Certification of Word Count: 1,111

SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203	
ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), C.R.S. (2007) Appeal from the Ballot Title Board	
IN RE MATTER OF TITLE, BALLOT TITLE AND SUBMISSION CLAUSE FOR #95 (TAXABLE VALUES AND TAX ON PROPERTY") ROBERT M. MOODY, OBJECTOR , Petitioner, v. ERNEST DURAN, JR. AND IRENE GOODELL, PROPONENTS; AND WILLIAM HOBBS, SHARON EUBANKS AND DANIEL DOMENICO, Respondents.	▲ COURT USE ONLY ▲ Case No.: 08 SA 177
JOHN W. SUTHERS, Attorney General MAURICE G. KNAIZER, Deputy Attorney General* 1525 Sherman Street, 7th Floor Denver, CO 80203 (303) 866-5380 Registration Number: 05264 *Counsel of Record	

ANSWER BRIEF OF TITLE BOARD

William Hobbs, Sharon Eubanks and Daniel Domenico, as members of the Title Board (hereinafter "Board"), hereby submit their Answer Brief. This Brief is intended to respond only to arguments not addressed in the Board's Opening Brief.

SUMMARY OF THE ARGUMENT

Objector incorrectly argues that the titles are erroneous because they imply that residential property will not be affected. The argument misreads the clear language of the measure. Moreover, the argument is based on the incorrect assumption that the measure's alteration to the valuation for assessment of commercial property will automatically affect residential property valuations.

The titles do not imply that commercial property taxes will be raised only by five percent.

ARGUMENT

I. The titles accurately reflect the contents of the measure.

Objector contends that the titles do not state that the measure will impact residential as well as nonresidential property. As Objector notes, the measure does not discuss or even mention valuation of residential property. It merely sets the percentage for valuation of nonresidential property. Objector does not assert that the titles do not adequately summarize the measure. Rather, he contends that the titles do not discuss the impact of the measure on the relationship between residential and nonresidential assessments in Colo. const. art. X, § 3. Objector contends that the Board must discuss the impact of the measure on residential property valuations.

This Court has consistently rejected arguments that the Board or the Court can interpret the effects of proposed initiatives. *In re Proposed Initiative on School Pilot Program*, 874 P.2d 1066, 1070 (Colo. 1994). This Court discussed an argument similar to that offered by Objector. *In the Matter of the Title, Ballot Title and Submission Clause and Summary Pertaining to the Mineral Production Tax Initiative,* 644 P.2d 20 (1982). Proponents offered a constitutional amendment seeking to impose a tax on the production of metallic minerals and mineral fuels. The opponents argued that the tax would replace existing severance taxes; accordingly the summary should have included a reference to the existing tax and the effect of replacement. The Court disagreed, noting that Board should not discuss the effect of the measure on existing law. *Id.* at 24.

Even if the Board has a general obligation to include in the titles a statement about the effect of the measure on taxes, it properly declined to do so in this instance because any effect is uncertain. Objector cites the mathematical formula used to calculate property taxes. Objector states:

> In short, changes to the nonresidential assessment rate have a direct impact on residential taxation because any increase in the nonresidential assessment rate will necessarily freeze the residential rate and its current level for the longer period than it would otherwise. Thus, because residential property owners will pay higher taxes under this measure than they otherwise would, the description of Initiative #95 as affecting only "nonresidential' property is not only impermissibly predictive, it is simply inaccurate.

(Objector's Opening Brief, p. 9.) Objector's conclusion assumes that (1) the current valuation for assessment for residential property will remain frozen at 7.96 percent; (2) the mill levies will remain the same; and (3) property values will not decrease. Objector also assumes that the increase in the rate of valuation for nonresidential property will automatically result in an increase in property taxes for residential property because the valuation for assessment would otherwise decline.

Objector's analysis does not consider any variables in the mathematical formula. In fact, any impact that the measure would have on residential taxes would depend upon variables outside the scope of measure. As noted in the Fiscal Analysis of the Office of State Planning and Budgeting presented to the Board, the impact of the measure depends upon actions of local governments. (Exhibit A, attached hereto.) Local governments "could conceivably reduce their mill levies in order to collect the same amount of revenue from an expanded tax base." (Exhibit A.) In addition, there is "uncertainty inherent in forecasting real estate values." (Exhibit A.) Thus, the impact on taxes is dependent upon several economic factors within each municipality and county.

A study conducted by Legislative Council confirms the conclusion that the taxes paid by residential property owners are contingent upon several unknown factors in addition to the valuation for assessment of nonresidential property. *House Joint Resolution 03-1033 Study: TABOR, Amendment 23, the Gallagher Amendment, and Other Fiscal Issue*, Publication No. 518, September 2003 (www.state.co.us/gov_dir/leg_dir/lcssstaff/2003/research/FinalReport.pdf) "Varying economic conditions affect changes in the residential assessment rate." *Id.* at 71. (Exhibit B, attached hereto) An increase in nonresidential property values (as opposed to the rate for valuation for assessment) will "help maintain a higher residential assessment rate". *Id.* Similarly, in times of economic decline "the slower growth of nonresidential property values also forces down residential taxable values through a lower residential assessment rate." *Id.* In addition, other factors, including low mortgage rates in a stagnant economy and stock market activity affect residential values, *id.*, as well as home values. *Id.* at 73.

