The Greater Eagle Fire Protection District is one of dozens of special taxing districts across Colorado seeking taxpayer approval to annually adjust mill levy rates to offset revenue declines under the state’s Gallagher Amendment. (Jason Blevins, The Colorado Sun)

**POLITICS AND GOVERNMENT**

**Amendment B puts spotlight on Gallagher’s mixed legacy of budget cuts, tax relief and inequality in Colorado**

An analysis shows the impact of the Gallagher Amendment on property taxes as advocates ask voters to repeal the measure

SEP 15, 2020 3:00AM MDT

Brian Eason
On the one hand, Gallagher has delivered a **cumulative $35 billion in property tax cuts** to residents across the state since it took effect, offering families at least some relief from the meteoric rise in Front Range housing costs.

On the other, a new Colorado Sun analysis of state property tax data determined that Gallagher has exacerbated Colorado’s urban-rural divide, gashing public budgets in small communities that already struggle to afford essential services, like fire protection, health care and education, even as the Front Range prospers. The constitutional amendment’s ripple effects have also trickled up to the state government, demanding ever more resources for schools, and exacerbating historic budget shortfalls that today threaten to set the state’s finances back to the darkest days of the Great Recession.

The analysis found that government services in more than half of Colorado’s 64 counties never recovered financially from the last recession, leaving them ill-equipped to deal with today’s economic downturn. Meanwhile, in places where housing is least affordable — and residents are pleading for the sort of financial relief Gallagher is supposed to provide — the cuts haven’t come close to offsetting the rapid rise in property values.

Gallagher’s detractors say businesses and low-income residents have borne the brunt of the shifting tax burden as government agencies scramble to make ends meet. But to supporters — even if it’s imperfect — Gallagher remains one of the few things pushing back against rising housing costs.

A repeal of the Gallagher amendment “takes a sledgehammer to affordable housing, in my opinion,” said Dickey Lee Hullinghorst, the former Democratic House Speaker who opposes the measure. “It will indeed result in increased taxes for renters, because those property taxes just get passed on to them, when people are just trying to stay in their homes and keep from getting evicted. And for people who are struggling to pay their mortgages — it’s terribly bad timing, if nothing else.”
What that timing — amid an unprecedented pandemic and economic crisis — will mean for the November ballot measure to repeal Gallagher is not clear. Voters have been asked to ditch the amendment before, and it failed in a landslide. Critics of Gallagher are hoping that the legislature’s overwhelming bipartisan support to put the repeal on the ballot this year will be enough to convince the public of the provision’s downsides. But the reality is the vast majority of the state’s population lives in the communities where housing prices are rising the fastest and public services are least affected.

“There isn’t and there has not been a perfect solution,” said Michael Valdez, the policy director for the Special District Association. His group represents an array of small government agencies, like fire districts and hospitals, that have been the hardest hit by the statewide cuts. “But,” he added, “this is the best one we’ve come across so far.”
How Gallagher works in Colorado and what it means for property taxes

When state lawmakers sent voters the Gallagher Amendment in 1982, proponents said it would do two things: Protect homeowners to some degree from rising property tax assessments, and ensure that businesses contribute their “fair share,” by requiring that homes make up no more than 45% of the statewide property tax base.

In the 38 years since, it has arguably done just that, periodically slashing assessment rates for residents, while denying those same tax cuts to nonresidential property, a broad category that includes commercial buildings, industrial sites and vacant land.

Gallagher splits Colorado’s tax base into a 45% to 55% ratio between residential property and everything else. It can help to visualize it like a weighted scale, with residential property on one side, and nonresidential on the other. As long as residential values make up no more than 45% of the statewide property tax base, tax assessment rates stay the same. But if residential property values rise rapidly, or business properties lose value, as state forecasters are now projecting due to the pandemic, it can trigger a tax cut for individual homeowners and apartments.

Since 1982, the residential assessment rate has fallen to 7.15% from 21% of market value, with another large cut anticipated next year. The nonresidential assessment rate is unchanged at 29%, meaning businesses now pay more than four times the property tax rate of homeowners.
The formula for how local property taxes are calculated generally works like this:

- Take the fair market value multiplied by the assessment rate to find the assessed value of a property.
- Then, multiply the assessed value by your local mill levy and divide by 1,000. Homeowners are charged 1 mill in taxes for each $1,000 in assessed value.

When Gallagher was first adopted, policymakers envisioned communities adjusting their mill levies up and down to compensate for any revenue loss it caused at the local level. But when the Taxpayer’s Bill of Rights, or TABOR, was adopted in 1992, local governments could no longer do so without voter approval.

