

CHAPTER 297

TAXATION

SENATE BILL 96-218

BY SENATORS Ament, Lacy, Schroeder, Wattenberg, and Johnson;
also REPRESENTATIVES Foster, Agler, McElhany, Schauer, and Jerke.

AN ACT

CONCERNING POSSESSORY INTERESTS FOR PURPOSES OF PROPERTY TAXATION, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 3 of title 39, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

39-3-136. Legislative declaration - taxation of exempt property - possessory interests. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) SECTION 3 OF ARTICLE X OF THE STATE CONSTITUTION DOES NOT REQUIRE THE TAXATION OF POSSESSORY INTERESTS, WHICH ARE RIGHTS TO USE PROPERTY THAT DO NOT CONSTITUTE THE SUBSTANTIAL EQUIVALENT OF COMPLETE OWNERSHIP OF THE PROPERTY, IN LAND, IMPROVEMENTS, AND PERSONAL PROPERTY THAT ARE OTHERWISE EXEMPT FROM PROPERTY TAXATION, ABSENT EXPRESS STATUTORY AUTHORIZATION;

(b) THIS POSITION IS BASED, IN PART, UPON THE WRITTEN PROCEEDINGS OF THE 1875 COLORADO CONSTITUTIONAL CONVENTION, WHICH REFLECT THAT THE FIRST DRAFT OF SECTION 3 OF ARTICLE X OF THE STATE CONSTITUTION EXPRESSLY PROVIDED FOR THE TAXATION OF "ALL PROPERTY, REAL, PERSONAL OR POSSESSORY", WHILE THE FINAL VERSION OF THIS PROVISION ADOPTED BY THE CONSTITUTIONAL CONVENTION PROVIDED ONLY FOR THE TAXATION OF "ALL PROPERTY, REAL AND PERSONAL" AND DID NOT REFER TO POSSESSORY PROPERTY;

(c) IN THE OPINION ISSUED ON APRIL 24, 1995, ENTITLED *MESA VERDE COMPANY*

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

V. *THE MONTEZUMA COUNTY BOARD OF EQUALIZATION AND THE MONTEZUMA COUNTY ASSESSOR, AND THE PROPERTY TAX ADMINISTRATOR OF THE STATE OF COLORADO ("MESA VERDE II")*, 898 P.2D 1 (COLO. 1995), THE COLORADO SUPREME COURT HELD THAT CERTAIN POSSESSORY INTERESTS IN LAND ARE "REAL PROPERTY" WITHIN THE MEANING OF SECTION 39-1-102 (14) (a) AND ARE THEREFORE SUBJECT TO PROPERTY TAXATION;

(d) IF, BASED UPON THE SUPREME COURT'S DECISION IN *MESA VERDE II*, POSSESSORY INTERESTS ARE TAXABLE, A VARIETY OF POSSESSORY INTERESTS, SUCH AS GRAZING LEASES AND PERMITS ON GOVERNMENT LAND OR GOVERNMENT EMPLOYEES' PARKING SPACES IN GOVERNMENT-OWNED GARAGES, BECOME SUBJECT TO PROPERTY TAXATION AND COULD BE VALUED BY DIFFERENT METHODS;

(e) DUE TO THE SUPREME COURT'S DECISION IN *MESA VERDE II*, THE PROPERTY TAX TREATMENT OF POSSESSORY INTERESTS IN EXEMPT PROPERTIES NEEDS TO BE ADDRESSED TO ENSURE THE UNIFORMITY REQUIRED BY SECTION 3 OF ARTICLE X OF THE STATE CONSTITUTION;

(f) SUBSECTION (2) OF THIS SECTION IS INTENDED TO CLEARLY STATE THAT POSSESSORY INTERESTS IN EXEMPT PROPERTY SHALL BE SUBJECT TO PROPERTY TAXATION ONLY UPON ENACTMENT OF SPECIFIC STATUTORY PROVISIONS DIRECTING SUCH TAXATION;