This Court has consistently held that the "Board need not explain the fiscal impact of a proposed initiative if the impact cannot be determined from materials submitted to the Title Board due to uncertainties or variables inherent in the particular issue." *In the Matter of the Title, Ballot Title and Submission Clause, and Summary for 1999-2000 No. 215*, 3 P.3d 11, 16 (2000). *See also, In re Title Pertaining to the Proposed Initiative under the Designation "Tax Reform,"* 797 P.2d 1283, 1291 (Colo. 1990) (a statement concerning the fiscal impact of the measure "is not required when the fiscal impact cannot reasonably be determined from the materials that are difficult if not impossible to evaluate.") In this instance, the Board was not presented with any information, other than legal arguments made by Objector. Therefore, it properly refused to discuss the potential impact on residential property assessments because the impact is uncertain.

Objector also contends that the measure inaccurately implies that property taxes will only be raised by five percent when the actual increase is over seventeen percent. Again, Objector seeks to have the Board a matter that is not in the measure. Objector's argument is flawed because it conflates the concepts of a new tax and a tax policy change directly causing a net revenue gain. Colo. Const. art. X,

§ 4(a). The proponents do not seek a new tax. They intend to ask the voters for a tax policy change directly causing a net revenue gain. The titles identify and describe the tax policy change sought by the proponents and the amount of new funds that will be generated by the change.

CONCLUSION

For the reasons stated in the Board's briefs, the Court must affirm the Board's action.

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State Services Section
Attorneys for Title Board
*Counsel of Record

AG ALPHA: STIR GRLSE
AG File: P:\SS\SSKNAIMG\RETAIN\SOS\INIT200895TAXVALANS.DOC

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **ANSWER BRIEF OF TITLE BOARD** upon all parties herein by depositing copies of same overnight by DHL at Denver, Colorado, this 9th day of June 2008 addressed as follows:

Jason R. Dunn, Esq.
Brownstein Hyatt Farber Schreck, LLP
410 17th Street, #2200
Denver, Colorado 80202

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TABLE OF AUTHORITIES

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CASES

CONSTITUTIONS

OTHER AUTHORITIES

STATE OF COLORADO

DEPARTMENT OF STATE

CERTIFICATE

I, **MIKE COFFMAN,** Secretary of State of the State of Colorado, do hereby certify that:

the attached is a true and exact copy of the electronic mail filing of the Fiscal Analysis for Proposed Initiative 2007-2008 #95, captioned as "Taxable Values and Taxes of Property" received on May 6, 2008. . . . .

. . . . **IN TESTIMONY WHEREOF** I have unto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this 9th day of June, 2008.

SECRETARY OF STATE

STATE OF COLORADO

OFFICE OF STATE PLANNING AND BUDGETING
111 State Capitol Building
Denver, Colorado 80203
(303) 866-3317

Bill Ritter, Jr.
Governor
Todd Saliman
Director

MEMORANDUM

RECEIVED
MAY 0 6 2008
ELECTIONS/LICENSING
SECRETARY OF STATE

TO: Title Setting Review Board

FROM: Todd Saliman, Director

DATE: May 6, 2008

SUBJECT: Fiscal Analysis for Proposed Ballot Initiative #95

Ballot Initiative #95 would raise the assessment rate for non-residential real property to thirty-four percent, from the current twenty-nine percent. As the initiative raises an assessment rate for property tax purposes, the Governor's Office of State Planning and Budgeting (OSPB) is tasked with calculating the aggregate annual increased tax revenue as specified by TABOR in the following format: "Shall state taxes be increased $_____ annually…?"

The OSPB has several caveats regarding the estimated fiscal impacts of the proposed Ballot Initiative #95:

- Municipal and county governments could conceivably reduce their mill levies in order to collect the same amount of revenue from an expanded tax base. Were this to occur, it is unclear as to how to determine precisely what (if any) of the resulting property tax revenues could be attributed to the change in the assessment rate.

- The initiative does not have an effective date. It is presumed by OSPB that the first property tax year where the provisions of this initiative could be implemented would be 2009, with mill levy certifications in December 2009 and subsequent property tax bills mailed in 2010. However, it is conceivable that the provisions of this initiative could become effective prior to the December 2008 certification of mill levies by one or more boards of county commissioners.

