

Amendment 3 to Legislative Council Draft

# Amendment B: Repeal Gallagher Amendment

1 **Amendment B proposes amending the Colorado Constitution to:**

- 2 • [repeal the Gallagher Amendment requiring](#) residential and nonresidential
- 3 property [tax revenues](#) to make up [the same portion](#) of total statewide property
- 4 [taxes as when the Gallagher Amendment was adopted in 1982, including](#) the
- 5 requirement that [sets](#) the nonresidential [assessment rate](#) at 29 percent.

**Commented [AG1]:** Replaces the two bullets with one bullet, with the tracked changes below.

6 **What Your Vote Means**

## YES

A "yes" vote repeals sections of the Colorado Constitution [that set a fixed statewide ratio](#) for residential [and nonresidential property tax revenue](#). [Assessment rates for all property types will remain the same as they are now, projected future decreases in](#) the residential assessment rate will not be required, [and any future increases in assessment rates would require a vote of the people.](#)

## NO

A "no" vote leaves constitutional provisions related to property taxes in place, maintaining current [requirements](#) for setting the assessment rates used to calculate property taxes. This is expected to result in a decreasing residential assessment rate over time [and in automatic local mill levy increases in jurisdictions where required by law.](#)

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## Summary and Analysis for Amendment B

In Colorado, property taxes fund local [government services](#), including [services provided by](#) cities, counties, and special districts, such as local police [and fire protection, hospitals, transportation, and the local share of K-12 education](#). [The Gallagher Amendment sets statewide rules for property taxes funding these local services](#). This analysis first [summarizes what Amendment B does, then](#) describes how property taxes are calculated, and finally discusses how the measure affects taxpayers and governments.

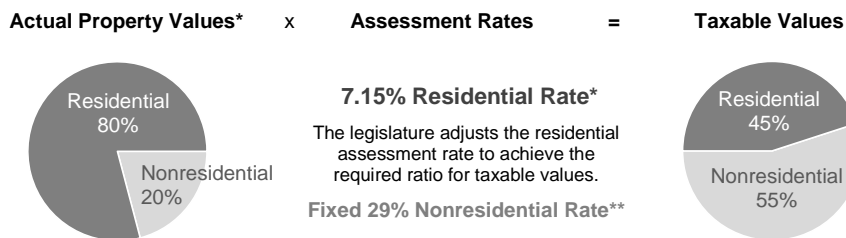
### What does Amendment B do?

Amendment B removes provisions related to the residential and nonresidential assessment rates from the constitution, including the provisions commonly known as the Gallagher Amendment.

[The Gallagher Amendment](#) currently requires that residential and nonresidential property make up constant portions of total statewide taxable property over time. Since adoption in 1982, these provisions have required that the taxable value of residential property make up about 45 percent, and the taxable value of nonresidential property about 55 percent of statewide taxable property. Actual property values have not matched the required ratios over time because residential property values have generally grown faster than nonresidential property values. Since the taxable portion of most nonresidential property values is fixed at 29 percent, the state legislature adjusts the residential assessment rate to maintain the required ratio, as shown in Figure 1.

Amendment B removes these provisions from the constitution, leaving the residential and nonresidential assessment rates at their current rates in state statute. Under current law, the residential assessment rate is expected to decrease in future years, reducing the amount of property taxes paid by property owners and collected by local governments. [Amendment B would eliminate automatic tax increases adopted by some local jurisdictions to offset revenue losses from the Gallagher Amendment. In jurisdictions that have not adopted automatic tax increases, Amendment B eliminates projected future decreases in the residential assessment rate and any increase in nonresidential or residential assessment rates would require voter approval.](#)

**Figure 1. Assessment Rate Adjustments Under Current Law**



\*Actual property values are for 2019. The residential assessment rate is for 2019 and 2020. This assessment rate has fallen over time to maintain the fixed ratio for taxable values of about 45 percent residential and 55 percent nonresidential.

\*\*Assessment rate for most nonresidential property.

**Commented [AG2]:** The amendment switches the order of the “What does Amendment B do” and “How are property taxes calculated”. This document shows them in the order that they would be if the amendment is adopted.

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### How are property taxes calculated?

Property taxes are paid by residential homeowners and nonresidential property owners, including farmers, ranchers, oil and gas operators, and other businesses. Property taxes are paid on a portion of a property's actual value. The actual value of property is determined by the county assessor or state property tax administrator. The portion of the actual value on which taxes are paid is known as taxable value. Taxable value is also known as assessed value.

Taxable value is calculated by multiplying the actual value by an assessment rate. The assessment rate is currently 7.15 percent for residential properties, and is fixed at 29 percent for most nonresidential properties. Mines and lands that produce oil and gas are assessed at different rates than other nonresidential property.

Taxable value is then multiplied by the tax rate, called a mill levy, to determine the property taxes owed. One mill equals \$1 for each \$1,000 dollars of taxable value. For example, 100 mills is equal to a tax rate of 0.1 (100/1,000), or 10 percent. The tax rate varies for each property based on the local taxing districts in which it is located. Figure 2 provides an example of how property taxes are calculated.

