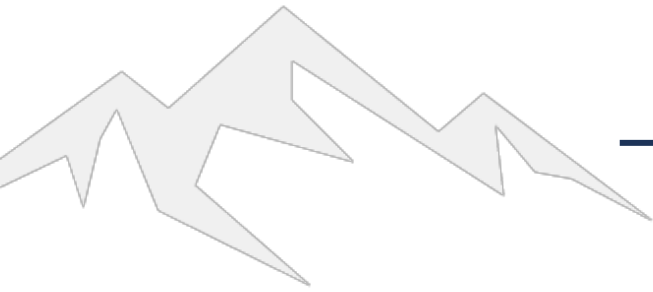


# How a Ballot Measure Could Permanently End TABOR Refunds





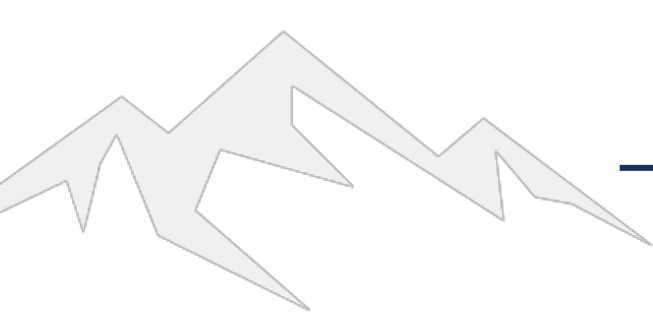
## About the Author

### *Elizabeth Caven*



Elizabeth serves as the Outreach Director and Policy Analyst at Advance Colorado. She previously worked for the Colorado House of Representatives for nearly three years as a legislative aide, where she assisted in policy work across a range of issue areas for the caucus. Elizabeth earned dual undergraduate degrees in Politics and Philosophy from Colorado Christian University. While at CCU, she served as President of the Philosophy Club, participated in First Liberty's D.C. Fellowship Program, and worked with the Centennial Institute. She and her husband, Jason, live in Littleton.





## Introduction

This November, Colorado voters will decide whether the legislature can retain their TABOR refunds and redirect them towards temporarily funding public schools as well as a host of other programs, as determined by legislators in future years.

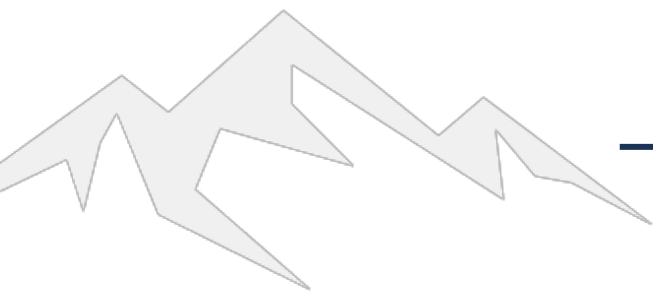
SB26-135 referred this ballot question to voters. While it is advertised as a path to fund education, it would allow the state to permanently retain and spend revenue above Colorado's TABOR spending cap rather than refunding that money back to taxpayers. The measure directs the retained revenue primarily toward K-12 education funding over a ten-year period, but – importantly – allows the permanent retention of any TABOR revenue, well beyond ten years and gives the legislature the ability to spend these funds largely however they wish.

The TABOR (Taxpayer's Bill of Rights) Amendment in the state constitution limits the amount of revenue the government can retain and spend. In 2005, voters approved Referendum C, allowing the state to keep and spend revenue above the TABOR limit up to a capped amount ("C Cap") that increases each year based on inflation and population growth, using 2007 revenue as the baseline. To this day, TABOR retains widespread bipartisan support, with at least two-thirds of Coloradans agreeing that its provisions should be upheld. (1)(2)

If voters approve the referred measure, the state will be allowed to keep and spend the surplus revenue above the C Cap beginning in the next fiscal year.

The bill creates a new "positive factor" under the school finance formula that increases education funding by up to 2% annually for ten years. The bill states that this funding is intended for purposes such as teacher pay, lowering class sizes, improving teacher retention, and increasing access to career and technical courses.