- The projected fiscal impact implicitly assumes that the provisions of this initiative supersede any existing or subsequently enacted statutory requirements as to the maximum proportion of any school district's annual budget that can be supported with local property tax revenue, specified in Section 22-54-106 (2)(a)(II), C.R.S. (2007)

This initiative would not raise revenue to the state government. Based on figures provided by the Colorado Legislative Council related to its statewide forecast of property values for the 2009 property tax year, OSPB believes that this initiative could raise property taxes in political subdivisions of state government by **$552.2 million** to **$577.3 million**. Due to the uncertainty inherent in forecasting real estate values, OSPB recommends that the title board adopt the **$577.3 million** figure.

House Joint Resolution 03-1033 Study: TABOR, Amendment 23, the Gallagher Amendment, and Other Fiscal Issues

Prepared by Legislative Council Staff
Publication No. 518
September 2003

COLORADO GENERAL ASSEMBLY

LEGISLATIVE COUNCIL

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DENVER, COLORADO 80203-1784
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303-866-3521 FAX: 303-866-3855 TDD: 303-866-3472

September 2003

Members of the Legislative Council:

Submitted herewith is the report on the study of constitutional and statutory provisions required by House Joint Resolution 03-1033. The resolution required this office to study the interaction of three provisions of the Colorado Constitution) Section 20 of Article X (TABOR), Section 17 of Article IX (Amendment 23), and Section 3 (1) of Article X (the Gallagher Amendment)) and any other relevant constitutional and statutory provisions that impact the ability of the state to provide funding for programs and services. Following the adoption of House Joint Resolution 03-1033, the General Assembly adopted House Joint Resolution 03-1060. This resolution designated the Legislative Council as the committee to receive this report.

Sincerely,

Charles S. Brown
Director

Prepared by:

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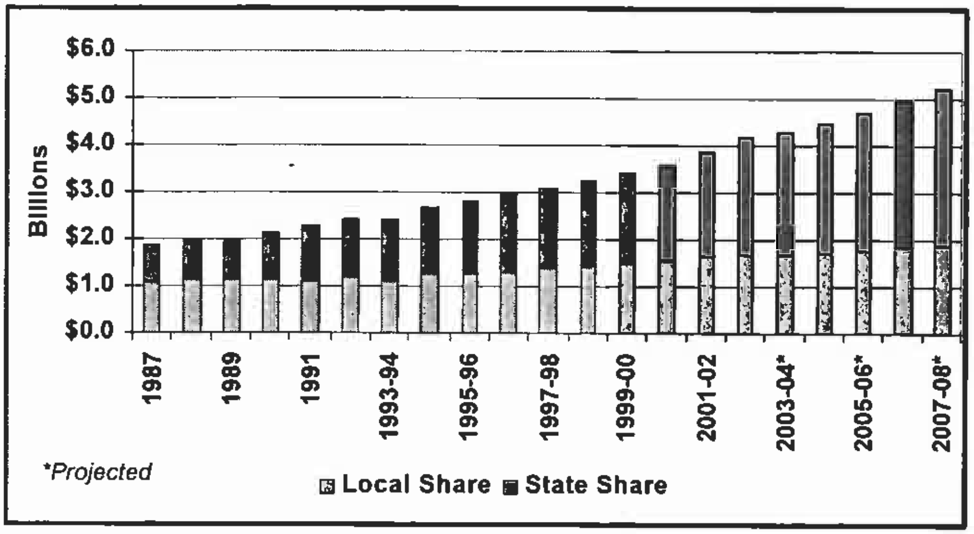
We thank Robin Jones, Juanita Hill, Debbie Grunlien and Marie Garcia for their effort in compiling this report.

Figure 4-6
Property Taxes and Total School Finance Act Funding



Determining the Taxable Value of Property — Gallagher

This section describes the history of the Gallagher Amendment, the factors that affect the calculation of the residential assessment rate, and the impact of changes in the residential assessment rate on taxpayers and local governments.

The Gallagher Amendment was part of a 1982 property tax reform effort. In response to concerns over a lack of uniformity in assessing property for tax purposes and the potential for significant property tax increases based on skyrocketing property values resulting from high inflation in the mid-1970s, voters in 1982 approved a property tax reform measure referred by the legislature. The measure was introduced in the legislature as House Concurrent Resolution 82-1005, and approved by voters at the November 1982 general election as Amendment 1. Along with the well-known Gallagher Amendment, the ballot measure included the following:

- ✓ provisions to ensure that properties are assessed in a uniform and fair manner and a requirement that counties reimburse the state for excess state school aid payments made because of undervalued property;
- ✓ a fixed assessment rate of 29 percent for most nonresidential (business) property;
- ✓ a property tax exemption for business inventories such as merchandise, materials, and supplies that were held for sale or consumption;
- ✓ a property tax exemption for livestock, agricultural and livestock products, and agricultural equipment used on a farm or ranch;
- ✓ a system for valuing agricultural property that existed previously in statute using earnings as a measure of the land's productivity capacity;

- ✓ a system for valuing producing mines and oil and gas properties that existed previously in statute using the value of the unprocessed material and procedures prescribed by law for different types of minerals; and
- ✓ a newly-constituted State Board of Equalization, including members with more knowledge and expertise in property tax valuation practices.