#### Figure 2. Property Tax Calculation

Example: Property valued at \$300,000 and taxed at 100 mills

**Taxable value** = Property value x Assessment rate

Residential      \$300,000    x    7.15%    = \$21,450 taxable value

Nonresidential    \$300,000    x    29%      = \$87,000 taxable value

**Property taxes** = Taxable value x Tax rate (Mills/1000)

Residential      \$21,450    x    0.100    = **\$2,145 owed**

Nonresidential    \$87,000    x    0.100    = **\$8,700 owed**

### How has the residential assessment rate changed over time?

In most years, residential property values have grown faster than nonresidential values, causing the residential assessment rate to be lowered so that residential properties continue to make up about 45 percent of statewide taxable value. As shown in Figure 3, the residential assessment rate has been reduced from 21 percent when these provisions went into effect in 1983 to a current rate of 7.15 percent. With the fixed nonresidential assessment rate at 29 percent, and the current 7.15 percent residential assessment rate, nonresidential property owners pay an effective tax rate that is approximately four times higher than residential property owners. The downward shift of the residential assessment rate is expected to continue in future years.

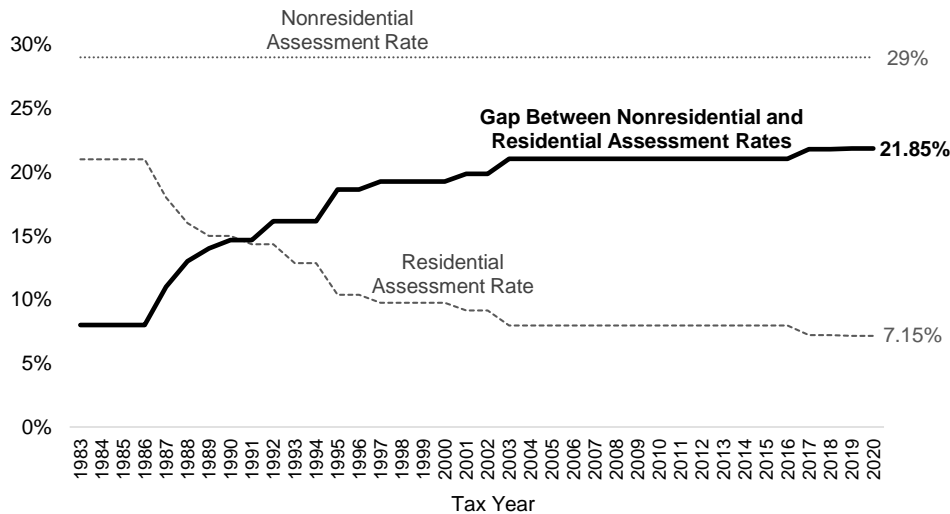
**Commented [AG3]:** The amendment switches the order of the "What does Amendment B do" and "How are property taxes calculated". This document shows them in the order that they would be if the amendment is adopted.

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**Figure 3. Gap in Assessment Rates Since 1983**



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When nonresidential property values grow faster than residential property values, the residential assessment rate must increase to maintain the constant ratio; however, other constitutional provisions require that voters approve such an increase. As a result, the state legislature may decrease, hold flat, or ask voters to approve an increase in the residential assessment rate. Since 1999, there have been six instances when the residential assessment rate would have increased, but the legislature did not refer a measure to voters and the rate instead stayed flat.

### What factors impact property taxes?

Property taxes paid by a property owner are dependent on three components: actual property value, the applicable assessment rate, and the mill levy. Changes to any of these components impact the amount of property taxes paid, and thus, the amount of revenue collected by a local government. Amendment B concerns only residential and nonresidential assessment rates; however, other changes to property values or tax rates also impact the amount of property taxes owed.

**Deleted:** tax rate (   
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### What are the automatic mill levy increases that some local governments have adopted?

In response to the shift between residential and nonresidential assessment rates, many local governments have adopted laws that automatically increase local mill levies to offset the revenue losses from the Gallagher Amendment. These automatic increases counteract the reduction in the residential assessment rate and result in a net property tax increase for nonresidential property owners. These automatic mill levy increases would not be triggered if Amendment B passes.

**Commented [AG5]:** New heading

### How does Amendment B affect residential property taxpayers?

Under Amendment B, the residential assessment rate will remain at the current 7.15 percent for residential property. Without the measure, the residential assessment rate is projected to decrease in future years due to the relative growth of

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1 residential property values compared to nonresidential property values. As a result,  
2 Amendment B is expected to eliminate projected future reductions in the residential  
3 assessment rate, and thus, could result in higher property taxes paid by residential  
4 taxpayers, if property values increase and if automatic mill levy increases do not  
5 offset assessment rate reductions.

