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Fiscal Note

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| Drafting Number: | LLS 24B-0021 | Date: | August 26, 2024 |
| Prime Sponsors: | Rep. Bradley | Bill Status: | House Trans., Hous. & Local Govt. |
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Bill Topic: **RESTORE GALLAGHER AMENDMENT TO PROPERTY TAX**

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|----------------------------------|---|---|--|
| Summary of Fiscal Impact: | <input type="checkbox"/> State Revenue | <input type="checkbox"/> State Transfer | <input checked="" type="checkbox"/> Local Government |
| | <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> TABOR Refund | <input type="checkbox"/> Statutory Public Entity |

The resolution refers a constitutional amendment to voters at the November 2024 General Election. If approved, it requires annual adjustments of the residential assessment rate to hold constant the residential share of statewide assessed values. The resolution conditionally decreases local revenue and expenditures and increases state expenditures beginning in FY 2027-28.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced resolution.

Summary of Legislation

This concurrent resolution refers a constitutional amendment to voters at the 2024 general election. If approved, it holds nonresidential assessment rates constant at their 2026 level by adding those rates to the Colorado Constitution. The resolution requires the General Assembly to adjust the level of the residential assessment rate annually in order to hold constant the share of statewide assessed values attributable to residential real property. It would first apply to residential assessments for the 2027 property tax year.

Background

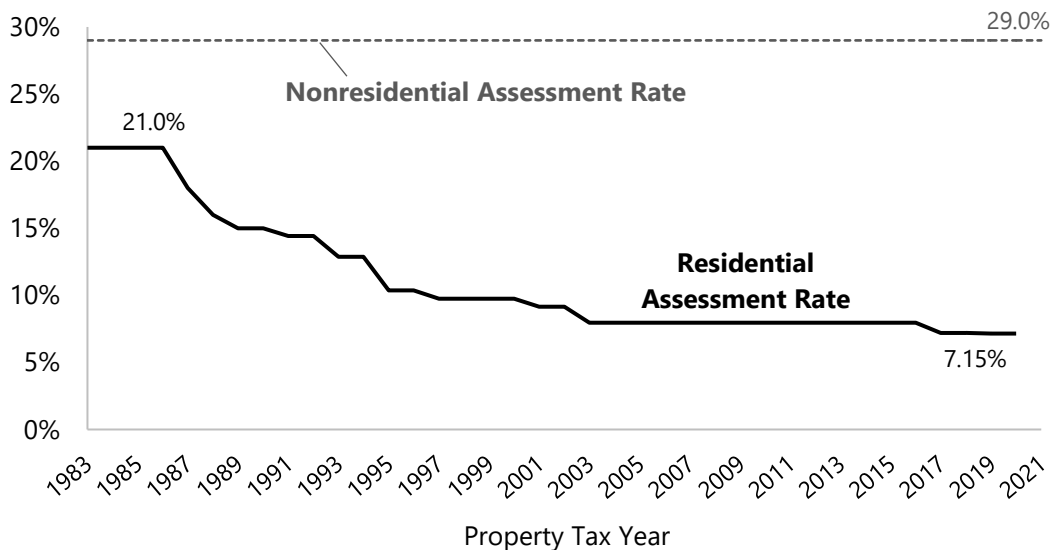
Referred constitutional amendment. The General Assembly may refer constitutional amendments to voters. Referred constitutional amendments require a two-thirds majority vote on Third Reading in each chamber. This amendment adds new text to the Colorado Constitution and therefore requires 55 percent of the vote at the November 2024 election to take effect.

Gallagher Amendment. The referred measure resembles a 1982 constitutional amendment, known as the “Gallagher Amendment.” The Gallagher Amendment added a 29 percent nonresidential assessment rate to the Colorado Constitution and required annual adjustment of the residential assessment rate in order to hold constant the share of statewide assessed values attributable to residential real property. The Gallagher Amendment was repealed in 2020 when voters approved Amendment B.

While the Gallagher Amendment was in the constitution, residential market values (“actual values”) increased more quickly than nonresidential actual values. In order to hold constant, the share of statewide assessed values attributable to residential property, the Gallagher Amendment directed periodic decreases in the residential assessment rate from 21 percent in 1982 to 7.15 percent in 2020. The amendment occasionally directed increases in the residential assessment rate in years when nonresidential actual values increased more quickly than residential actual values. Until 1992, increases could be accomplished in legislation. With the addition of the TABOR Amendment in 1992, increases required voter approval, and the General Assembly never referred a measure to voters to increase the residential assessment rate.

Figure 1 presents histories of the residential and nonresidential assessment rates under the Gallagher Amendment.

Figure 1
Assessment Rates under the Gallagher Amendment
1983-2021



Assumptions

Conditional impacts. All fiscal impacts of the resolution are conditional upon voter approval of the referred constitutional amendment.

