevant to this determination. The recommendations contained in the report shall be based on sound and systematic occupational analysis and job evaluation methods and shall consider the information studied in subsection (1) of this section,” § 30-3-105(4), C.R.S.

Signed by Governor Owens: June 7, 2005  
Effective: Upon signature

**SB 05-224**

**Concerning a process for addressing county service impacts related to an urban renewal project, and, in connection therewith, requiring analysis of and a plan for financing such impacts, allowing agreements concerning such impacts, and establishing a process for dispute resolution where agricultural land is involved.**

The bill is a result of negotiations between Colorado Counties Inc. and Colorado Municipal League, regarding greater cooperation between municipal and county interests as it relates to the use of urban renewal. The bill only applies to urban renewal plans.

In summary, the bill:

Spells out more clearly the type of information a municipality or urban renewal authority must provide a county regarding fiscal impacts upon county services and infrastructure and establishes deadlines for the information exchange.

Allows greater flexibility on spending revenues outside the urban renewal authority.

Authorizes the ability of counties and municipalities to enter into urban renewal revenue-sharing agreements.

Permits a county to enforce the provisions of the legislation through an arbitration process.

Signed by Governor Owens: June 3, 2005  
Effective: Upon signature

**SB 05-232**

**Concerning the property tax deferral for the elderly and military personnel.**

Section 1 amends § 39-305-103(1)(d)(I), C.R.S., by adding language that the current statute applies prior to January 1,

2006. The section adds new language that becomes effective on or after January 1, 2006.

Under current law, in order for a property to meet the qualifications for a property tax deferral, the owner of the property must be 65 years old or older and the total value of all liens against the property must be less than or equal to the total actual value of the property. Or, if the owner is a person called into military service, the total value of all liens must be less than or equal to ninety percent of the actual value of the property. The actual value of the property is determined by the most recent appraisal by the county assessor as of the time that the claim is submitted.

On or after January 1, 2006, in addition to the prior requirements, property is not eligible for the program unless the property meets either of the following conditions:

If the owner is 65 years old or older, the total value of all liens, mortgages, and deeds of trust on the property, excluding any that the holder has agreed in writing to subordinate to the lien of the state for deferred taxes, must be less than or equal to 75 percent of the actual value of the property as determined by the county assessor.

If the owner is a person called into military service, the total value of all liens, mortgages, and deeds of trust on the property, excluding any that the holder has agreed in writing to subordinate to the lien of the state for deferred taxes, must be less than or equal to 90 percent of the actual value of the property as determined by the county assessor.

Section 2 amends § 39-3.5-104, C.R.S., by adding a new paragraph (1)(d.5) that states, on or after January 1, 2006, the claim for deferral must list the actual value of the property based on the most recent appraisal by the county assessor.

Section 3 amends § 39-3.5-112, C.R.S., by adding a new subsection (1.5)(a), that identifies instances when the loan does not become payable.

When a taxpayer who claimed a tax deferral dies, the loan for deferred real estate tax, including accrued interest, shall not become payable if:

The taxpayer was a person called to military service, and

The taxpayer is survived by a spouse and the property is the homestead of the surviving spouse and meets the requirements of § 39-3.5-103(1)(b) and (1)(c), C.R.S.

Then, the deferred real property tax loan plus interest becomes payable when the spouse of the taxpayer dies, in addition to the events set forth in § 39-3.5-110, C.R.S.

Signed by Governor Owens: June 1, 2005  
Effective: January 1, 2006

## HOUSE BILLS

### **HB 05-1048**

**Concerning the authority of a special district to enter into a property tax reduction agreement with a taxpayer for the purposes of economic development.**

This bill came out of an interim study committee. Prior to the bill, only counties and municipalities could enter into business incentive agreements with taxpayers that are providing new investments in the local economy (§§ 30-11-123, 31-15-903, and 39-30-107.5, C.R.S.). Under these agreements, a city or county will collect business personal property taxes on a portion of the new investment made by the taxpayer. This assumes that without the incentive, the investment would not have taken place.