### 6 **How does Amendment B affect nonresidential taxpayers?**

7 Under Amendment B, the assessment rate will remain in state law at 29 percent for  
8 most nonresidential property. Amendment B will have no impact on the amount of  
9 taxes paid by most nonresidential property owners.

10 In the local governments that have approved automatic mill levy increases to offset  
11 revenue reductions from the Gallagher Amendment, Amendment B will prevent  
12 property tax increases for businesses, farmers, and other nonresidential property  
13 owners, as the higher mill levies that would have been triggered by decreases in the  
14 residential assessment rate under the Gallagher Amendment will no longer be  
15 required.

Deleted: tax rate (mill levy)

### 16 **How does Amendment B impact local government revenue?**

17 Under the current system, the decline in the residential assessment rate has  
18 constrained property tax revenue to local governments. The impact varies across  
19 the state, with the largest impacts occurring in areas without much nonresidential  
20 property or with only slow growth in home prices. These areas are generally small  
21 and rural; however, metropolitan areas with slow growth in home values are also  
22 impacted. Amendment B prevents further decreases in the residential assessment  
23 rate, resulting in more property tax revenue to local governments than would  
24 otherwise be received.

### 25 **How does Amendment B impact state government spending for schools?**

26 Schools are funded through a combination of state and local revenue, with the state  
27 making up the difference between an amount of school district funding identified  
28 through a formula in state law and the amount of local tax revenue generated. By  
29 preventing future decreases in the residential assessment rate, Amendment B  
30 increases local property tax collections for school districts, and reduces the amount  
31 the state must pay to make up the difference.

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### 32 **If Amendment B passes, can the state legislature change the assessment rates?**

33 Under Amendment B, the state legislature may decrease the assessment rates, but  
34 cannot increase them without voter approval. Currently, assessment rates are set in  
35 state law at 7.15 percent for residential property and 29 percent for most  
36 nonresidential property.

For information on those issue committees that support or oppose the measures on the ballot at the November 3, 2020, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

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### Arguments For Amendment B

- 1) The Gallagher Amendment is outdated and full of unintended consequences. If the Gallagher Amendment is not repealed, owners of high-end homes in Denver's wealthiest neighborhoods would get a tax cut next year, while small businesses and farmers would pay a larger share of property taxes. The Gallagher Amendment causes small businesses to be taxed at a rate four times higher than residential property owners, and penalizes rural and low income communities that lack a significant commercial tax base.
- 2) Colorado has some of the lowest residential property taxes in the nation, and Amendment B fixes property tax assessment rates at their current levels. Amendment B is not a tax increase. Under Amendment B, the property tax rates homeowners and businesses pay could only be increased by a vote of the people.
- 3) Amendment B will prevent deep cuts to schools, hospitals, fire protection, and other local services in many areas of the state. Declines in the residential assessment rate caused by the Gallagher Amendment have resulted in significant reductions in vital services provided by local governments, particularly in rural and low income communities. Amendment B allows local governments to continue providing services that their communities expect.

**Commented [AG6]:** Replace current Arguments For with the arguments written below.

### Arguments Against Amendment B

- 1) Amendment B results in higher property taxes for homeowners by preventing future drops in the residential assessment rate. Increasing home values have already resulted in higher property taxes for many homeowners. Higher taxes mean that homeowners will have less money to spend or save, and landlords may increase rents, at a time when many are already struggling to make ends meet.
- 2) The property tax system is working as it was intended. It keeps residential property taxes low, and prevents special interests from obtaining tax breaks at the expense of homeowners. Amendment B removes an important protection for homeowners from the Constitution. Without these protections, homeowners may end up paying an increasing share of property taxes.
- 3) There are better alternatives to amending the constitution. Local governments can instead ask their voters to raise tax rates or seek other solutions to provide services such as fire protection, schools, and libraries. These alternatives would allow voters in each local jurisdiction to decide for themselves how to best fund services for their community.

### Estimate of Fiscal Impact for Amendment B

**Local revenue and spending.** For many local governments, including counties, cities, school districts, and special districts, Amendment B will result in increased property tax revenue. The amount of any increase will depend on what the residential assessment rate would have been in the future without the measure, as well as whether voters have already approved local tax increases to counteract future potential decreases in the residential assessment rate.

**State spending.** To the extent that Amendment B increases property tax revenue to school districts, additional funding will be available for the local share of the state's

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1 system of school finance, reducing the amount the state must pay to make up the  
2 difference between local revenue and the school district funding amount identified  
3 through a formula in state law.

4 **Taxpayer impacts.** Maintaining the current residential assessment rate results in  
5 higher property taxes for many residential property owners compared to what they  
6 would owe if residential assessment rates were lowered in the future. The impact on  
7 property owners from holding the residential assessment rate constant in the future  
8 will vary based on several factors, including what future decreases in the residential  
9 assessment rate would have been required without the measure, the actual value of  
10 the property, and the tax rates of the local taxing districts. The measure does not  
11 impact the assessment rate for most nonresidential taxpayers.

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