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THE LEGISLATIVE ASSAULT ON TABOR:

HOW COLORADO LAWMAKERS ARE REWRITING THE RULES

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ABOUT THE MIKE A. LEPRINO FELLOWSHIP

The Mike A. Leprino Free Enterprise Fellowship was established by Laura Leprino and Matthew Leprino in honor of the late Mike A. Leprino, who was a pillar in the Denver community. The son of Italian immigrants, he was a banker, developer, and community servant. Some of the greatest treasures and neighborhoods in our state were built and funded by Mike. He gave back relentlessly to his state and country, something that he also instilled in each of his children. A great defender of free enterprise and the American dream, Mike is someone who, from humble beginnings, built an enviable legacy in Colorado. Thanks to Mike A. Leprino's legacy, we can all take a lesson in hard work, the entrepreneurial spirit, and the power of free enterprise. The Mike A. Leprino Fellowship will focus on issues reflected in the values and accomplishments of this former pillar of the community.

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INTRODUCTION

The state legislature's campaign against TABOR has reached an apex after several consecutive years of moves to reduce, redirect, and reclassify excess revenue. The 2025 session has produced more bills of that sort, as could have been expected; this time, though, they include a direct court challenge of TABOR itself—something lawmakers might not have supported were the state's budget less burdened by spending commitments previously propped up by one-time federal relief funds.

The proposed challenge, HJR25-1023, finds that TABOR's spending limits "deprived [Colorado] of a republican form of government" and instructs the legislature's lawyers to make that argument before a district court (against the Colorado Attorney General's office, forcing taxpayers to fund both sides of the case). Even should the resolution or the case proceeding from it fail, though, the gradual dismantling of TABOR figures to continue apace unto no foreseeable end except more government spending and lower refunds–or none at all.

Its legality aside, TABOR has been a major force in Colorado's economy for decades. Whether it's a benefit or a hindrance is a matter of perpetual debate—advocates see it as a reasonable check on government that enriches taxpayers, whereas opponents lament that it draws money away from public programs. In addition to exploring the state's recent fiscal history, this report estimates the economic impact of TABOR over the last several years: a period of record revenue, record spending, and billions of dollars refunded.

KEY FINDINGS

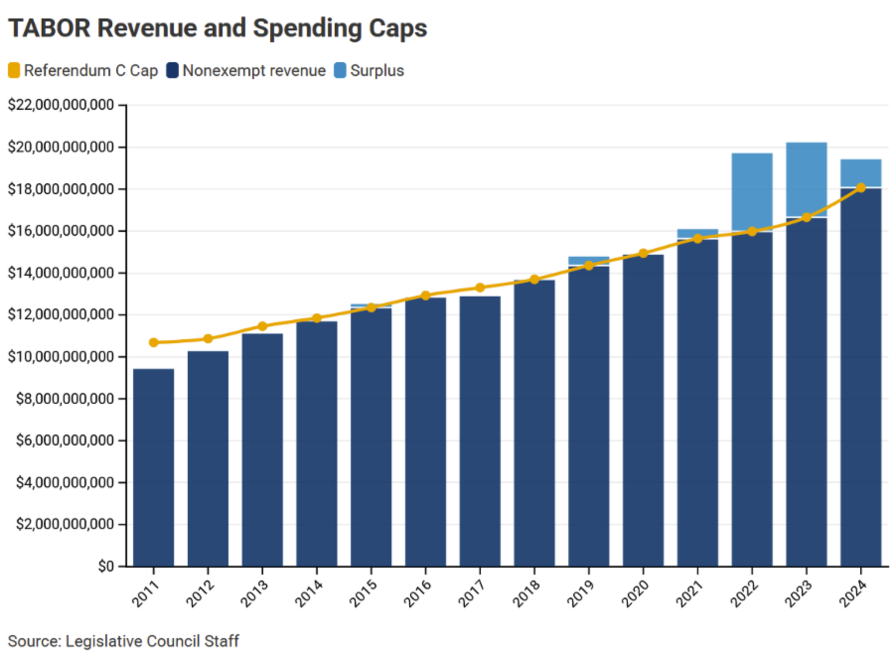
- From FY21 through FY25, state legislation has reduced TABOR refunds by more than $2.3 billion—an average of $736 per filer. This amount is likely to grow as more bills are passed during the 2025 session.
- Some of that amount comes from bills that allow the state government to retain more revenue, and some comes from targeted tax credits and subsidies for individuals and businesses.
- If TABOR had been repealed before 2021, the state government would have spent a total of $9.2 billion more since then. To enable this, Coloradans would have paid $1.9 billion more in personal taxes and received $7.3 billion less in transfer payments (a total of $2,443 per filer, on average).
- The economic benefit of TABOR surpluses from 2021 through 2025:
  - Up to 26,000 new jobs
  - $2.9 billion of GDP
  - $2.5 billion in personal income
- These estimates depend on certain assumptions of how the state government would have used its additional revenue in the absence of TABOR. See the final section of this report for a full explanation.