And an increase in property taxes is notoriously unpopular at the ballot box. Despite a number of recent increases, the average local mill levy that Colorado residents pay is still lower today than it was when Gallagher was adopted.

“Gallagher, as it’s proposed, is designed to flow up and down,” Valdez, executive director of the special districts association, said. “We’ve lost the up part.”

**A statewide formula, a regional divide from Gallagher**

The fundamental problem with Gallagher is that it applies a one-size-fits-all statewide formula to every community and taxpayer.

As a result, property taxes in small rural towns are increasingly dictated not by what’s happening in their local economy, but by property values along the Front Range.
An analysis by the nonpartisan Colorado Legislative Council illustrates the local disparities well. Since 2004, the property tax base of 10 counties has increased by more than 50%, largely thanks to oil and gas development. In five more, including Denver, it’s jumped by more than 25%. But in 24 counties the tax base has shrunk. And the Gallagher formula responds to where the bulk of the state’s money is: the Front Range, and oil and gas communities, like Weld County.

Property taxes make up the single largest source of revenue for local governments in Colorado. Still, in much of the state, Gallagher hasn’t posed much of a threat to local services. Although residential tax assessment rates have been cut by 66% since 1982, a Sun analysis of state property tax data found that per capita property tax collections have actually increased by 63% statewide when adjusted for inflation. In the Metro Denver economic region, they’ve gone up even more. In 2019 dollars, local governments now raise $2,061 in property taxes per capita, up 76% from $1,170 when Gallagher was passed.
But in parts of rural Colorado, it’s a different story. In 17 counties, per capita revenue has dropped from 1982 levels, none more so than the San Luis Valley area. In Saguache County, residents pay an average of 87 mills in property taxes, which is higher than the statewide average. But its local governments still only raised $993 per capita last year, or 46% less per person than they did in 1982.

There are two key reasons for this disparity. One, in places with sluggish housing markets, Gallagher sometimes cut taxes faster than home values are rising. And two, Gallagher was designed to shift the tax burden from residents to businesses. But some places don’t have enough business property or oil and gas within their borders to make up for cuts to residential taxes.

In the past decade, even more communities have been left behind. In 2019 dollars, property taxes across the state generate 10% more revenue per capita today than they did in 2009. But 39 of the state’s 64 counties still haven’t recovered to 2009 tax collection levels. That includes nine mountain counties that rely heavily on property tax dollars to fight wildfires. Clear Creek County, the site of one wildfire this summer, has seen its per capita tax collections drop 48% since 2009.
household income is higher than the statewide average and poverty is low. But because the tax base is predominantly residential, local agencies have struggled to maintain essential services. Despite increasing local taxes by 86% since 1982, the tax base still only generates 5% more revenue per capita than it did when Gallagher was introduced. Since 2009, per capita revenue has fallen by 34%, forcing the local fire district to dip heavily into its rainy day fund and loan out fire trucks to neighboring districts to avoid layoffs.

Rep. Matt Soper, a Republican from Delta who co-sponsored the repeal effort, says Gallagher is “wreaking havoc across the state.”

“If you’re a rural hospital or health clinic, especially in rural and low-income communities ... there just isn’t a commercial property tax base to fund these basic local health services,” Soper, who sits on the board of directors at Delta County Memorial Hospital Board, said in a statement.

$35 billion in cuts — but for some, property taxes are still rising

When Gallagher was first introduced, property taxes were skyrocketing across the country. And Colorado was no exception to the backlash.

“Legislators and county commissioners were getting hundreds of people at their town hall meetings having a fit about the increases in their property taxes,” said Hullinghorst, the former state House Speaker, who worked in local government at the time.

Gallagher’s success in cutting residential taxes over the years has been remarkable. By one state analysis, Gallagher has saved residential taxpayers $35 billion since it took effect. Residential property taxes have fallen so dramatically that Colorado residents now pay an average effective tax rate of 0.56% of the market value of their home, or $1,680 annually on a $300,000
house. That’s the sixth lowest in the country, according to an analysis by the conservative Tax Foundation.

Renters receive the benefits of Gallagher as well, said Drew Hamrick, the senior vice president of governmental affairs for the Apartment Association of Metro Denver, which is opposing the repeal effort.

“Anything that costs a property owner money, either very quickly or eventually gets built into the rent rate of the unit,” Hamrick said. “Each and every dollar will become, over time, an increased rent cost.”

Still, much like rural Colorado has borne the brunt of the budget cuts, Front Range homeowners arguably aren’t getting their fair share of tax relief, either. Home values in metro Denver have more than doubled in the past decade. But under Gallagher’s statewide formula, the homeowners whose tax bills are rising the fastest have received the same 10% rate cut in that period as other areas where property values are stagnant or rising more slowly.
If you live in the Denver metro area, you can be forgiven if the panic surrounding the Gallagher Amendment sounds like utter nonsense.