(g) THE PROVISIONS OF SECTION 39-1-102 (14) (a) AND (14) (c) AND SECTION 39-1-106 DO NOT DIRECT THE TAXATION OF POSSESSORY INTERESTS IN EXEMPT PROPERTIES; AND

(h) SUBSECTION (2) OF THIS SECTION SHALL NOT APPLY TO AND SHALL NOT BE CONSTRUED TO AFFECT OR CHANGE THE TAXATION OF EQUITIES IN STATE LANDS PURSUANT TO SECTION 39-5-106, THE TAXATION OF MINES, QUARRIES, OR MINERALS, INCLUDING HYDROCARBONS, PURSUANT TO SECTION 39-1-102 (14) (b), ARTICLES 6 AND 7 OF THIS TITLE, AND ANY OTHER ARTICLE OF THIS TITLE, OR THE TAXATION OF PUBLIC UTILITIES PURSUANT TO ARTICLE 4 OF THIS TITLE.

(2) POSSESSORY INTERESTS IN REAL OR PERSONAL PROPERTY THAT IS EXEMPT FROM TAXATION UNDER THIS ARTICLE SHALL NOT BE SUBJECT TO PROPERTY TAXATION UNLESS SPECIFIC STATUTORY PROVISIONS HAVE BEEN ENACTED THAT DIRECT THE TAXATION OF SUCH POSSESSORY INTERESTS.

SECTION 2. 39-1-106, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-1-106. Partial interests not subject to separate tax. For purposes of property taxation, it shall make no difference that the use, possession, or ownership of any taxable property is qualified, limited, not the subject of alienation, or the subject of levy or distraint separately from the particular tax derivable therefrom. Severed mineral interests shall also be taxed. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO DIRECT THE TAXATION OF POSSESSORY INTERESTS IN REAL OR PERSONAL PROPERTY THAT ARE NOT SUBJECT TO TAXATION IN ACCORDANCE WITH SECTION 39-3-136 (2).

SECTION 3. 39-3-135, Colorado Revised Statutes, 1994 Repl. Vol., is repealed as follows:

39-3-135. Taxation of exempt property - taxes not to become lien. ~~(1) Except as otherwise provided in this section, when any real property which is exempt from taxation for any reason 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 of such real property 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. Except for exempt real property being operated under a management agreement, this section shall not apply to exempt property furnished by a governmental agency to a contractor as necessary to the considerations of a negotiated contract if such contractor maintains permanent written records substantiating the terms of such contract. In addition, this section shall not apply where the real property is leased, loaned, or otherwise made available to and used by an airline company, as defined in section 39-4-101 (2).~~

~~(2) Property taxes shall be assessed to such lessee or user of real property and collected in the same manner as property taxes assessed to owners of such real property; except that such property taxes shall not become a lien against such real property. When due, such property taxes shall be a debt due from the lessee or user either to the board of county commissioners for the county in which such property is located or to such other body as is authorized by law to levy property taxes when such property is located in the city and county of Denver, whichever is appropriate, and shall be recoverable by such board or body by direct action in debt on behalf of each governmental entity for which a property tax levy has been made.~~

~~(3) This section shall not vary in any manner the taxation of mines or oil and gas, oil shale, or geothermal leaseholds and lands pursuant to the provisions of articles 1 to 13 of this title. The valuation for assessment of mines or oil and gas, oil shale, or geothermal leaseholds and lands shall be determined pursuant to the provisions of articles 6 and 7 of this title.~~

~~(4) (a) This section shall not apply to any real property owned by the United States, the state of Colorado, any home rule or statutory county, city and county, city, or town, or any territorial charter city if such real property is subject to payments in lieu of property taxes in a sum equal to the amount of property tax that the taxing entity would annually receive if the real property were owned by any private person or corporation.~~

~~(b) This section shall not apply to rights-of-way, leases, permits, licenses, or easements acquired by public utilities or for access roads.~~

~~(c) Except for ski recreation area uses assessed pursuant to the provisions of subsection (6) of this section, this section shall not apply to any real property owned by the United States, the state of Colorado, any home rule or statutory county, city and county, city, or town, any territorial charter city, or any authority created pursuant to the "Public Airport Authority Act", article 3 of title 41, C.R.S., when the use of such real property is the result of a lease of or a concession in or is relative to the use of a public park, market, fairground, or similar property which is available to the use of the general public or when the use of such real property is the result of a~~

lease or concession within the boundaries of a public airport and is directly related to the ordinary function of the airport.