Gallagher limits taxes on residential property. As originally debated by the legislature, HCR 82-1005 provided immediate tax relief for residential property owners by lowering the residential assessment rate from 30 percent of actual value to 21 percent. Prior to approving the measure and submitting it to voters, however, the legislature adopted an amendment establishing a longer-term mechanism for providing residential property tax relief. This amendment, commonly referred to as the Gallagher Amendment, was drafted as a means for holding down residential property taxes in the future as home values rose or if business property taxes were reduced.

Figure 4-7
How are Property Taxes Determined?

Property taxes are determined by multiplying the taxable (assessed) value of property by the local tax rate (mill levy).
The assessed value represents only a portion of a property's actual value, which is determined by the county assessor. The portion is dictated by an assessment rate set in law, currently 7.96 percent for residential property (for taxes paid in 2004 and 2005) and 29 percent for most other property. Mill levies are set locally by each governmental entity imposing a property tax.

Assessed Value = Property Value x Assessment Rate

Property Taxes = Assessed Value x Mill levy

The Gallagher Amendment requires that the residential assessment rate be adjusted to ensure that the percentage of assessed value attributable to residential property remains the same as in the preceding year. Gallagher limits the residential share of taxable values to a historical proportion, which is modified to account for changes in value from new construction and changes in the volume of minerals and oil and gas produced. When the amendment was first implemented, residential property comprised roughly 45 percent of all taxable value. Since then, new construction has shifted the proportions somewhat, so that residential property currently makes up roughly 47 percent of all taxable value.

Many other states offer some form of residential property tax relief. Seventeen other states use different assessment rates to provide residential property tax relief, although none has a system quite like Gallagher. Other states offer credits and exemptions, or in the case of Oregon and California, limits on increases in property taxes for individual properties. Gallagher, on the other hand, limits the total share of taxes to be paid collectively by all residential property owners on a statewide basis, without regard to individual properties.

Figure 4-8
An Example of How the Residential Assessment Rate Works

When residential market values increase rapidly,

and nonresidential values increase by a slower rate,

then the residential assessment rate declines,

so that residential *assessed* values grow at the same rate as nonresidential *assessed* values.

Colorado assesses property on a biennial cycle. Under Gallagher, the residential assessment rate is adjusted every other year as property is revalued. The level of value changes according to a reassessment cycle set by law under which county assessors update property values to more accurately reflect the current market. In 1983, property values were scheduled to change from the 1973 level to the 1977 level, reflecting four years of inflation. Under current law, property in Colorado is reassessed on a two-year cycle in odd-numbered years. Twenty-five states assess property annually; the other 25 states assess property over cycles that range from two to ten years.

The residential assessment rate has declined over time. Under Gallagher, whenever residential property values rise faster or fall slower than nonresidential values, the residential assessment rate is lowered. When the legislature changes the residential assessment rate to comply with Gallagher, the new rate applies to assessed values in the current year. Taxes are paid in the subsequent year. Thus, the newest rate of 7.96 percent was enacted in 2003, based on 2003 assessed values, and will apply to property taxes paid in 2004. Since 1987, when the amendment was first implemented, the rate has declined from 21 percent to 7.96 percent, or a reduction of 62 percent. In the future, the residential assessment rate can only remain constant or decline, because TABOR requires voter approval for any increase in the assessment rate for a class of property. For example, in 1999, the rate would have been higher except for TABOR. Thus, the rate will never be higher than 7.96 percent unless voters approve the change.

Since the passage of Gallagher, actual values for residential real property have grown at a faster rate than those of nonresidential property. Between 1986, prior to the first change in the residential assessment rate under Gallagher, and 2002, the actual value of residential property grew nearly twice as fast as the actual value of nonresidential property. Residential property climbed from \$35.4 to \$314.1 billion, or an average of 14.6 percent per year, while nonresidential actual values increased from \$31.2 to \$103.1 billion, or 7.8 percent per year. Figure 4-9 shows that the actual values of residential real property had grown to over three times the amount of nonresidential property values by 2002.