“What tax cuts?” a homeowner may ask. Gallagher has saved Colorado residents $2.8 billion in property taxes last year alone, but in the metro area, homeowners continue to see their property tax bills rise.

Since voters added the Gallagher Amendment to the state constitution in 1982, the property-tax-limiting measure has carved out a complicated legacy, distributing its benefits — and its headaches — unevenly across the state.

It’s these disparities that made Gallagher one of Colorado’s most intractable political problems for decades. And the starkly different realities of urban and rural areas are part of why state lawmakers — after years of failing to agree on a replacement for Gallagher — are now asking voters to get rid of it entirely.
## Colorado property taxes per capita (2019 dollars)

Since the Gallagher Amendment took effect in 1982, the state’s property tax base has grown faster than Gallagher has cut assessment rates, leaving many local agencies with more revenue per person. But much of the state has fallen behind, particularly since the Great Recession.

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Colorado Springs</td>
<td>$856.37</td>
<td>$961.49</td>
<td>$914.45</td>
<td>7%</td>
<td>-5%</td>
</tr>
<tr>
<td>Eastern</td>
<td>$1,455.49</td>
<td>$1,383.28</td>
<td>$1,432.13</td>
<td>-2%</td>
<td>4%</td>
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<tr>
<td>Metro Denver</td>
<td>$1,169.90</td>
<td>$1,781.76</td>
<td>$2,060.83</td>
<td>76%</td>
<td>16%</td>
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<tr>
<td>Mountain</td>
<td>$2,371.64</td>
<td>$3,877.67</td>
<td>$3,327.40</td>
<td>40%</td>
<td>-14%</td>
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<tr>
<td>Northern</td>
<td>$1,139.12</td>
<td>$1,758.47</td>
<td>$2,617.91</td>
<td>130%</td>
<td>49%</td>
</tr>
<tr>
<td>Pueblo-Southern Mountains</td>
<td>$921.26</td>
<td>$1,028.29</td>
<td>$1,013.61</td>
<td>10%</td>
<td>-1%</td>
</tr>
<tr>
<td>San Luis Valley</td>
<td>$1,317.44</td>
<td>$1,121.27</td>
<td>$1,115.63</td>
<td>-15%</td>
<td>-1%</td>
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<tr>
<td>Southwest Mountain</td>
<td>$1,157.31</td>
<td>$2,186.22</td>
<td>$1,458.45</td>
<td>26%</td>
<td>-3%</td>
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<tr>
<td>Western</td>
<td>$1,202.39</td>
<td>$2,254.32</td>
<td>$1,534.24</td>
<td>28%</td>
<td>-32%</td>
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<tr>
<td>Statewide Total</td>
<td>$1,177.68</td>
<td>$1,754.39</td>
<td>$1,924.20</td>
<td>63%</td>
<td>10%</td>
</tr>
</tbody>
</table>

All figures are adjusted for inflation and population, and are listed in 2019 dollars. Regions are as defined in Colorado Legislative Council economic forecasts.

Table: Brian Eason/The Colorado Sun • Source: Colorado Sun analysis of Colorado Department of Local Affairs data. • Get the data • Created with Datawrapper

Budget crises can even emerge in places that are otherwise thriving economically. In Grand County, near Rocky Mountain National Park,
While average mill levy rates are still lower than they were when Gallagher was adopted, they’ve been rising steadily since the recession, as communities grapple with mandated residential cuts. As a result, not only do businesses miss out on the tax relief homeowners receive, they’re hit that much harder each time local taxes go up in response.

Some aren’t even convinced that a property tax cut is a good deal for the average resident. A study released in August by the Bell Policy Center, a progressive think tank that supports repealing Gallagher, found that as property tax collections have dropped, local governments have turned to sales taxes and fees, both of which are regressive, meaning they hit the poor and middle class much harder than the wealthy. Racial minorities in particular have been taxed disproportionately high by Colorado’s regressive system, the center’s analysis found.

“We’ve created kind of a perfect storm that’s produced a much more regressive tax policy in Colorado,” said Tyler Jaeckel, who co-wrote the report.

Notably, property taxes are regressive — though not as much as sales tax, according to the left-leaning Institute on Taxation and Economic Policy.

The next shoe typically falls on education

“Imagine being a small business owner in Fort Morgan and realizing you are getting a property tax increase while the owner of a second home in Aspen or Vail is getting an actual property tax cut,” Gagliardi said in a statement.