~~(d) This section shall not apply to any real property owned by any home rule or statutory city, county, city and county, or town, any territorial charter city, the state of Colorado, or the United States if such real property was leased, loaned, or otherwise made available to and used by a private individual, association, or corporation in connection with a business conducted for profit prior to January 1, 1975; however, such exemption shall not extend beyond the term of such lease or loan or other agreement in effect prior to said date.~~

~~(5) This section is not applicable to lands used solely for agricultural purposes and improvements thereon or to lands owned by the state of Colorado and managed by the state board of land commissioners.~~

~~(6) The possessory interest, and only the possessory interest, of the lessee or permittee of lands owned by the United States and leased or permitted for use for recreational purposes in connection with a business conducted for profit shall be subject to property tax pursuant to the provisions of this section. In order to give appropriate consideration to the cost approach, the market approach, and the income approach to appraisals, the actual value of such possessory interest shall be determined by capitalizing at an appropriate rate the annual fee paid to the United States by the lessee or permittee of such land for the use thereof in the immediately preceding calendar year, adjusted to the level of value using a factor or factors to be published by the administrator pursuant to the same procedures and principles as are provided for personal property in section 39-1-104 (12.3) (a) (I). The rate used to capitalize any fee pursuant to this section shall include an appropriate rate of return, an appropriate adjustment for the applicable property tax rate, and an appropriate adjustment to reflect the portion of the fee, if any, required to be paid over by the United States to the state of Colorado and its political subdivisions.~~

~~(7) Nothing in this section shall be construed to apply to real property exempted by territorial charter.~~

SECTION 4. 39-1-103, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-1-103. Actual value determined - when. (17) (a) NOTWITHSTANDING SECTION 39-3-136 AND THE REPEAL OF SECTION 39-3-135, IF THE COLORADO SUPREME COURT HOLDS THAT THE COLORADO CONSTITUTION REQUIRES THAT POSSESSORY INTERESTS IN EXEMPT LAND, IMPROVEMENTS, OR PERSONAL PROPERTY BE TAXED, THE GENERAL ASSEMBLY DECLARES THAT THE VALUATION OF POSSESSORY INTERESTS IN EXEMPT PROPERTIES IS UNCERTAIN AND HIGHLY SPECULATIVE AND THAT THE FOLLOWING SPECIFIC STANDARDS FOR THE APPROPRIATE CONSIDERATION OF THE COST APPROACH, THE MARKET APPROACH, AND THE INCOME APPROACH TO APPRAISAL IN THE VALUATION OF POSSESSORY INTERESTS MUST BE PROVIDED BY STATUTE AND APPLIED IN THE VALUATION OF POSSESSORY INTERESTS TO ELIMINATE THE UNJUST AND UNEQUALIZED VALUATIONS THAT WOULD RESULT IN THE ABSENCE OF SPECIFIC STANDARDS:

(I) THE ACTUAL VALUE OF ANY POSSESSORY INTEREST OF THE LESSEE OR

PERMITTEE OF LANDS OWNED BY THE UNITED STATES AND LEASED OR PERMITTED FOR USE FOR SKI AREA RECREATIONAL PURPOSES IN CONNECTION WITH A BUSINESS CONDUCTED FOR PROFIT SHALL BE DETERMINED BY CAPITALIZING AT AN APPROPRIATE RATE THE ANNUAL FEE PAID TO THE UNITED STATES BY THE LESSEE OR PERMITTEE OF SUCH LAND FOR THE USE THEREOF IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, ADJUSTED TO THE LEVEL OF VALUE USING A FACTOR OR FACTORS TO BE PUBLISHED BY THE ADMINISTRATOR PURSUANT TO THE SAME PROCEDURES AND PRINCIPLES AS ARE PROVIDED FOR PROPERTY IN SECTION 39-1-104 (12.3) (a) (I). THE RATE USED TO CAPITALIZE ANY FEE PURSUANT TO THIS SUBPARAGRAPH (I) SHALL INCLUDE AN APPROPRIATE RATE OF RETURN, AN APPROPRIATE ADJUSTMENT FOR THE APPLICABLE PROPERTY TAX RATE, AND AN APPROPRIATE ADJUSTMENT TO REFLECT THE PORTION OF THE FEE, IF ANY, REQUIRED TO BE PAID OVER BY THE UNITED STATES TO THE STATE OF COLORADO AND ITS POLITICAL SUBDIVISIONS.

(II) (A) EXCEPT FOR POSSESSORY INTERESTS IN LAND LEASED OR PERMITTED FOR USE FOR SKI AREA RECREATIONAL PURPOSES VALUED IN ACCORDANCE WITH SUB-SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) AND EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (a), THE ACTUAL VALUE OF A POSSESSORY INTEREST IN LAND, IMPROVEMENTS, OR PERSONAL PROPERTY SHALL BE DETERMINED BY APPROPRIATE CONSIDERATION OF THE COST APPROACH, THE MARKET APPROACH, AND THE INCOME APPROACH TO APPRAISAL. WHEN THE COST OR INCOME APPROACH TO APPRAISAL IS APPLICABLE, THE ACTUAL VALUE OF THE POSSESSORY INTEREST SHALL BE DETERMINED BY THE PRESENT VALUE OF THE REASONABLY ESTIMATED FUTURE ANNUAL RENTS OR FEES REQUIRED TO BE PAID BY THE HOLDER OF THE POSSESSORY INTEREST TO THE OWNER OF THE UNDERLYING REAL OR PERSONAL PROPERTY THROUGH THE STATED INITIAL TERM OF THE LEASE OR OTHER INSTRUMENT GRANTING THE POSSESSORY INTEREST. THE RENTS OR FEES USED TO DETERMINE THE ACTUAL VALUE OF A POSSESSORY INTEREST UNDER THE COST OR INCOME APPROACH TO APPRAISAL SHALL BE THE ACTUAL CONTRACT RENTS OR FEES REASONABLY EXPECTED TO BE PAID TO THE OWNER OF THE UNDERLYING REAL OR PERSONAL PROPERTY UNLESS IT IS SHOWN THAT THE ACTUAL CONTRACT RENTS OR FEES TO BE PAID FOR THE POSSESSORY INTEREST BEING VALUED ARE NOT REPRESENTATIVE OF THE MARKET RENTS OR FEES PAID FOR THAT TYPE OF REAL OR PERSONAL PROPERTY, IN WHICH CASE THE MARKET RENTS OR FEES SHALL BE SUBSTITUTED FOR THE ACTUAL CONTRACT RENTS OR FEES.