Figure 4-9
Change in Statewide Actual Values

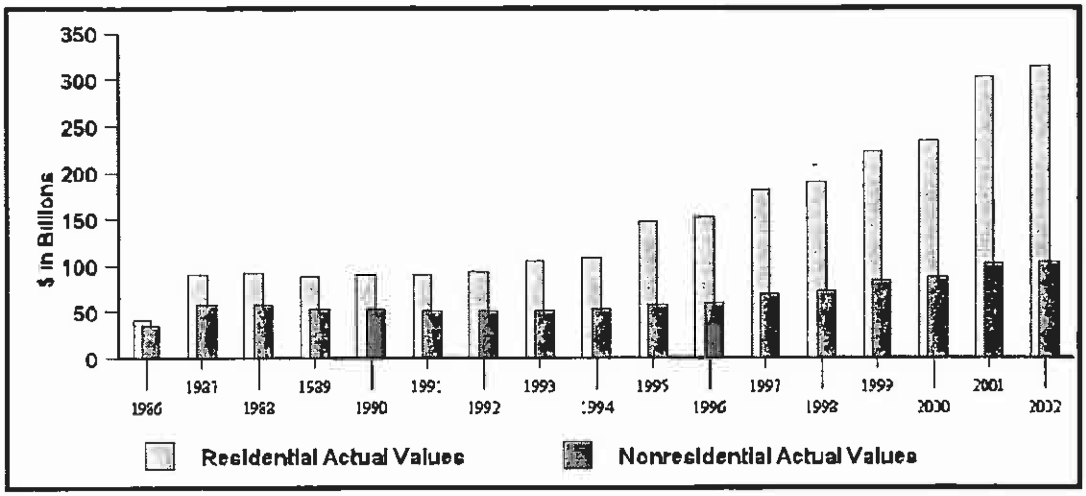


Figure 4-10 shows how the residential assessment rate has declined since Gallagher's inception in 1983. The chart also shows our projected decline in the residential assessment rate.

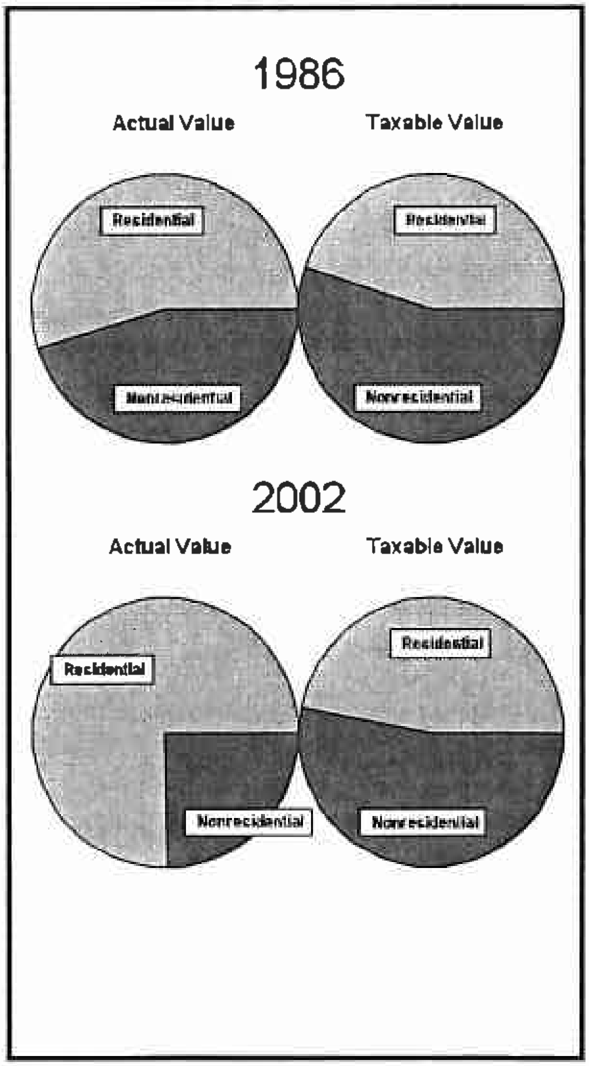
Figure 4-10
Changes in the Residential Assessment Rate

Assessment Years	Residential Assessment Rate
1983 - 1986	21.00%
1987	18.00
1988	16.00
1989 - 1990	15.00
1991 - 1992	14.34
1993 - 1994	12.86
1995 - 1996	10.36
1997 - 2000	9.74
2001 - 2002	9.15
2003 - 2004	7.96
2005 - 2006*	7.60
2007 - 2008*	7.25

* *Projected*

Figure 4-11 shows a comparison between actual and assessed values for residential property in 1986, before the first change in the residential assessment rate under Gallagher, and in 2002.

