

Alternatives to the Gallagher Amendment Interim Study Committee

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Committee Charge

The Alternatives to the Gallagher Amendment Interim Study Committee was created pursuant to Interim Committee Request Letter 2018-02. The committee is charged with studying the following:

- the operation of the Gallagher Amendment;
- the impact of a statewide residential assessment rate;
- the impact of the Gallagher Amendment on nonresidential property;
- how natural resources are accounted for in the Gallagher Amendment;
- the impact of the Gallagher Amendment on various counties, municipalities, school districts, and special districts;
- the impacts of the Gallagher Amendment on the state budget;
- the interaction between the Gallagher Amendment and other constitutional provisions;
- the sustainability of property taxes as a revenue source for local governments;
- the effect of the Gallagher Amendment on taxpayers; and
- modifications or alternatives to the Gallagher Amendment.

Committee Activities

The committee met five times during the 2018 interim and held two of those meetings outside the Capitol in Glenwood Springs and Pueblo. The committee heard from the state property tax administrator, assessors, and statewide organizations representing counties, municipalities, and special districts to learn about the nature and scope of the issues relating to the Gallagher Amendment and its impact on local tax revenue and the state budget.

Background information was provided to the committee on the property tax system and the calculation required in the constitution for the target percentage of the residential versus nonresidential property tax base and the residential assessment rate. The committee was presented with the impacts of the Gallagher Amendment on homeowners, business owners, and local governments. Senator Gallagher, the original sponsor of the Gallagher Amendment, shared that the amendment is functioning as intended, causing the residential assessment rate to fall as home prices increase, thereby providing protection for homeowners against rising property taxes. Businesses discussed the disparity between the residential assessment rate, which has fallen over time, and nonresidential assessment rate, which is fixed at 29.0 percent.

Testimony highlighted regional disparities in local government revenue that have been exacerbated by the Gallagher Amendment. The growth and home price appreciation in the housing markets along the Front Range largely drove the required statewide reduction in the residential assessment rate. Several local governments outside of the Front Range shared how assessed values declined in their districts even though home prices increased, resulting in local government budgetary pressures that

required counties and special districts to reduce the services provided to cut costs. Many local governments planned to ask voters to raise mills, however they were concerned with trying to educate voters about the need for a mill levy increase.

County commissioners from Summit County and Gunnison County shared the difficulty in funding local government services when vacation rental property is taxed at a lower rate than hotel and motel property.

Several ideas were offered to the committee as possible solutions to the budgetary pressures facing the state and local governments as a result of the Gallagher Amendment, including:

- freezing the residential assessment rate;
- reducing residential and nonresidential assessment rates and creating a new property class for second homes;
- reclassifying short-term rentals as nonresidential properties;
- allowing local governments to raise mill levies;
- implementing a four-year reassessment period;
- repealing the Gallagher Amendment;
- replacing the assessment rates in the constitution with assessment rates set in statute; and
- using regional residential rate assessments instead of statewide assessments.

Committee Recommendations

As a result of committee discussion and deliberation, the Alternatives to the Gallagher Amendment Interim Study Committee recommends the following three bills for consideration in the 2019 legislative session.

Bill A – Repeal the Gallagher Amendment. The measure submits a question to voters in November 2019 repealing several constitutional provisions regarding property taxes, commonly referred to as the Gallagher Amendment. Specifically, it repeals the 29 percent assessment rate in the constitution for most nonresidential property, the calculation of the target percentage, and references to the residential assessment rate.

Bill B – Regional Residential Assessment Rates for Property Tax. If voters in the November 2019 election approve a referred measure to repeal the Gallagher Amendment, the bill will create regional assessment rates for residential property. The bill uses the eight Department of Local Affairs field regions as the basis for the calculations.

Regional target percentages. The Division of Property Taxation (DPT) is required to estimate the share of residential and nonresidential assessed value for each of the eight regions starting in 2019. After each reassessment cycle beginning in 2021, the share of residential and nonresidential property is adjusted for new construction and new natural resource production by region.

Regional assessment rates. The DPT will then calculate the residential assessment rate to achieve the target percentages in each of the eight regions. The DPT will publish a report with the regional target percentage and determine if the regional assessment rate must increase or decrease.

- **Decreased regional assessment rate.** When DPT estimates that the regional assessment rate required to meet the regional target percentage must decrease, the assessment rate for each county in the region declines. However, the regional assessment rate cannot fall by more than 5.0 percent between each reassessment cycle and no regional assessment rate can fall below 5.0 percent. Using the current assessment rate as an example, the 7.20 percent assessment rate could only fall by 5.0 percent to 6.84 percent after the next assessment and could never fall below 5.0 percent in future years.
- **Increased regional assessment rate.** When DPT estimates that the regional assessment rate required to meet the regional target percentage shall increase, an increase in the regional assessment rate is automatically referred to voters in the region. In November following the reassessment, each region must conduct a coordinated election and ask voters to approve the regional assessment rate estimated by DPT. If voters do not approve the increased regional assessment rate, the rate remains fixed at the last regional assessment rate.

Bill C – Backfill Property Tax Loss to Certain Special Districts. This bill creates a residential property tax revenue backfill for fire protection and library special districts that experience at least a 5 percent reduction in residential property taxes in 2019. No later than December 15, 2019, each of these special districts must determine their 2018 and 2019 residential and adjusted residential property tax. The district must report its backfill amount to the Department of Local Affairs, Division of Local

Government, if:

- the district's 2019 adjusted residential property tax decreased by 5 percent or more compared to 2018 residential property taxes; and
- the district has not increased its mill levy from the 2018 property tax year.

The Division of Local Government must verify the calculations and report the backfill amount to the State Treasurer by December 31, 2019. The State Treasurer is required to reimburse 95 percent of the district's reduction in residential property taxes.

The district backfill calculation required by this bill does not need to be made if a statewide ballot measure to repeal the Gallagher Amendment in the constitution is approved by the voters during the November 2019 election.