(B) THE RENTS OR FEES TAKEN INTO ACCOUNT UNDER THE COST OR INCOME APPROACH TO APPRAISAL UNDER SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL EXCLUDE THAT PORTION OF THE RENTS AND FEES REQUIRED TO BE PAID FOR ALL RIGHTS OTHER THAN THE EXCLUSIVE RIGHT TO USE AND POSSESS THE LAND, IMPROVEMENTS, OR PERSONAL PROPERTY. SUCH RENTS OR FEES TO BE EXCLUDED SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, ANY PORTION OF SUCH RENTS OR FEES ATTRIBUTABLE TO ANY OF THE FOLLOWING: NONEXCLUSIVE RIGHTS TO USE AND POSSESS PUBLIC PROPERTY, SUCH AS ROADS, RIGHTS-OF-WAY, EASEMENTS, AND COMMON AREAS; RIGHTS TO CONDUCT A BUSINESS, AS DETERMINED IN ACCORDANCE WITH GUIDELINES TO BE PUBLISHED BY THE ADMINISTRATOR; INCOME OF THE HOLDER OF THE POSSESSORY INTEREST THAT IS NOT DIRECTLY DERIVED FROM AND DIRECTLY RELATED TO THE USE OR OCCUPANCY OF THE POSSESSORY INTEREST; AND REIMBURSEMENT TO THE OWNER OF THE UNDERLYING REAL OR PERSONAL PROPERTY OF THE REASONABLE COSTS OF OPERATING, MAINTAINING, AND REPAIRING THE LAND, IMPROVEMENTS, OR PERSONAL PROPERTY TO WHICH THE POSSESSORY INTEREST

PERTAINS, REGARDLESS OF WHETHER SUCH COSTS ARE SEPARATELY STATED, PROVIDED THAT THE TYPES OF SUCH COSTS CAN BE IDENTIFIED WITH REASONABLE CERTAINTY FROM THE DOCUMENTS GRANTING THE POSSESSORY INTEREST. THE ACTUAL VALUE OF THE POSSESSORY INTEREST SO DETERMINED SHALL BE ADJUSTED TO THE TAXABLE LEVEL OF VALUE USING A FACTOR OR FACTORS TO BE PUBLISHED BY THE ADMINISTRATOR PURSUANT TO THE SAME PROCEDURES AND PRINCIPLES AS ARE PROVIDED FOR PROPERTY IN SECTION 39-1-104 (12.3) (a) (I).

(III) SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (a) SHALL NOT APPLY TO ANY MANAGEMENT CONTRACT. IN THE CASE OF A MANAGEMENT CONTRACT, THE POSSESSORY INTEREST SHALL BE PRESUMED TO HAVE NO ACTUAL VALUE. FOR PURPOSES OF THIS SUBPARAGRAPH (III), "MANAGEMENT CONTRACT" MEANS A CONTRACT THAT MEETS ALL OF THE FOLLOWING CRITERIA:

(A) THE GOVERNMENT OWNER OF THE REAL OR PERSONAL PROPERTY SUBJECT TO THE CONTRACT DIRECTLY OR INDIRECTLY PROVIDES THE MANAGEMENT CONTRACTOR ALL FUNDS TO OPERATE THE REAL OR PERSONAL PROPERTY;

(B) THE GOVERNMENT OWNS ALL OF THE REAL OR PERSONAL PROPERTY USED IN THE OPERATION OF THE REAL OR PERSONAL PROPERTY SUBJECT TO THE CONTRACT;

(C) THE GOVERNMENT MAINTAINS CONTROL OVER THE AMOUNT OF PROFIT THE MANAGEMENT CONTRACTOR CAN REALIZE OR SETS THE PRICES CHARGED BY THE MANAGEMENT CONTRACTOR, OR THE MANAGEMENT CONTRACTOR'S EXCLUSIVE OBLIGATION IS TO OPERATE AND MANAGE THE REAL OR PERSONAL PROPERTY FOR WHICH THE MANAGEMENT CONTRACTOR RECEIVES A FEE;

(D) THE GOVERNMENT RESERVES THE RIGHT TO USE THE REAL OR PERSONAL PROPERTY WHEN IT IS NOT BEING MANAGED OR OPERATED BY THE MANAGEMENT CONTRACTOR;

(E) THE MANAGEMENT CONTRACTOR HAS NO LEASEHOLD OR SIMILAR INTEREST IN THE REAL OR PERSONAL PROPERTY;

(F) TO THE EXTENT THE MANAGEMENT CONTRACTOR MANAGES A MANUFACTURING PROCESS FOR THE GOVERNMENT ON THE REAL PROPERTY SUBJECT TO THE CONTRACT, THE GOVERNMENT OWNS ALL OR SUBSTANTIALLY ALL OF THE PERSONAL PROPERTY USED IN THE PROCESS; AND

(G) THE REAL OR PERSONAL PROPERTY IS MAINTAINED AND REPAIRED AT THE EXPENSE OF THE GOVERNMENT.