Figure 4-11
Residential and Nonresidential Values, 1986 and 2002



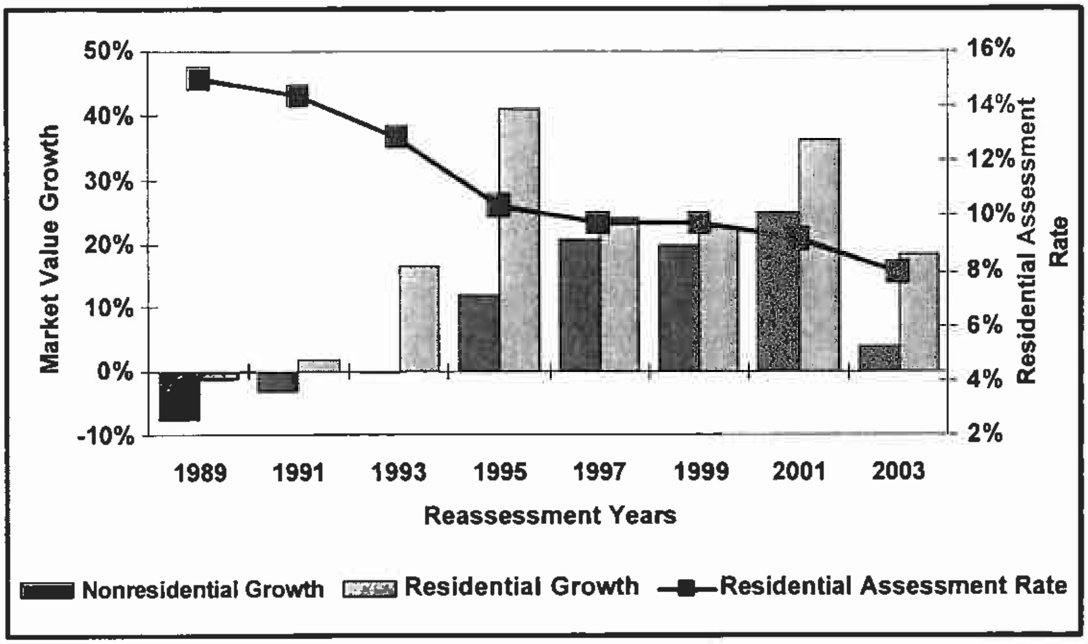
Several factors affect the residential assessment rate. Varying economic conditions affect changes in the residential assessment rate. In general, values of nonresidential property fluctuate more than home values. In good economic times, positive speculation helps to drive business investment, causing an increase in nonresidential property values. This increase contributes to growth in the property tax base in two ways. First, it adds value in nonresidential property. Second, it helps maintain a higher residential assessment rate, as the rate no longer has to decline as far in order to maintain the balance prescribed in Gallagher. At the height of the most recent boom, nonresidential values grew so fast that no decline in the residential assessment rate was needed for the 1999 reassessment cycle, the only time this has occurred.

Similarly, as the economy goes into a downward cycle, companies tend to act much more quickly and more severely than residential homeowners. For instance, when widespread layoffs occur, displaced workers vacate business space immediately, thereby lowering the demand for and value of the space. Additionally, new construction slows, limiting demand for vacant land. However, residential property values are slower to react to negative news. Laid off workers will not necessarily sell their homes immediately; they will seek other employment and subsist on unemployment, savings, and severance payments. In this situation, the slower growth of nonresidential property values also forces down residential taxable values through a lower residential assessment rate.

Other economic factors can also affect changes in the residential assessment rate. For example, low mortgage rates have helped keep home values increasing in an otherwise stagnant economy. Similarly, gains in the stock market have led to investment wealth and income that has helped residential values increase dramatically during the past decade, especially in Colorado's mountain communities.

Figure 4-12 illustrates the relationship between changes in the value of property and changes in the residential assessment rate.

Figure 4-12
Market Value Growth and Declines in the Residential Assessment Rate



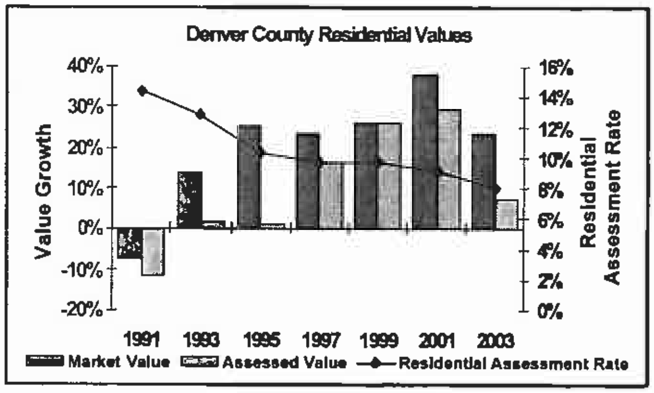
The Gallagher Amendment limits the property tax base of local governments. Gallagher limits growth in taxable values and can actually reduce the amount of taxable property in a jurisdiction. However, the impact of Gallagher varies widely between regions of the state, and even within a particular region. Since the residential assessment rate is calculated using statewide property values, but property taxes are exclusively a local revenue source, the impact of the declining residential assessment rate on local jurisdictions depends on what is happening to property values locally. Declines in the residential assessment rate affect property tax revenues based on the following two factors:

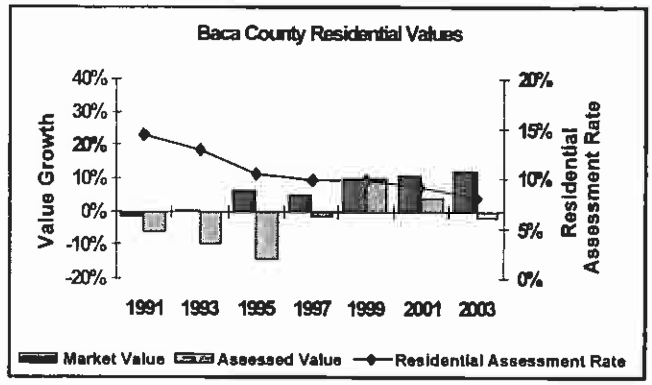
- ✓ growth in home values within a local jurisdiction; and
- ✓ the mix of properties within a jurisdiction.

