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What You Need to Know About Amendment 73 and Public Education Funding

By Linda Gorman

In November 2018, voters will decide on Amendment 73, a state constitutional amendment which would increase income, property and corporate taxes in Colorado to fund public education. Here's what Amendment 73 would do.

1. If Amendment 73 passes, Colorado will no longer have equal state income tax rates for all. Instead, it will have a progressive state income tax with a top marginal rate of 8.25 percent, the 9th highest in the country. Corporate tax rates will increase from 4.63 percent to 6 percent.

The measure ends Colorado's equal tax rate of 4.63 percent of federally adjusted gross income for all and replaces it with five progressive tax brackets. People with adjusted gross household and business incomes up to $150,000 on their federal return will pay taxes at the current rate. Higher rates apply to income over $150,000, $200,000, $300,000, and $500,000. The income tax brackets are not indexed for inflation. With an inflation rate of 3 percent per year, households with incomes of $100,000 today would move into a higher tax bracket in just 15 years.

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The money from the increased taxes will be deposited in a separate fund and must be spent on public education through grade 12. The new funding, an estimated $1.6 billion in new tax revenues in FY 2019-20, will be exempt from limits on state spending set by the Taxpayer's Bill of Rights.

Colorado businesses would face some of the highest tax rates in the country, including the majority of Colorado businesses that file individual income tax forms as sole proprietorships, S corporations, and partnerships. In 2015, about 5 percent of Colorado income tax filers had incomes over $200,000. They paid 34 percent of all Colorado income taxes. Forty-two percent of them reported business income from S corporations or partnerships.

2. Amendment 73 effectively ends protections against continuous increases in residential property taxes. It increases the state residential property tax assessment rate for school districts. Commercial property will enjoy reduced rates.

Without protections limiting residential property taxes, people in areas with rapidly rising home prices can be forced to sell their homes if property taxes increase faster than incomes. Unsustainable Colorado property tax increases in the late 1970s resulted in the 1982 passage of the Gallagher Amendment. It required adjusting state assessment rates to maintain a constant ratio between the total assessed value of residential property and non-residential property. The assessed value of residential property must be 44.6 percent of total assessed value.

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Before Gallagher, the state residential assessment rate was 30 percent. After Gallagher, the rate fell as the value of Colorado residential property increased. It was 7.96 percent from 2003 to 2016, and dropped to 7.20 percent in 2017-18. It is projected to fall to 6.11 percent in 2019. Even though rates fell, total inflation-adjusted property tax revenues rose from $1.35 billion in 1982 to $8.97 billion in 2017.

For school district tax collections, Amendment 73 blocks the constitutionally required 2019 state residential assessment rate decrease with a constitutionally required, and permanent, rate of 7 percent. The Amendment reduces the nonresidential state assessment rate from 29 percent to 24 percent. A permanent 7 percent assessment rate means school district property taxes will increase as property values rise. It is unclear how this would affect Colorado's senior property tax exemption. Expert opinion is divided about the measure's long-term effect on overall property taxes, including its potential impact on non-school district residential property tax assessments and rates for taxing entities such as cities and towns, counties, and library, water and fire districts.

3. Amendment 73 requires spending on "early childhood" through grade 12 education that is limited only by the additional taxes collected.

State tax dollars account for 62 percent of Colorado's total public-school funding. The Colorado Constitution already requires the state to adjust its school subsidies for inflation. Amendment 73 increases the base amount to at least $7,300 per student. The FY 2017-18 base state subsidy rate for schools was $6,546.20 per student, the highest ever. The base rate is adjusted for various school district characteristics, including district size, geographic location, the number of at-risk students, and district cost-of-living. After adjustments, the average FY 2017-18 per pupil state subsidy was $7,662. Total state and local per pupil funding in Colorado school districts ranged from $7,236 per year to $16,247 per year.

In April 2018, the National Education Association (NEA) reported that Colorado's 2017 state and local per pupil spending averaged $10,865 a year. It ranked Colorado 27th among the states. The national average was $11,934. It was higher due to four states that spent more than $20,000 per pupil, and by the District of Columbia which spent $25,000. The NEA estimated Colorado's average salary for instructional staff at $54,829 for 2018. Salary estimates do not include the value of paid benefits like health coverage, vacation, and retirement, so actual compensation was higher.

In addition to the base state subsidy increase, Amendment 73 requires specific increases: special education, $120 million more a year; gifted and talented education, $10 million more a year; English language proficiency, $20 million more a year and pre-school, $10 million more a year. Funding for students qualified for free lunches must increase by an unspecified amount. Those qualified for reduced price lunches would be designated as "at-risk" students, further increasing spending. All full-day kindergartners must be funded as a full-time equivalent student. At present, they are funded at 0.58 of a pupil. The per-pupil base state subsidy amount must move towards "exceeding the national average." As the base is defined by Colorado law, it is not clear how a national average would be defined.

4. Amendment 73 reduces legislative oversight by locking increased spending into the state constitution.

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Amendment 73 requires the legislature to pass a new School Finance Act but does not set a time limit. The new Act must use a vague set of criteria to appropriate state education money, criteria generally similar to those in current use. Amendment 73 requires the state legislature to review the Act every five years to ensure that it "enables all school districts to meet Colorado academic standards and performance frameworks." The Colorado Department of Education creates the Amendment's academic standards and performance frameworks.

5. There is no guarantee that more spending will increase educational opportunities for existing students.

The additional money can be spent on anything said to be educational, including subsidized preschool, higher pension payments, and more administrative positions. As the Colorado Department of Education currently defines early childhood education to include preschoolers, toddlers, and infants, the new tax revenues generated by Amendment 73 could be used to fund state subsidized daycare and preschool for infants and toddlers.

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