(b) THIS SUBSECTION (16) SHALL NOT APPLY TO AND SHALL NOT BE CONSTRUED TO AFFECT OR CHANGE THE VALUATION OF PUBLIC UTILITIES PURSUANT TO ARTICLE 4 OF THIS TITLE, THE VALUATION OF EQUITIES IN STATE LANDS PURSUANT TO SECTION 39-5-106, THE VALUATION OF MINES PURSUANT TO ARTICLE 6 OR ANY OTHER ARTICLE OF THIS TITLE, OR THE VALUATION OF OIL AND GAS LEASEHOLDS AND LANDS PURSUANT TO ARTICLE 7 OF THIS TITLE.

SECTION 5. 39-10-101 (2) (a), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-10-101. Collection of taxes. (2) (a) (I) If, after the tax list and warrant has been received by ~~him~~ THE TREASURER, the treasurer discovers that any taxable property then located in ~~his~~ THE TREASURER'S county has been omitted from the tax list and warrant for the current year or for any prior year and has not been valued for assessment, ~~he~~ THE TREASURER shall forthwith list and value such property for assessment in the same manner as the assessor might have done and shall enter such valuation for assessment on the tax list and warrant and extend the levy. Such entry shall be designated as an additional assessment and shall be valid for all purposes, the same as though performed by the assessor.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OR SECTION 39-5-125, 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, AS ENACTED BY THE SECOND REGULAR SESSION OF THE SIXTIETH GENERAL ASSEMBLY, TO CLARIFY THAT POSSESSORY INTERESTS IN EXEMPT PROPERTIES ARE SUBJECT TO PROPERTY TAXATION ONLY IF SPECIFIC STATUTORY PROVISIONS HAVE BEEN ENACTED DIRECTING THE TAXATION OF SUCH POSSESSORY INTERESTS.

SECTION 6. Appropriation - adjustment in 1996 long bill - legislative intent.

(1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of education, for the fiscal year beginning July 1, 1996, the sum of five hundred eighty-four thousand one hundred seventeen dollars (\$584,117), or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1996, shall be adjusted as follows:

(a) The general fund appropriation to the capital construction fund outlined in section 3 (1)(c) and (1)(e) is reduced by five hundred eighty-four thousand one hundred seventeen dollars (\$584,117).

(b) The capital construction fund exempt appropriation to the department of transportation, construction projects, is reduced by five hundred eighty-four thousand one hundred seventeen dollars (\$584,117).

(3) Of the appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 1996, for public school finance, total program, an amount equal to five hundred eighty-one thousand one hundred sixty dollars (\$581,160) shall be set aside by the department of education to make additional state aid payments pursuant to section 22-54-115 (1), Colorado Revised Statutes, which may result from the adjustment of state aid payments due to the passage of this act. Such amount is available to be set aside due to the failure of the Denver assessor to disclose the estimated impact on the assessment of possessory interests in exempt property for the 1997 property tax year pursuant to *Mesa Verde Company v. The Montezuma County Board of Equalization and the Montezuma Assessor, and the Property Tax*

Administrator of the State of Colorado, 898 P.2d 1 (Colo. 1995), which resulted in an underestimation of property taxes for funding the local districts' share of the 1996-97 total program of all districts which further resulted in the over-appropriation of moneys for the state's share of the 1996-97 total program of all districts in the general appropriation act.

SECTION 7. Effective date - applicability. This act shall take effect upon passage and sections 1 through 4 of this act shall apply to property tax years commencing on and after January 1, 1996.

SECTION 8. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 1996