This bill allows special districts to also participate in business incentive

agreements if the taxpayer either simultaneously or previously executed such an agreement with the county or municipality.

Section 1 amends article 1 of title 32, C.R.S., by adding a new Part 17, titled PROPERTY TAX REDUCTION AGREEMENT.

Section 32-1-1701, C.R.S., is the legislative declaration statement, that in order to attract new private enterprise and retain and expand existing enterprises, incentives are often necessary, and that ultimately the incentives will stimulate economic development in the state and result in the creation and maintenance of new jobs.

Section 32-1-1702, C.R.S. allows a special district to negotiate an incentive payment or credit with a taxpayer who establishes a new business or expands an existing facility. The annual incentive payment or credit cannot exceed fifty percent of the amount of taxes levied by the special district on the business personal property. The term of any agreement cannot exceed ten years, including the term of any original agreement being renewed. The special district cannot enter into any incentive agreement unless the taxpayer has either simultaneously or previously entered into such an agreement with a municipality or county. The special district must also inform the municipality, county, and school district of such negotiations.

Section 2 amends § 39-30-107.5(1)(a), C.R.S., to include special districts and adds a new paragraph (b) stating that a special district cannot enter into any incentive agreement unless the taxpayer has either simultaneously or previously entered into such an agreement with a municipality or county.

Section 3 amends § 39-30-107.5(3), C.R.S., by adding a new paragraph (c), stating that "Special District" means a special district as defined in section 32-1-103 (20), C.R.S.

Signed by Governor Owens: April 5, 2006  
Effective Date: August 10, 2005, if no referendum petition is filed.

**HB 05-1159**  
**Concerning the sale of tax liens by a county treasurer.**

The bill, initiated by Jefferson County and the City and County of Denver, added clarifying language authorizing the county treasurer to conduct tax lien sales on the Internet.

Signed by Governor Owens: June 3, 2005  
Effective: Upon signature

**HB 05-1067**  
**Concerning the authorization for political subdivisions organized on a county basis to provide fire protection.**

A western slope rural fire department has been plagued with several financial and administrative problems because of an investment in "e.Nvizion," an Internet service provider based in Rochester, N. Y. Most of the money has been returned to the fire district, however the "dot com" still owes the fire district over \$600,000. One solution to the fire districts problems may be to dissolve the district. However, the county commissioners have no authority to provide fire protection services. This bill allows the commissioners to create a fire district.

Section 1 amends § 30-20-503(3), C.R.S., to allow the county commissioners to create a fire improvement district for the purpose of constructing, installing, acquiring, operating, maintaining or providing fire protection regardless of whether or not the county is authorized to provide fire protection improvements or services. For the purposes of this subsection (3), "fire protection" shall have the same meaning as "firehouses, equipment, and firefighters" as described in section 30-35-201(22), C.R.S.

This bill authorized the board of county commissioners to:

Erect firehouses and provide equipment for extinguishing fires;  
Provide for the use and management of such firehouses and equipment;

Determine the powers and duties of the members of the fire department in taking charge of property to the extent necessary to control or extinguish fires and preserve property not destroyed by the fire;

Restrain persons from interfering with the fire department when conducting its duties.

The creation of a fire improvement district would require approval through an election, including stipulations for increasing property taxes to cover the operational costs of the district. A county fire protection district would have the authority to levy property taxes and fix rates, tolls, and charges as other districts.

Signed by Governor Owens: April 14, 2005  
Effective Date: August 10, 2005, if no referendum petition is filed

**HB 05-1180**  
**Concerning changes to treat horticultural and floricultural operations like agricultural operations.**

The bill essentially includes horticultural and floricultural operations as part of the agricultural industry for a variety of state and local regulations. The bill establishes maximum pay periods for certain employees; it encourages horticulture and floriculture activities along with other agricultural, recreational, and mineral extraction activities in floodplains; and it excludes horticultural and floricultural operations from emission regulations or from having certain construction permits reopened. The bill further eliminates some regulatory restrictions on horticultural and floricultural industries, including permits for hazardous waste, noise restrictions, and

air quality control regulations. For each section that the bill amends, language is added to explicitly state that nothing in the bill shall be construed as changing the property tax classification of a floricultural or horticultural enterprise.