Maximum Economic Impacts of TABOR Spending Caps (2021–2025)	
Employment	15,373 per year
GDP	$2,859,200,000
Output	$5,406,500,000
Personal income	$9,632,100,000

BACKGROUND AND REVENUE HISTORY

TABOR limits the state government's year-over-year tax-revenue retention and spending growth to the combined rate of inflation and statewide population increase; if, in a given fiscal year, the Department of Revenue reports revenue from nonexempt sources exceeding that limit, the amount collected above the cap is refunded to taxpayers during the next fiscal year. Only a popular vote can supersede TABOR—Colorado residents can vote to let the state retain some or all of an excess if the matter appears on the statewide ballot. Historically, revenue excesses have been uncommon—between 2005, when voters approved Referendum C, and 2020, only three refunds were issued, the largest of which was $452 million in FY19.[i] Since FY21, however, TABOR revenue has exceeded the Referendum C cap by a total of $9.212 billion. COVID-19, the usual cause of emergent phenomena around that time, is partly responsible: after the uncertainty of the first few months of 2020, Colorado received a massive revenue influx driven by federal relief spending that lasted well beyond 2021. The highest inflation in 40 years, a consequence of that same federal spending, also drove some years' refunds up because of the spending limit's lagged response to inflationary shocks.

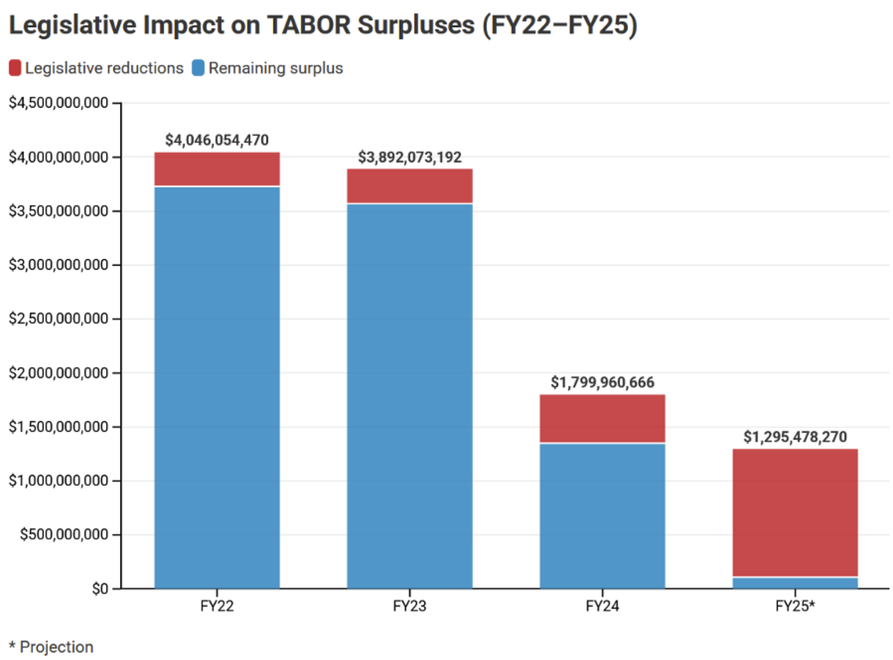
Throughout that time, the state government received billions of dollars in grants from the federal government, none of which counted as TABOR revenue. As a result, even though the spending cap was effective during these years, state spending growth shattered previous records in the years following the pandemic: total appropriations rose by 12.4% in FY22 and another 7.8% in FY23.[ii] The growth of fee-based revenue, which is not subject to TABOR,



is another cause of rapid spending increases over the last several years. In a previous report, CSI found that fee-based enterprise revenue rose by 3,000% between TABOR's passage and 2023.[iii]

