

## **EDCC Supports Repealing the Gallagher Amendment**

### **What does Amendment B do?**

This November, voters will be asked to repeal the “Gallagher Amendment” which has frozen the ratio of the total value of residential property (45%) to the total value of non-residential property (55%) since 1982. It will repeal the constitution’s reference to a 21% residential assessment rate (If this reference were NOT repealed, then repealing the Gallagher Amendment’s “45:55” formula alone would trigger the residential assessment rate to immediately jump from the current 7.15% back to the initial 21% rate), thereby freezing the current residential assessment rate at 7.15% and all other non-residential property rates at 29%. This will in-turn stop the continued formulaic erosion of the residential assessment rate causing disproportionate mill levy increases to backfill funding for local districts that provide fire protection, police, ambulance, hospital, K-12 education, and other important services.

This will leave all property tax assessment rates to be referenced only in STATUTE rather than the constitution. The effect of only referencing all assessment rates in statute would be that the LEGISLATURE would have the authority to potentially REDUCE any of those assessment rates in the future, whereas the TABOR Amendment would still require a statewide vote of the people to INCREASE the assessment rate on any class of property.

The EDCC supports Amendment B for the following reasons:

1. Business owners pay a significantly larger portion of property taxes and Gallagher increases the burden on the business community, including small businesses, in a time of economic crisis. At the time Gallagher entered the Colorado Constitution, the business community paid \$1.40 in property taxes for every \$1.00 paid by homeowners. Today, businesses pay \$4.00 for every \$1.00 paid by homeowners.
2. A thriving economy does not just depend on a favorable business environment, but it also depends on the quality of life we enjoy, and the quality of the education our children receive – our future workforce. Every time the residential assessment rate drops, the state must backfill the loss in local revenue for schools. The continual drop in the residential assessment rate creates significant pressure on the General Fund and other areas of the state budget. The residential assessment rate is projected to drop next year from 7.15 to 5.88%, resulting in a \$246 million drop in district Total Program Funding revenues and a \$203 million drop in revenues for counties.
3. Gallagher deepens inequities in delivery of fire protections, wastewater services, and emergency services across Colorado. Many wealthier and growing communities, especially along the Front Range, have felt less impact of the unintended negative consequences of Gallagher because residential property values have risen enough to offset rate reductions. Local districts serving less wealthy and rural communities have seen their reduction in residential assessment rates get piled onto reductions in property values to compound revenue crunches and stress budgets, thus creating disproportionate mill levy increases across the state to backfill budget shortfalls.

### **What is the Gallagher Amendment?**

The Gallagher Amendment was referred to Colorado voters by the legislature in 1982. The amendment froze the ratio of the total taxable value of residential property (45%) to the total value of non-residential property (55%) forever. This is calculated on a statewide basis.

To achieve this ratio, the residential assessment rate is adjusted by the state legislature in order to ensure that residential property makes up about 45 percent of the statewide property tax base, while the assessment rate for nonresidential property makes up about 55 percent of the base and is fixed at 29 percent. Therefore, the residential assessment rate “floats” and the nonresidential rate is fixed. These provisions are commonly referred to as the 45/55 split and the Gallagher Amendment.

**Calculating Property Taxes – an Example.**

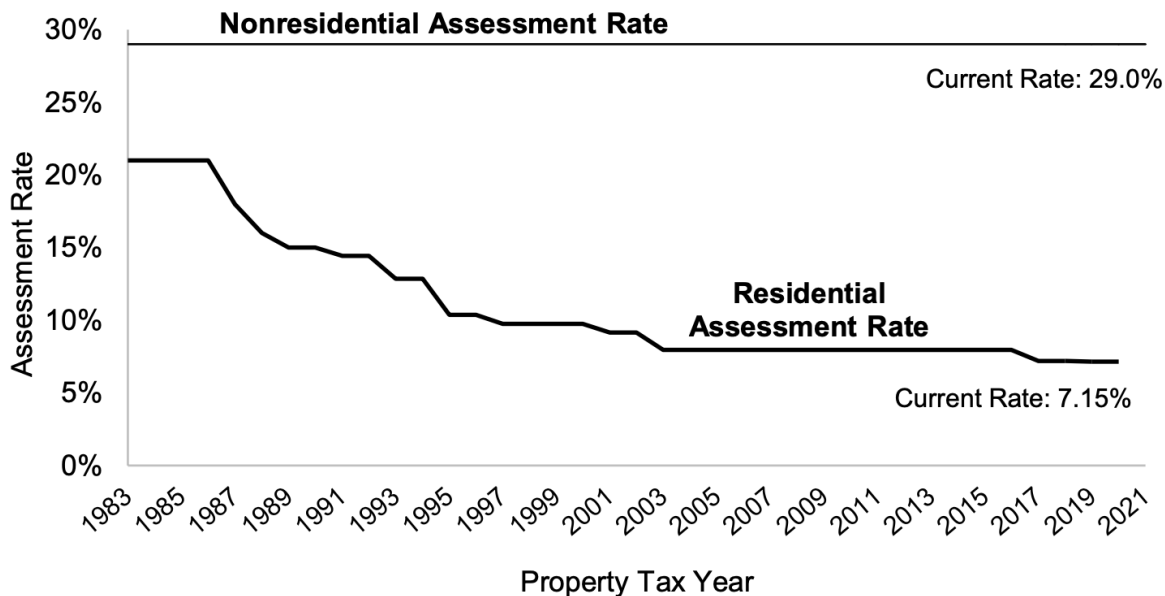
Any review of the Gallagher Amendment starts with an explanation of property tax calculations.