Section 1 amends § 8-4-103(2), C.R.S., to include floricultural operations along with other agricultural operations in establishing maximum pay periods for employees of these industries.

Section 2 amends § 8-20.5-101(2)(b)(III), C.R.S., to exclude tanks used for horticultural or floricultural operations from the definition of “aboveground storage tank,” for petroleum storage regulations.

Section 3 amends § 24-65.1-202(2)(a)(I), C.R.S., to include horticulture and floriculture activities along with agriculture, recreation, and mineral extraction in the list of open space activities that are encouraged in the administration of floodplain areas of the state.

Section 4 amends § 25-7-109(8), C.R.S., to exclude certain horticultural or floricultural production along with agricultural production from emission regulations for air quality control.

Section 5 amends §§ 25-7-114.5(12.5)(a)(I) and (12.5)(b), C.R.S., to exclude horticultural and floricultural production from having certain construction permits reopened for the purpose of imposing air quality control requirements.

Section 6 amends § 25-7-211, C.R.S., to exclude certain horticultural or floricultural activities from visibility impairment attribution studies for air quality control.

Section 7 amends § 25-8-504(2), C.R.S., to exclude horticultural or floricultural operations from permits for animal or agricultural waste, except as required by the federal Clean Water Act or regulations for water quality control.

Section 8 amends § 25-12-102(4), C.R.S., to exclude horticultural or floricultural

operations from the definition of “industrial zone” for establishing restrictions and limits on noise levels.

Section 9 amends § 25-15-101(6)(b)(III), C.R.S., to exclude horticultural or floricultural waste from the definition of “hazardous waste.”

Section 10 amends § 35-11.5-103(1), C.R.S., to include floricultural products grown or produced in the definition for “agricultural products,” under the Organic Certification Act.

Section 11 amends § 35-28-104(1), C.R.S., to include floricultural products in the definition of “agricultural commodity” for purposes of regulating how these commodities are marketed.

Section 12 amends § 35-38-102(2), C.R.S., to add horticulture and floriculture to the definition of “equipment” for regulations related to farm equipment dealerships.

Signed by Governor Owens: April 22, 2005  
Effective Date: August 10, 2005, if no referendum petition is filed.

### **HB 05-1195**

#### **Concerning a requirement that a deed convey any interest held by the grantor in certain vacated rights-of-way adjoining the subject real property.**

When a street, alley, or right-of-way is vacated by a city or county, upon the effective date of the ordinance or resolution, title to the vacated alley or street vests in theory with the owner of the adjoining parcel. The vacated parcel does not attach to the adjoining land; it is considered a separate parcel and is described by a separate legal description. Under current law, when a property sells, it is presumed that the vacated street or alley is not conveyed, unless it is specifically mentioned in the conveyance. Often times the vacated street or alley is inadvertently left off the conveyance document, requiring a separate assessment in the name of the

original owner. Many of these vacated parcels eventually go to tax sale. Under the new law, any interest the grantor may have in a vacated street, alley, or right-of-way is conveyed along with the adjoining parcel unless the transfer is expressly excluded in the deed.

Section 1 amends § 38-30-113(1), C.R.S., with the addition of a new paragraph (d) that establishes that when real property is conveyed, any interest the grantor may have in an adjoining vacated street, alley, or other right of way is also conveyed, unless expressly excluded in the deed.

Signed by Governor Owens: April 25, 2005  
Effective Date: Upon Signature

#### **HB 05-1289**

**Concerning the adjustment of the ratio of valuation for assessment for residential real property.**

Section 1 of the bill amends § 39-1-104.2(3), C.R.S., by adding a new paragraph (j), which sets the residential assessment rate at 7.96 percent for property tax years 2005 and 2006.

Signed by Governor Owens: May 27, 2005  
Effective: Upon signature