Gallagher’s impact doesn’t stop at the local level. Each time a property tax cut takes effect, the state is constitutionally required to step in and backfill any reductions in school funding.
Residential tax bases diverge

Since the Great Recession, Colorado's housing market has gone in two directions. When adjusted for inflation and population, the residential tax base has grown in four of the state’s nine economic regions even after Gallagher’s cuts. Five others have lost residential assessed value.

<table>
<thead>
<tr>
<th>Region</th>
<th>Change in Residential Tax Base 1982 to 2019</th>
<th>Change in Residential Tax Base 2009 to 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado Springs</td>
<td>194.7%</td>
<td>6.1%</td>
</tr>
<tr>
<td>Eastern</td>
<td>114.0%</td>
<td>6.0%</td>
</tr>
<tr>
<td>Metro Denver</td>
<td>86.6%</td>
<td>14.4%</td>
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<tr>
<td>Mountain</td>
<td>117.2%</td>
<td>-25.3%</td>
</tr>
<tr>
<td>Northern</td>
<td>53.1%</td>
<td>13.9%</td>
</tr>
<tr>
<td>Pueblo-Southern Mountains</td>
<td>1.7%</td>
<td>-13.3%</td>
</tr>
<tr>
<td>San Luis Valley</td>
<td>-10.3%</td>
<td>-10.1%</td>
</tr>
<tr>
<td>Southwest Mountain</td>
<td>22.1%</td>
<td>-23.1%</td>
</tr>
<tr>
<td>Western</td>
<td>81.2%</td>
<td>-25.7%</td>
</tr>
<tr>
<td>Statewide Total</td>
<td>79.3%</td>
<td>-0.3%</td>
</tr>
</tbody>
</table>

The change in residential tax base is calculated based on the change in residential assessed value over time, when adjusted for inflation and population growth. Regions are grouped as defined in Colorado Legislative Council economic forecasts.

Table: Brian Eason/Colorado Sun • Source: Colorado Sun analysis of Colorado Department of Local Affairs property tax data • Get the data • Created with Datawrapper

For commercial business owners, Gallagher is “basically indefensible,” says Tony Gagliardi, the Colorado state director of the National Federation of Independent Business.
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And if another round of property tax cuts takes effect as anticipated, schools could require another $247 million backfill from the state at the same time as historic budget shortfalls.

That, coupled with a state spending cap established by TABOR, has led state policymakers to shift limited state dollars away from things like roads and higher education in order to replace the local funding lost to K-12 schools. This isn’t entirely due to the interaction between Gallagher and TABOR, but today, the state provides 63% of K-12 funding, up from 43% before TABOR took effect.

Even some who oppose the repeal acknowledge that Gallagher has caused problems in parts of the state. Trouble is, they say, lawmakers haven’t offered voters an alternative.

“There may be a better system out there,” said Hamrick at the metro Denver apartment association. “But this approach of the first shoe falling and we’ll see what the second shoe looks like later. We can’t make any judgment about what the system looks like next.”

Likewise, some critics of Gallagher, like Colorado Counties Inc., oppose the ballot measure because they fear it will only make things worse for local governments. Today, the higher assessment rate on businesses is set in stone by the constitution. But if the measure passes, future lawmakers could pass a statute to lower it.

Valdez, the special districts advocate, acknowledges that future business tax cuts are possible, but he considers it unlikely.
“Overall, we believe that tax policy should be out of the constitution,” he said. “Our perspective is that the legislature has a greater understanding for the impact for local governments, and they’ll become the vanguard, if you will, to protect local governments.”

Hullinghorst, though, is adamant that repealing Gallagher isn’t the answer to funding woes at any level of government.

“I have all the sympathy in the world for them (state lawmakers). I served in 2009 when we were tanking, and it was tough times,” she said. “The question is: Are you now going to shift that burden to individual residential property taxpayers? And my answer is no — and (if you do), you’re probably going to have a revolt on your hands as soon as this starts hitting the fan.”

If voters reject the measure, current projections anticipate an 18% cut for homeowners in 2021. That would more than offset a projected 10% rise in home values, providing some timely financial relief in an economic crisis.

For local governments, though, the future looks grim. And businesses — the financial backstop that Gallagher directs local officials to turn to as residential taxes fall — may not be there to lean on this time around. At last forecast, commercial property values were expected to drop 20% in 2021.
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Colorado General Assembly   Dickey Lee Hullinghorst   Election 2020   Gallagher Amendment
Gallagher repeal   Matt Soper   National Federation of Independent Business   property taxes
tax policy   taxes

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Mayor Sarah Smith Hymes

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