Although federal revenue from programs such as the American Rescue Plan Act does not recur, the state chose to use some of it to create ongoing spending obligations, a decision that has put pressure on subsequent budgets, increased Colorado's dependence on TABOR-exempt fees, and may have influenced anti-TABOR bills passing through the legislature of late. In all, such legislation since 2021 has limited TABOR refunds by at least $2.3 billion.

The current state legislature would prefer to retain more excess revenue than TABOR currently allows and has passed many laws to achieve that goal. Many of the reductions shown in the table above stem from legislation that redirected surplus funds to individuals and businesses via targeted tax credits and subsidies—methods that fall outside TABOR's original framework. This shift has made refund distribution more progressive, contrary to TABOR's intent to issue refunds based roughly on each taxpayer's contribution. That intent was explicitly disregarded in 2022 and 2023, when the state bypassed the normal refund process and instead issued flat $750 and $800 payments, respectively, to all eligible residents.[iv v] As a result, this report distinguishes between policies that erode TABOR by sidestepping its rules and those that reallocate surplus revenue as transfer payments.



TABOR Refund Impacts by Legislative Session and Budget Year				
	FY22	FY23	FY24	FY25
2021 session	-$283,189,576	-$99,382,986	*	*
2022 session	-$32,864,894	-$240,298,722	-$133,102,028	*
2023 session	N/A	$17,608,516	-$141,623,401	-$150,072,004
2024 session	N/A	N/A	-$175,235,237	-$1,037,006,266
Total impact	-$316,054,470	-$322,073,192	-$616,560,666	-$1,545,678,270
TABOR refund without bills	$4,046,054,470	$3,892,073,192	$1,966,560,666	$1,654,078,270
Actual TABOR refund	$3,730,000,000	$3,570,000,000	$1,350,000,000	$108,400,000
*Not estimated				

TABOR BILLS SINCE 2021

The following two sections list some of the most impactful TABOR-related bills and ballot measures enacted over the last five years. The first lists policies that allow the state to spend TABOR revenue, and the second covers tax credits, grant programs, and other redistributive efforts. Neither list is exhaustive.

Reclassification and Retention

These policies reduce TABOR revenue by raising the spending limit, moving to retain funds directly, reclassifying nonexempt revenue as exempt, and/or making transfers from nonexempt revenue streams to exempt ones.

SB21-260: SUSTAINABILITY OF THE TRANSPORTATION SYSTEM

“This bill creates new sources of dedicated funding for the state’s transportation system, creates four new state enterprises, modifies an existing state enterprise, and expands authority for transportation planning organizations.”[vi] By reverting a change made by SB17-267, it raised the TABOR limit by $224,957,602 in FY21 and increasing amounts thereafter, reducing each year’s refund by the same amount as that year’s adjustment.

SB22-216: REALLOCATION OF LIMITED GAMING REVENUES

“The bill reallocates gaming tax revenues between limited and extended gaming,”[vii] the latter of which is TABOR-exempt. By reshuffling revenue between the two gaming funds, it lowers TABOR refunds by more than $11 million per year.

HB24-1409: EMPLOYMENT-RELATED FUNDING & WORKFORCE ENTERPRISE

“Beginning in [FY24], this bill diverts money from the Employment Support Fund, which is used to pay expenditures that are subject to TABOR, to other cash funds used to pay TABOR-exempt expenses.”[vii] Through FY26, this change is projected to reduce refunds by $98.4 million.

SB25-180: POPULATION GROWTH CALCULATION

"When calculating the TABOR limit population growth factor, the bill requires that the State Controller use the base year population estimate published in that year, rather than the revised estimate published in the following year."[ix] This was evidently passed with the straightforward intent of reducing FY25 and FY26 refunds (by $18.1 million and $95.2 million, respectively), but its impact on refunds after those is unknowable.