The fiscal note estimates the measure could reduce TABOR refunds by nearly \$1 billion annually in future years. However, the fiscal note is a simple projection, and the bill allows the state to exempt all state education dollars from the TABOR cap. Right now, the state's share of education spending is



\$5.5 billion, which means this measure would allow the state to keep TABOR refund dollars up to that amount, plus any additional dollars added to state education funding in future years. This effectively eliminates TABOR refunds altogether. (3)(4)(5)

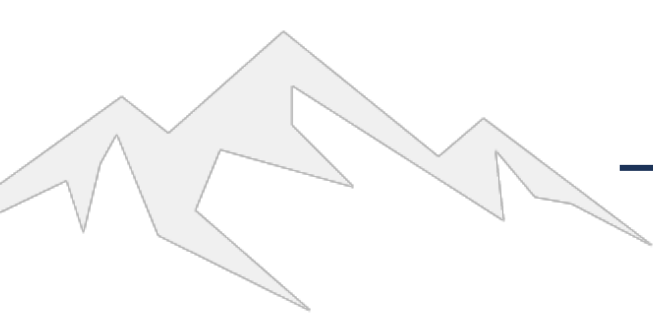
## **Misleading Ballot Language & A Potential Blank Check**

Though the language in SB26-135 presents the measure as a temporary education funding proposal, it obscures its long-term impact on TABOR refunds and overall government spending authority. The measure highlights increased funding for K-12 education over a ten-year period but does not clearly explain that taxpayers would be permanently giving up future TABOR refunds. Once voters authorize the state to retain excess revenue, those refunds are effectively eliminated indefinitely, not just during that initial ten-year window, due to the open-ended nature of the measure.

The original version of the bill only required that a small portion of the newly retained revenue would go to education. In fact, during the bill's first hearing on the floor, the supporters of SB26-135 actually rejected amendments that would have directed all the revenue toward education. However, the sponsors eventually changed course and tightened the language so that the majority of the revenue would go toward education, but only within the first ten years as described in the bill. (6)(7)

The final version of the bill also directs remaining revenue into a vaguely defined "children's account," stating only that the funds must support programs that help children. The language places a priority (but no actual requirement) for extra revenue to be put towards childcare, full-day preschool, and programs intended to improve school success.

This type of language is broad and unclear, as nearly any program or state expenditure could be classified as "helping children" so long as the legislature deems it so. It ultimately leaves significant room for lawmakers at the Capitol to expand or reinterpret how the money is spent over time.



## No Protection for Voters' Intent

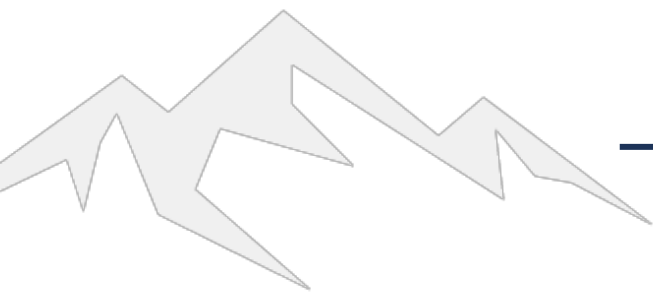
Additionally, the measure is statutory rather than constitutional. This means it would become state law, not part of the state constitution, allowing future legislators authority to change or repeal it with another vote at the Capitol without needing voter approval. A constitutional measure, by contrast, permanently amends the state constitution and is much harder to change, requiring 55% of voters to approve it. Because this measure is statutory, future legislators could change or redirect the funding with a simple majority vote. While voters are told the retained revenue will support education and children's programs, those spending promises are not permanently protected in the constitution.

Coloradans saw this happen in real-time with the legalization of marijuana. When voters legalized the drug through Amendment 64 in 2012, voters were promised that the tax revenue marijuana generated would help fund schools and school construction. Over time, however, lawmakers expanded where the revenue could be spent through subsequent legislation, with the second-largest portion of the money going into the General Fund. Even during the 2026 legislative session, legislators attempted to use more of the marijuana tax revenue to fill gaps in the budget, due to the shortfall. Much like Amendment 64, the vague language in this new ballot measure effectively creates a blank check for future legislatures by allowing them broad discretion over how the money is ultimately used. (3)(8)(17)

## A Track Record of Attacking TABOR

The central problem with SB26-135 is that it undermines the purpose of TABOR, which was designed to limit government growth, including how much taxpayer dollars they are allowed to keep. TABOR refunds are a unique feature of Colorado and have historically provided real relief to households across the state. This is hardly the first time the government has attempted to work around TABOR and find more revenue sources.