<b>Property Tax Calculation</b>			
Example: Property valued at \$300,000 and taxed at 100 mills			
<b>Step 1: Determine Taxable Value</b>			
	<b>Property Value</b>	<b>Assessment Rate</b>	<b>Taxable Value</b>
<b>Residential</b>	\$300,000	<b>7.15 percent</b>	\$21,450
<b>Nonresidential</b>	\$300,000	29 percent	\$87,000
<b>Step 2: Determine Property Tax</b>			
	<b>Taxable Value</b>	<b>Tax Rate</b>	<b>Property Tax Owed</b>
<b>Residential</b>	\$21,450	0.100	\$2,145
<b>Nonresidential</b>	\$87,000	0.100	\$8,700

Due to the rise in residential real estate values as a share of the total Gallagher “pie”, the state has had to continuously reduce the residential assessment rate – the only option available to maintain the 45/55 percent split. Furthermore, since the passage of TABOR, the residential assessment rate can never rise without a vote of the people because it would be considered a tax increase – it can only decrease.

The table below shows the periodic and steady decrease in the residential assessment rate.

**Figure 2. History of Assessment Rates**



## EDCC Talking Points on Support for Amendment B and Repeal of Gallagher Amendment

- 1) **Gallagher Achieved its Goal, but Now it is Time for a Change.** Forty years ago, Colorado's population rise drove quick spikes in residential home values. When those spikes showed up on property tax bills, the Colorado Legislature decided to act. They referred a Constitutional Amendment to voters that froze the ratio of the total value of residential property (45%) to the total value of non-residential property (55%) forever. After its approval in 1982, the Gallagher Amendment immediately got to work reducing the residential property tax assessment rate. Colorado's growth in home values over the nearly 40 years has forced reductions in the residential assessment rate to maintain Gallagher's required 45 residential/55 non-residential split. This has resulted in a reduction in the residential assessment rate from 21% in 1982 to 7.15% in 2020, and the COVID recession may reduce it to below 6%. Furthermore, with TABOR's approval in 1992, this rate has not increased, and cannot without a statewide vote of the people – which has never occurred. In other words, it worked. Today, Colorado has one of the lowest residential property tax rates of any state. However, this reduction has had unforeseen and unintended consequences that can be fixed with a repeal of Gallagher and a freeze in the current residential rate to ensure the lower residential rates are maintained unless the voters in your local area approve otherwise.
- 2) **Unforeseen and Unintended Consequences.**
  - a.) **Gallagher Reduces Resources to Important Local Services in a Time of Need.** K-12 Schools, Counties, Fire and Ambulatory Services, Law Enforcement, Hospitals, Junior Colleges, and more local services that the residents of Colorado all depend on have seen an erosion of their principal tax base due to Gallagher. Gallagher has forced many local jurisdictions to either (1) cut services, (2) go to voters to raise mill levies to maintain services, or (3) hope that residential property values rise enough in their area to offset the reduction in the assessment rate – a futile hope for most jurisdictions not located along the Front Range. This happens all while the population of Colorado has continued to rise, almost uninterrupted, for the last 40 years – necessitating the need for more services. The continuation of Gallagher at this time would further squeeze local service organizations when they are needed most.
  - b.) **Gallagher Deepens Inequity.** Many wealthier and growing communities, especially along the Front Range, have felt less impact of Gallagher's reduced residential assessment rates because residential property values have gone up significantly. Colorado's less wealthy and rural communities have bared the brunt of Gallagher's worst unintended consequences. These communities have often seen residential property value decline. Then add the reduced residential assessment rate to produce a more significant revenue loss to needed local services. This affect has created a loop of continued impact. As residential property values go up along the Front Range, it drives down the statewide residential rate, which hits local, less wealthy and rural communities across the state that can't make up the loss with higher property values. Gallagher continues to widen the gap in resources for local services in less wealthy and rural communities as compared to wealthier communities along the Front Range.
  - c.) **Gallagher Increases the Burden on Small Businesses in a Time of Need and Makes it Harder to Attract New Business to Colorado.** When cutting services or hope for increased residential property values does not work, local jurisdictions must go to voters to increase property tax mill levies to maintain services. When approved by voters, the increased tax mill levy is often offset by a lower residential assessment rate for residential properties – but not for non-residential properties. The