SB25-173: REVENUE CLASSIFICATION TAXPAYERS BILL OF RIGHTS (UNDER CONSIDERATION)

"The bill specifies that certain revenues are considered to be damage awards or property sales, and therefore exempt from TABOR."[x] Previously, those revenues fell under other definitions that left them subject to TABOR's spending limits. If it is passed, this bill is expected to reduce refunds by $46 million through FY27.

Transfers to Individuals and Businesses

These policies reduce TABOR surpluses by reducing nonexempt state revenue. Most of them accomplish this, with the intent to reduce projected refunds, through tax credits and/or subsidies that benefit low-income Coloradans or commercial purchasers of energy-efficient technology.

HB21-1233: CONSERVATION EASEMENT TAX CREDIT MODIFICATIONS

"This bill makes modifications to the conservation easement tax credit program by increasing credit amounts, changing how transferred credits are tracked and verified, and broadening the entities that can donate or accept donations of easements."[xi] It is estimated to have reduced state–income-tax revenue, and thus TABOR refunds, by $57.1 million between FY21 and FY23.

HB22-1205: SENIOR HOUSING INCOME TAX CREDIT

"The bill creates a refundable income tax credit for senior taxpayers with adjusted gross income up to $75,000 who have not claimed a homestead property tax exemption." This credit was only available for the 2022 tax year. By increasing the availability of tax credits and making them refundable (payable to all filers regardless of tax obligation), it reduced TABOR refunds by a total of $100 million.

HB22-1026: ALTERNATIVE TRANSPORTATION OPTIONS TAX CREDIT

"The bill replaces an income tax deduction for expenses related to providing alternative transportation options for employees with a refundable tax credit for similar expenses available to employers."[xii] The new tax credit, being larger and refundable, reduced tax revenue and TABOR refunds by approximately $23 million per year until its expiration in 2024.

HB23-1112: EARNED INCOME AND CHILD TAX CREDITS

This, one of the most important bills of the 2023 session, expanded the state EITC and CTC by broadening their terms of eligibility and increasing the amounts that filers can claim.[xiii] It is estimated to have reduced TABOR refunds by $172.4 million through FY25 and will continue to reduce state revenue by over $45 million per year thereafter.

HB23-1272: TAX POLICY THAT ADVANCES DECARBONIZATION

"The bill makes various changes to state income tax credits, sales and use taxes, specific ownership tax, and severance taxes."[xiv] These changes had the net effect of reducing TABOR refunds by $86.9 million through FY25.

HB24-1311: FAMILY AFFORDABILITY TAX CREDIT

"The bill creates an income tax credit for Coloradoans with children ages 16 and under."[xv] The credit, the availability of which in each year depends on the growth rate of nonexempt revenue in that year, was projected to reduce state revenue by $1 billion through FY25 and up to $739 million in FY26, making this bill the single most impactful in recent memory on TABOR refunds.

HB24-1134: ADJUSTMENTS TO TAX EXPENDITURES TO REDUCE BURDEN

"The bill expands the state earned income tax credit, expands and modifies the state childcare expenses tax credit, and modifies requirements for corporations filing a combined tax return."[xvi] Its means of reducing refunds, by $180 million through FY25 and over $200 million per year thereafter, is like that of HB23-1112 and more expansive.

HB24-1340: INCENTIVES FOR POST-SECONDARY EDUCATION

"The bill creates a refundable income tax credit to encourage Colorado high school graduates to enroll in a Colorado higher education institution."[xvii] It is expected to reduce state revenue by close to $40 million per year, though it only affects a half-year impact in FY25.

SB25-013: SENIOR HOUSING INCOME TAX CREDIT EXTENSION (UNDER CONSIDERATION)

This bill expands the credit created by HB22-1205 through 2026, reducing refunds by similar annual amounts.[xviii]

ECONOMIC IMPACTS OF TABOR

The desire of some within the current legislature to weaken or eliminate TABOR, as confirmed by the General Assembly's treatment of excess revenues and the proposal of HJR25-1023 during the 2025 session, raises questions about TABOR's value to the Colorado economy. Are its refunds, aggregately, worth the accompanying loss of state spending? Does the economic value of government output exceed that of private wealth? Without addressing the moral implications of either, this section of the report seeks to quantify the costs and benefits of recent surpluses by considering the state's economic situation in the hypothetical absence of TABOR.