Proposition CC was referred to the ballot by the legislature in 2019, and it would have allowed the government to retain all the money it collects each year to be spent on public schools, higher education, and various



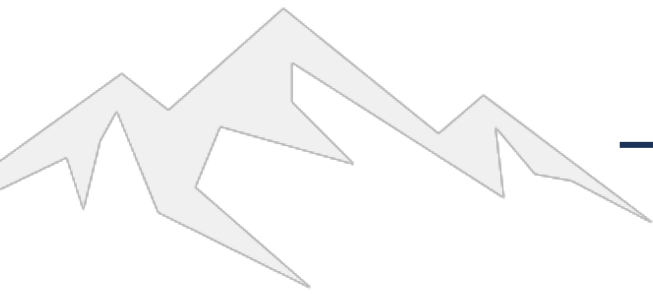
transportation projects, rather than being refunded back to taxpayers. Proposition CC was rejected by voters that year, with 53% voting against it. (9)(10)

Colorado Proposition CC		
Result	Votes	Percentage
Yes	724,060	46.34%
<b>✘ No</b>	<b>838,282</b>	<b>53.66%</b>

Another measure, Proposition HH, appeared on the 2023 ballot and was presented as property tax relief, but would have allowed the state to permanently retain excess revenue that would otherwise be refunded under TABOR. Colorado voters overwhelmingly rejected the measure, signaling that they did not believe limited, temporary property tax relief justified giving up their TABOR refunds. (11)(12)

Colorado Proposition HH		
Result	Votes	Percentage
Yes	682,667	40.69%
<b>✘ No</b>	<b>995,259</b>	<b>59.31%</b>

The measure referred by SB26-135 is very similar to Proposition CC and HH. The legislature wants more revenue to retain and spend on various projects, so they are going to voters to ask them if they are willing to give up their refunds and TABOR protections – permanently. Historically, voters reject



these anti-TABOR proposals because they know a “yes” vote means less money in their own pockets and a more bloated government with unlimited spending authority.

## **Does Colorado Underfund K-12 Education?**

Colorado’s general budget problem is not a revenue issue, but a spending and prioritization issue. The state budget has increased from \$28.8 billion to \$44 billion, despite the state population only growing by roughly 6% in that same eight-year period. (13)(14)(15)

According to Common Sense Institute, Colorado’s public school enrollment has declined for the fifth consecutive year and student performance fell in 2025, even as education funding continued to rise. Since 2020, total public education revenue has increased from \$14.5 billion to \$17.6 billion – a 21% climb – while total spending grew by 24%, from \$14.6 billion to \$18.1 billion. (16)

The data is clear: while state education funding has increased significantly over time, many schools still struggle with classroom outcomes, teacher shortages, and growing administrative inefficiencies. Common Sense Institute also reports that the increased education spending continues to favor administration over instruction, as demonstrated by the graphs below:

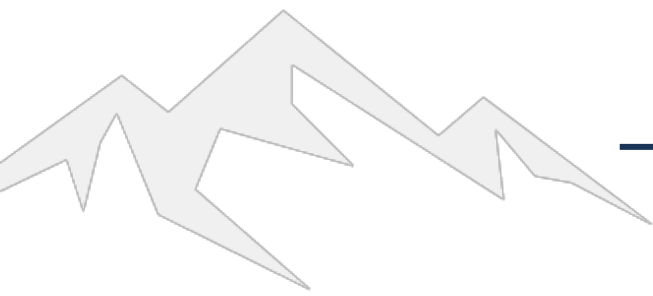
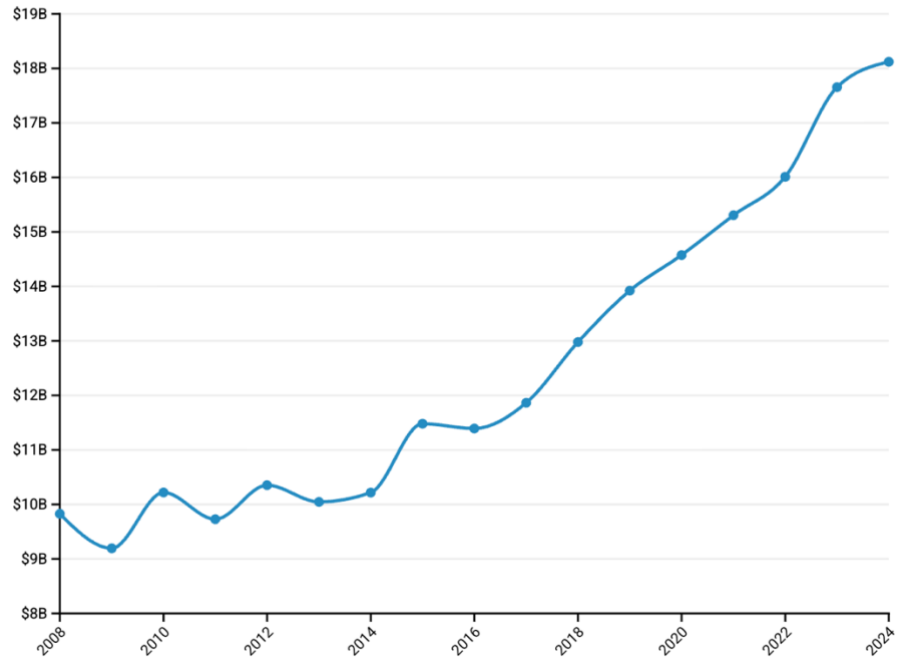
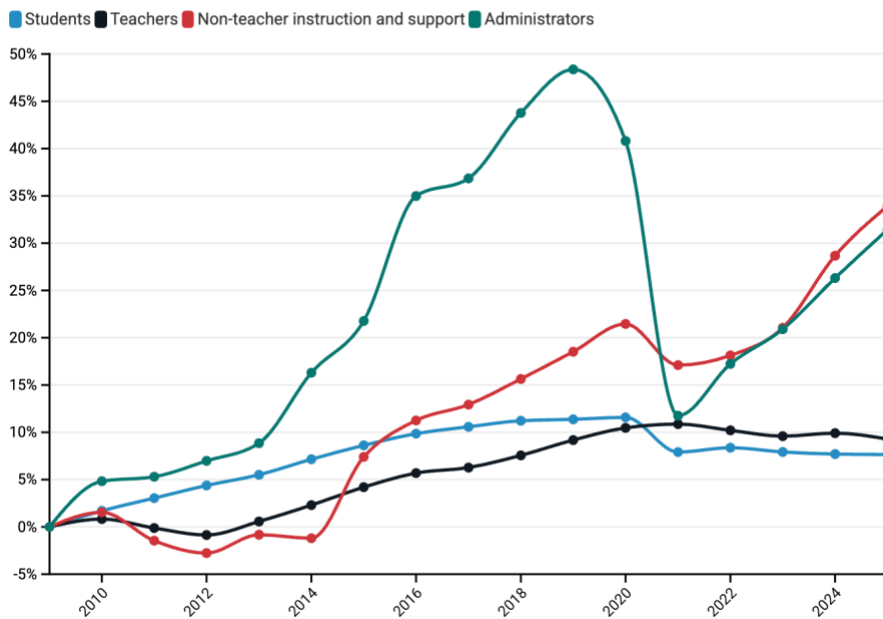


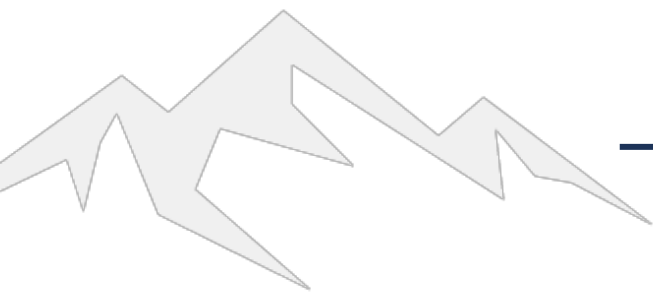
Figure 10: Total Public Education Expenditure



