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## EXCLUSIVE REPORTS

### Tax system cost Colo. businesses billions

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Colorado businesses paid \$873 million more in property taxes last year than they would have if the state's property tax system treated residential and commercial property equally, according to a study.

And while the situation is a boon to homeowners, critics say a property tax system that treats commercial and residential property owners unequally is a serious deterrent to attracting new business to the state.

The \$873 million in residential property tax savings is in a study issued by CPEC Center for Tax Policy, formerly known as the Colorado Public Expenditures Council Center for Tax Policy. It confirmed what many people already know: The Gallagher Amendment has saved homeowners billions in residential tax dollars since it was enacted in 1982.

"In 2002 alone, that is \$193 per person," said Phyllis Resnick, research director for the center.

The study, which looked at assessed valuation and property tax changes for 2001 and 2002, estimated residential taxpayers have saved more than \$6.8 billion since 1987, thanks to Gallagher, which shifted property taxes so that residential property owners never would pay more than 45 percent of the entire burden.

At the same time, the amendment's opponents say it has hurt businesses because commercial property must bear a greater portion of the total tax burden, though residences account for about 75 percent of the total property value in Colorado.

In practice, this means that when property values go up and new homes are built, the residential tax rate must be continually lowered to maintain the 45/55 split with commercial property. Since 1982, the residential assessment rate has dropped from 21 percent to less than 8 percent in 2004.

The issues surrounding Gallagher are front and center in this year's session of the Colorado Legislature. But almost nobody believes much will be done. Why? It's an election year, and no one wants to explain to voters why the Legislature changed a system that has saved them billions of dollars.

"Everyone wants a great place to live and a great place for their kids and grandkids with wonderful roads -- but you have to pay property taxes for that. I guess everyone wants to have their cake and eat it too," said Bill Becker, president and CEO of Adams County Economic Development.

Many business owners and economic developers say unless there are changes to the tax system, Colorado will find it increasingly difficult to attract and maintain businesses.

"It's about attracting jobs," said Tim Jackson, Colorado state director of the National Federation of Independent Business. "Business owners are paying a disproportionate share. In Colorado, business has to pay 3.64 times what residential property owners pay and that's because of the amount of value in residential property statewide. That disparity grows every year. It's been estimated that it will be 4-to-1 by 2007."

Becker's Adams County group has been working with other business groups on solutions to the tax policy puzzle.

"It's one of the biggest deterrents to economic development in Colorado," Becker said of the Gallagher Amendment. "Many people -- like me -- like the low property tax but also want good jobs. So instead of having an equitable situation, we have a

very much distorted relationship. Over those two decades, a bigger chunk of that falls on businesses, and when the experts look at Colorado [for business relocation], that's one of the things they always talk to us about. It's not the elephant in the living room, it's just the elephant."

It's becoming particularly hard to attract manufacturing jobs to Colorado, both because of the state's tax structure and because of competition with cheap overseas labor -- a problem that has affected many states.

But states like manufacturers.

"Typically manufacturers are primary employers, so they're exporting goods and services and bringing money back here," Becker said.

Of particular concern to manufacturers and other equipment-heavy companies is the business personal property tax, which helps make up the 55 percent paid by commercial property tax.

"Ultimately, it's the most aggravating tax," Jackson said, citing member surveys showing that many business owners would like to do away with this tax on equipment.

A spokeswoman for Kodak, which employs 1,700 people at its manufacturing plant in Windsor, said the tax structure was the reason Colorado did not win an expansion bid a few years ago. The state was competing against Rochester, N.Y., and overseas locations. Rochester won the bid, but the expansion is on hold.

"In Colorado, we were really competitive until it came down to the business personal property tax. That right away put us at a disadvantage," said spokeswoman Lucille Mantelli.

She said her company is constantly looking at costs.

"A couple of years ago I looked at [business] taxes in New York versus Colorado. New York doesn't have business personal property tax. Rochester pays about \$850 per employee in taxes. We pay more than \$2,800 in taxes per employee and more than half is the business personal property tax."

Mantelli said Kodak has millions of dollars in equipment at its Windsor plant.

Critics of changes to the business personal property tax often cite the fact that many rural counties rely heavily on that revenue. Moffat County, for example, gets 40 percent of its revenue from that tax, said Larry Kallenberger, executive director of Colorado Counties Inc.

Some suggest that a change to this tax could be tolerated if Gallagher also were changed.

"We didn't support the Gallagher freeze on the ballot because our primary fear is that it opens up business personal property tax being exempted," Kallenberger said. "If business personal property tax is eliminated, it will shift the costs back onto other parts of business. But if Gallagher were frozen, that would mean residential would also have to make up the loss.

"[CCI's] position is, we don't mind working with the business community to amend Gallagher, but it's hard when business personal property is also on the table. Business people don't seem to know that unless Gallagher is frozen, the business personal property tax loss will be shifted to the real property because of the 45/55 shift."

In November 2003, Colorado voters defeated an amendment that would have frozen the residential assessment rate at 8 percent by a 3-to-1 margin. Opponents of the amendment touted Colorado's low residential property taxes, which are among the lowest in the nation.

But business leaders say Colorado residents need to understand that low taxes on homes come at a price.

And they know that reforming Gallagher and other tax laws will be difficult to explain -- and sell -- to Colorado voters.

"The psyche of the voter is to not do anything unless we're in a crisis. We are our own worst enemy when it comes to job

growth with the combination of Gallagher, TABOR and Amendment 23," said Adams County Commissioner Ted Strickland, who was in the state Senate when Gallagher passed in 1982.

"Everyone votes on an issue like this dictated on their pocketbook. There are more homeowners than business owners. Employees will need to be convinced that it's in their best interest because their job could be in peril."

But Boulder County Commissioner Ron Stewart, who was an author of Gallagher and helped defeat the November amendment, said economic development has been a challenge because of the nationwide recession -- not because of the Gallagher Amendment.

"I think we need to recognize where we are. There's light at the end of the tunnel, but the good times aren't here now. And we have to remember that when the good times were here, economic development in Colorado was gung-ho. In the '90s, jobs increased by 40 percent and that was over 800,000 new jobs. And that was at a time when the Gallagher Amendment was in effect," Stewart said.

He said some parts of Colorado's tax policy may need to be changed, but Gallagher isn't one of them.

"When we're out of the recession, the same things that have brought people to Colorado in the past will bring them again. I'm not sure why the Legislature is futzing around with this when the people have spoken so decisively."

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