For areas with significant home value growth, the increased property values may more than offset any impact of the declining residential assessment rate. In these areas, the tax base continues to grow. Whether this growth in the tax base translates into an increase in property taxes depends on the jurisdiction's property tax revenue limits. But, for areas where home values are growing slowly, a decline in the residential assessment rate under Gallagher may reduce the local tax base.

This phenomenon is illustrated by contrasting Denver with the eastern plains. Denver's residential property tax base has more than doubled since 1987. Meanwhile, residential property in Baca and Kiowa counties grew by roughly half as much over the same period. Figure 4-13 shows the disparity in residential property assessed value growth between Denver and Baca counties. Had the residential assessment rate remained at its original level of 21 percent, Baca County would have seen a 132 percent increase in residential assessed values instead of its actual 67 percent increase.

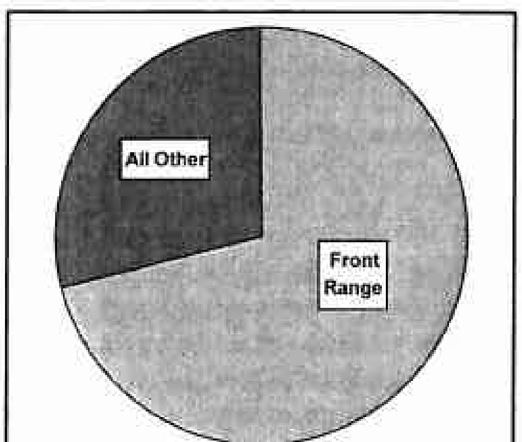
Figure 4-13
Market Value Growth and Declines in the Residential Assessment Rate





The second consideration is the mix of property that makes up a given local government's tax base. The larger the portion of a jurisdiction that is residential property, the more susceptible that jurisdiction is to declines in the rate. The opposite is also true. For districts with large concentrations of nonresidential property, the property tax base in the area is more resilient to changes in the rate because the rate only affects a small portion of their base.

Figure 4-14
Concentration of Property Values in 2002



Front range includes Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld counties

These two factors contribute greatly to inconsistencies between Colorado's urban and rural property tax bases. As shown in Figure 4-14, over 70 percent of property value is concentrated in ten counties along the Front Range. Fluctuations in the value of property in these ten counties effectively dictates the calculation of the residential assessment rate. Booming increases in home values in many of Colorado's urban areas, as well as mountain resort communities, have helped to drive down the residential assessment rate. Meanwhile, in many parts of rural Colorado, the decline in the residential assessment rate has been more rapid than increases in home values. That is, any growth in home values is more than offset by the declining residential assessment rate, resulting in a decrease in the taxable value of homes.

Impact of Gallagher on who pays property taxes. Gallagher prevents the shifting of a larger share of the property tax burden to residential property owners, either because of growth in residential property values or through law changes designed to reduce the property tax burden on nonresidential property. The value of residential property now accounts for 75 percent of all property in the state, yet the residential share of property taxes is estimated to be closer to 47 percent.

Figure 4-15 illustrates the savings that owners of residential property have received from Gallagher. According to the Division of Property Taxation, residential property owners have saved $6.8 billion between 1988 and 2003. This figure represents the cumulative difference between what was actually paid by residential property owners and what would have been paid if the residential assessment rate had remained at 21 percent and property tax collections had remained the same. Figure 4-15 divides the $6.8 billion in residential property tax relief savings into pre-TABOR and post-TABOR periods. The pre-TABOR savings represent the actual shift in property tax burden from residential to nonresidential property owners; the post-TABOR savings understate the shift because it is likely that property tax collections would have been greater.

Figure 4-15
Homeowner Savings under Gallagher
($ in billions)

	1988-1992 (pre-TABOR shift)	1993-2003 (post-TABOR shift)	Total
At a Residential Assessment Rate of 21%, Homeowners Would Have Paid This Amount	$5.9	$22.2	$28.1
Homeowners Actually Paid This Amount	$5.1	$16.2	$21.3
Total Gallagher Savings	**$0.8**	**$6.0**	**$6.8**

Source: Division of Property Taxation.