29% non-residential assessment rate does not change, so when mill levies go up, commercial properties and business owners pay more. Gallagher has resulted in a significant shift in tax burden from residents to businesses in Colorado. In 1982, for every \$1 of tax paid by a homeowner to support needed local services, \$1.4 was paid by the business community. Today, for every \$1 of tax paid by a homeowner, business pays \$4. If the COVID recession results in a further reduction in the residential assessment rate, businesses could pay up to \$5 for every \$1 paid by a homeowner. The COVID recession has left many small local businesses and commercial property owners on the brink. A further shift of property tax burden onto their shoulders would be coming at the worst possible time. This inequity in property tax burden makes Colorado a less competitive state for attracting new business.

d.) Gallagher Reduces State Resources Too. Even though the State of Colorado does not receive property taxes, they are not immune from the impact of Gallagher's unintended consequences. Since the dawn of the state, the State of Colorado has shared in the funding of K-12 education with local jurisdictions. Gallagher has resulted in the State taking on a much larger share of K-12 education than it had in 1982. At the time of Gallagher, local jurisdictions paid more for the cost of K-12 education than the State. Today, the State pays around 2/3 of the cost of K-12 education in Colorado. This means the State has less revenue to deal with transportation, higher education, and other services. Tax credits and state grant programs that support programs like affordable housing development are at risk too as legislators try to balance the state budget.

3) **Amendment B (Gallagher Repeal) is Not a Tax Increase.** The legislature referred Amendment B to repeal Gallagher would unfreeze the 45 residential/55 non-residential ratio to stop the continued formulaic erosion of the residential assessment rate. The current residential assessment rate would be frozen at 7.15%. It would not increase. Changes to the residential and non-residential assessment rates would be removed from the Constitution so that the Colorado Legislature could reduce the assessment rate of any property. TABOR ensures that any increase in assessment rates would require a statewide vote. Amendment B freezes the residential assessment rate, it does not raise it.

- a.) Stopping the formulaic reduction of a tax rate – holding it steady - is not the same as increasing taxes. Increasing the tax rate is increasing taxes.
- b.) If freezing the tax rate is considered a tax increase because some homeowners with increased valuations will pay more than they would have otherwise, then it must also be true that reducing the tax rate could be considered a tax hike if valuations rose enough to raise some homeowners' tax bill. This does not make sense.
- c.) Increasing and reducing taxes has always been understood as increasing or reducing tax rates - not the value of the item being taxed which is out of policymaker and voter control. This issue is no different.
- d.) Support for Amendment B is Non-Partisan. This is not a partisan issue. Gallagher did its job as intended to lower property tax burden on residential property owners, but unintended consequences have led to members from both major political parties voting to repeal. The bill to refer Amendment B to the voters was sponsored by two Democrats and two Republicans - The Colorado State Senate voted 27 to 7 to refer Amendment B to voters. The Colorado House of Representatives voted 51 to 14 to refer Amendment B.

4) **COVID May Make the Situation Worse. Now is the Time to Repeal Gallagher.** The timing of the COVID recession and property tax assessment for residential and non-residential properties is likely to lead to the further reduction of the residential assessment rate and erosion of the property tax base for local

jurisdictions when resource needs are at their peak. The residential assessment could see a reduction of up to 19%, leading some local services to experience revenue reductions of up to 10% at a time when services are under greater demand and other tax and fee revenues are also declining. Rural and less wealthy communities will be impacted most. Efforts to raise mill levies in these communities may not pass as many residents are experiencing hardship themselves, and even if they do pass, the tax burden will continue to grow disproportionately onto the business community in the middle of a recession. Gallagher's unintended consequences have created problems that COVID will make much worse, at the worst possible time. Now is the time to repeal Gallagher.