Senate Bill 24-233. This bill was passed by the General Assembly in 2024 and signed by the Governor. It sets assessment rates for 2024 and future property tax years. The bill becomes law only if voters do not approve a measure at the 2024 general election that lowers assessment rates. It is assumed that this resolution does not stop SB 24-233 from becoming law. Fiscal impacts are presented relative to current law, which is assumed to include SB 24-233.

Nonresidential assessment rates. This fiscal note assumes that nonresidential assessment rates will remain at the level established in current law under SB 24-233 for 2026:

- 25.0 percent for improved commercial property;
- 25.0 percent for agricultural property;
- 29.0 percent for vacant land, industrial property, natural resources, state assessed property, and personal property classes; and
- 87.5 percent for oil and gas and producing mines (established in the Colorado Constitution).

Under the resolution, these rates would be added to the constitution. Since these are the long-term rates in current state law, the concurrent resolution is assumed to have no impact on nonresidential assessments.

Target percentage. For property tax year 2027, the resolution requires that residential assessment rates be adjusted so that the residential share of statewide assessed value is held constant relative to property tax year 2026.

Under current law enacted in SB 24-233, there are different residential assessment rates that apply in property tax year 2026 for school district assessments and non-school district assessments:

- for school districts, residential assessed value is estimated at \$107.1 billion of \$199.2 billion in total assessed value, or 53.8 percent;
- for non-school districts, residential assessed value is estimated at \$97.2 billion of \$189.2 billion in total assessed value, or 51.4 percent.

The resolution does not specify which 2026 residential share should be used as the 2027 target percentage. This fiscal note assumes that the non-school district share, **51.4 percent**, will be used.

Residential assessment rate. For property tax year 2027, this fiscal note assumes that the residential assessment rate will be set so that residential assessments make up 51.4 percent of total assessed values. A forecast of assessed value is not yet available for property tax year 2027. Therefore, the impacts below are presented qualitatively, since a quantitative estimate cannot be produced without a forecast. Since residential actual values usually increase more quickly than

nonresidential market values, it is assumed that the resolution will most likely decrease residential assessments in 2027 relative to what would otherwise be expected. Any reduction would reduce school district assessed values by more than non-school district assessed values, since school district assessed values will be higher under the assessment rates in current law.

Local Government Impact

The resolution conditionally decreases local government revenue and expenditures as discussed below.

Local government revenue. Assuming that the resolution would cause a decrease in the residential assessment rate for property tax year 2027 and later years, the resolution is expected to conditionally decrease assessed values and property tax revenue beginning in FY 2027-28. Reduced property tax revenue collected as part of the local share of total program funding for school finance would be partially offset by increased state aid payments to school districts. Depending on the amount of the decrease, the resolution may stop implementation of the new school finance formula in HB 24-1448, which would decrease total program funding and cause state aid payments to school districts to decrease, or to increase by less, relative to current law.

Local government expenditures. The resolution is assumed to cause the residential property actual value subtractions in SB 24-233 not to apply beginning in property tax year 2027. This is expected to conditionally decrease county assessors' property tax administrative costs by an indeterminate amount beginning in tax year 2027.

State Expenditures

The resolution conditionally increases state workload for property tax administration beginning in FY 2026-27 and conditionally increases state expenditures for school finance beginning in FY 2027-28.

Department of Local Affairs. Workload in the Division of Property Taxation will increase to perform calculations and reporting associated with annual calculations of the residential assessment rate. This workload can be accomplished within existing appropriations.

School finance. The resolution conditionally increases state aid expenditures for school finance beginning in FY 2027-28. Increases will depend on relative growth in residential and nonresidential values, and any decreased state aid requirement as a result of stopping HB 24-1448 implementation. School finance expenditures may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these sources.

Election expenditure impact — existing appropriations. This resolution includes a referred measure that will appear before voters at the November 2024 general election. While no additional appropriation is required, certain election costs are incurred by the state when ballot measures are referred. These include reimbursing counties for certain election costs; publishing the text and title of the measure in newspapers across the state; and preparing and mailing the ballot information booklet.

Technical Note

Under current law with SB 24-233, there are different residential assessed values that apply to school districts and non-school districts in property tax year 2026. The resolution does not specify which of these should be used to calculate the residential assessment rate for property tax year 2027. The fiscal note assumes that the non-school district assessed value is used.

Under current law with SB 24-233, there are subtractions from actual value that apply for residential property in determining assessed values for non-school districts. It is unclear if these subtractions would be constitutional if voters approve the referred measure in the resolution. This fiscal note assumes that they would not apply for property tax year 2027.

Effective Date

If approved by 55 percent of voters at the November 2024 election, the constitutional amendment in the resolution takes effect upon proclamation of the Governor.

State and Local Government Contacts

Local Affairs

Property Tax Division

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).