### Public Education Staff and Student Growth since 2009



(16)



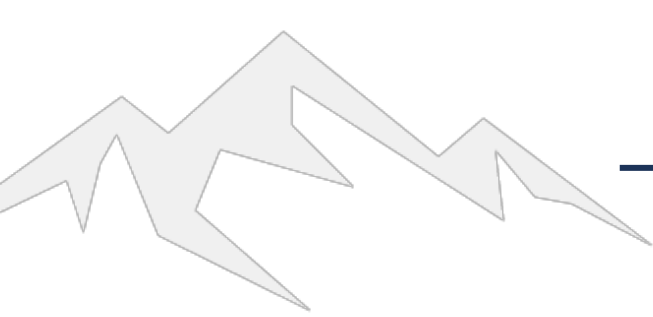
Before lawmakers at the Capitol ask taxpayers to give up their TABOR refunds, they should be demonstrating that existing education dollars are being spent effectively and reaching students and classrooms directly. Furthermore, while Colorado already dedicates a substantial portion of the state budget to education, the legislature has repeatedly chosen to increase spending in other areas while claiming schools remain underfunded.

## Conclusion

This proposed measure is yet another route the legislature has taken to circumvent TABOR and retain revenue for their own spending purposes. TABOR refunds are a unique feature of Colorado that have historically provided significant relief to households across the state, and voters continue to strongly support these safeguards.

SB26-135 is more than just a temporary education funding proposal. It is a measure disguised as a permanent weakening of Colorado's taxpayer protections under TABOR. While the measure is advertised as a way to support schools and children, the bill language obscures the reality that taxpayers would permanently lose their refunds in exchange for broad spending authority granted to the state government. The measure also relies on vague statutory language that future legislators can easily amend, redirect, or expand without returning to voters for approval. It is a blank check for politicians to spend taxpayers' money.

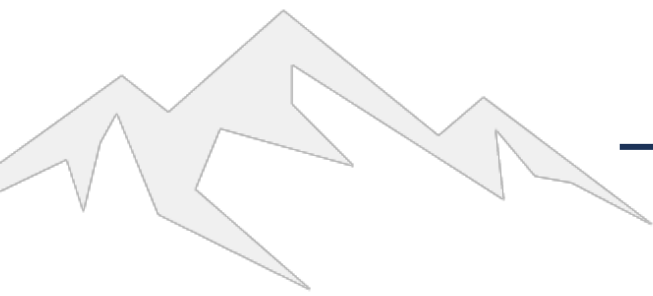
At a time when many Colorado families are already struggling with the cost of groceries, utility bills, housing, and the overall cost of living, SB26-135 asks voters to surrender their financial relief for uncertain, wasteful government spending. Colorado voters have repeatedly rejected similar attempts, signaling that they prefer the protections that are already in place and that legislators have more than enough revenue already to accomplish their goals.



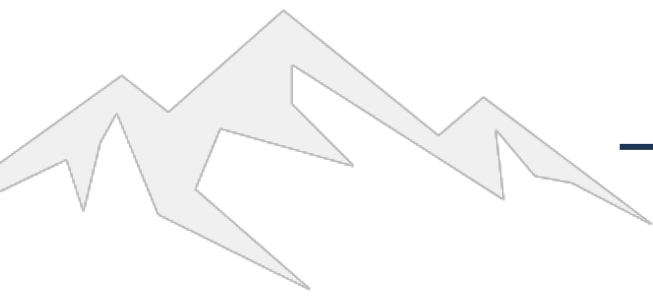
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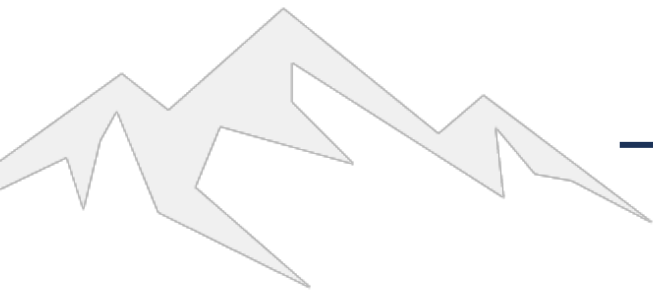
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