Prior to TABOR, Gallagher shifted taxes from residential property to nonresidential property. Prior to the adoption of TABOR, local governments were allowed to increase their property tax collections by 5.5 percent over the prior year's collections, although this limit could be exceeded under certain circumstances. If assessed values declined or remained relatively flat, local governments could increase the mill levy to achieve the desired revenue goal, within the 5.5 percent limit. As a result, any reduction in the residential assessment rate that led to an increase in mill levies caused a shift in property taxes from residential taxpayers to nonresidential taxpayers.

The TABOR requirement for voter approval for any increased mill levy would have prevented any further shift in property tax burden between residential and nonresidential property, if not for two things. First, the reduction in taxable values under Gallagher causes mill levies to be higher than they otherwise would be under the property tax revenue limits of TABOR. Second, courts have ruled that the TABOR limits do not apply to all mill levies. For example, local governments may increase or "float" mill levies to cover the repayment costs for bonded debt and to cover property tax abatements and refunds.

The impact of Gallagher on state aid for schools. By limiting the share of residential taxable values, Gallagher acts as a limit on school district tax bases. When increases in tax rates are also limited, the need for state aid to schools increases. For example, if the residential assessment rate of 14.34 percent remained in effect for the last ten years, property taxes would have been about $91 million higher in FY 2002-03, reducing the need for state aid in that year by the same amount. This $91 million translates into 2.2 percentage points on the state share in FY 2002-03, or an increase in the state share from 57.5 percent to 59.7 percent. Figure 4-16 provides an estimate of how the decline in the residential assessment rate affected state aid for schools in each of the last ten years.

Figure 4-16
Ten-year Impact of the Gallagher Amendment on State Aid Under the School Finance Act

Budget Year	State Aid Increase from Decrease in Residential Assessment Rate	Incremental Change in State Aid Increase	Actual Residential Assessment Rate	Actual Percent Change in Assessed Value
1993-94	$40.7	$40.7	12.86%	1.23%
1994-95	$43.9	$3.2	12.86%	3.26%
1995-96	$62.2	$18.3	10.36%	8.90%
1996-97	$65.2	$3.0	10.36%	3.40%
1997-98	$69.2	$4.0	9.74%	14.84%
1998-99	$71.5	$2.3	9.74%	4.05%
1999-00	$73.9	$2.4	9.74%	16.24%
2000-01	$79.4	$5.5	9.74%	4.25%
2001-02	$85.7	$6.3	9.15%	20.01%
2002-03	$91.4	$5.7	9.15%	3.36%
Total	$683.1	N/A	N/A	110.91%

Looking at the historical impact of Gallagher on an annual basis is helpful because it provides information on what can be expected in the future.

- ✓ The impact of the Gallagher Amendment is related to the increase in values. That is, when growth in values is particularly strong, Gallagher has less of an impact on state aid than when growth is weak or declining. For example, in FY 1993-94 when statewide assessed value grew just over one percent, the impact of the Gallagher Amendment on state aid was almost $41 million. In FY 1995-96, assessed value grew almost 9 percent, and the incremental impact was $18.3 million. The reason that Gallagher has a smaller impact in high growth years is that more districts cap out at their property tax revenue limit in spite of a decline in the residential assessment rate. For these districts, a higher residential assessment rate would raise assessed values, but would not produce any more property taxes. Instead, the district's mill levy would simply be lower.

- ✓ The impact of the Gallagher Amendment on school district property taxes is cumulative. An increase in property tax revenue in a given year provides a higher property tax base for calculating property tax revenue limits in future years.

- ✓ The Gallagher Amendment has only a limited impact on the "sawtooth" cycle of increases in property taxes.

- ✓ Eliminating the Gallagher Amendment shifts a portion of the property tax burden from nonresidential taxpayers to residential taxpayers. Although the total estimated increase in property taxes from holding the residential assessment rate at 14.34 percent is $91 million in FY 2002-03, taxes for residential property owners would have increased about $209 million, while taxes for nonresidential property owners would have decreased about $117 million. Under current law, residential property owners paid about 49 percent of school finance property taxes; this percentage would have increased to about 59 percent at the 14.34 percent residential assessment rate. Conversely, the share of nonresidential property taxes would have decreased from 51 percent to 41 percent.

The relationship between the Gallagher Amendment, growth in values, and school district property tax revenue limits is perhaps more clearly demonstrated in Figure 4-17. This table compares the number of districts that were capped out at their property tax revenue limit in the last ten years to those that would have been capped out had the residential assessment rate stayed at 14.34 percent.

Figure 4-17
Ten-year Impact of the Gallagher Amendment on School District Mill Levies

Number of School Districts with a Mill Levy Decrease from the Prior Year under:			
Budget Year	Current Law	14.34% Residential Assessment Rate	Difference
1993-94	52	71	19
1994-95	54	37	(17)
1995-96	100	125	25
1996-97	52	50	(2)
1997-98	139	150	11
1998-99	62	84	22
1999-00	137	139	2
2000-01	94	67	(27)