Because TABOR has such a complex influence on state and local governance in Colorado, its full economic impact cannot be discerned with certainty. In any given year, however, its effects on state spending and taxation are straightforward: when nonexempt revenue exceeds the spending cap, the excess is returned to taxpayers during the following calendar year. On occasion of such an excess, then, its impact can be modeled as a coincidence of reduced government output in the year of the surplus and reduced personal taxes in the year thereafter. The refunds in 2023 and 2024 (of the 2022 and 2023 surpluses) were exceptional in that they came to filers in equal amounts, rather than through the normal channels; this requires it to be modeled as an increase in transfer payments rather than a reduction in personal taxes. The table below shows these values starting in 2021, the year that the ongoing streak of budget surpluses began.

Direct Effects of TABOR Caps in Fiscal Years 2021 through 2026						
	2021	2022	2023	2024	2025	2026
State-government output	-$453.6M	-$3,730M	-$3,570M	-$1,350M	-$108.4M	$0
Personal taxes	$0	-$453.6M	$0	$0	-$1,350M	-$108.4M
Transfer payments	$0	$0	$3,730M	$3,570M	$0	$0

If TABOR were not in effect over those years, the state government would have spent a total of $9.2 billion more, personal taxes would have been higher by $1.9 billion, and transfer payments to individuals would have been $7.3 billion lower.

According to the REMI Tax-PI economic model, the economic impact of TABOR during this period depended on how the government would have used revenue above the spending limits if it were allowed to retain that revenue: the more that would have been spent on activity that directly supports new public- and private-sector jobs and compensation, like infrastructure projects, the lower the economic benefit of the refunds was. The table below shows the impacts of having TABOR's limits under two assumptions: that all of the state government's additional spending would have directly funded new employment and wages, and that none of it would have.

Economic Impacts of TABOR Spending Caps (2021–2025)		
	With new employment and compensation	Without new employment and compensation
Employment	-2,975 per year	15,373 per year
GDP	-$679,600,000	$2,859,200,000
Output	-$421,200,000	$5,406,500,000
Personal income	$1,320,700,000	$9,632,100,000

These results suggest that TABOR is likely a net benefit to Colorado's economy. This year's budget cuts, designed to accommodate excess spending obligations that cannot be funded under the current limit, offer clues about how the state government would have spent in the absence of TABOR. Of the $1.2 billion cut, about 10% comes from transportation projects, which have large employment impacts, while the rest comes largely from social programs, like the new universal school lunch regime, a school mental health screening initiative, and loans for state employees, that generate little additional employment.[xix] **This indicates that TABOR's true impact is likely lower than, but close to, the highlighted set of figures in the table above.**

This analysis excludes consideration of the likely significant and compounding growth of the size of government in the absence of TABOR. It also does not consider how TABOR might have improved Colorado's appeal as a destination for new startups by keeping the tax burden lower. Thus, the benefit to taxpayers and the private sector economy due to TABOR is greater than is accounted for in this report, though by an amount that is difficult to quantify.

RECOMMENDATIONS

By continuing to dismantle TABOR, state policymakers may be favoring the health of the state budget over Colorado's best economic interests. Instead, they could consider implementing safeguards against both runaway spending and the intentional misuse of excess TABOR revenue.

Recently, the state has relied upon one-time federal grants and new fees to help fund its spending increases. Voters already indicated that they want more checks on fee revenue by passing Proposition 117 in 2020, but the legislature has since largely circumvented its rules and continued to create new enterprises as before.

Meanwhile, the government's use of federal funds that it knew would not recur for ongoing spending obligations has placed strains on the state budget that may take years to remedy. As such, additional measures to give voters more control over fee revenue, as Proposition 117 intended, and audits of all pandemic-era, grant-related spending increases would better honor the electorate's desires and ensure that the state makes more responsible use of federal money.

TABOR is the law of the land. Considering the economic benefits outlined in this report, it would be best if leaders installed protocols that made sure the legislature follows its spirit, not just its letter.

REFERENCES

i. https://leg.colorado.gov/agencies/legislative-council-staff/tabor

ii. https://leg.colorado.gov/publication-search?search_api_views_fulltext=%22Appropriations%20Report%22&field_publication_type=All&field_agency=17&sort_bef_combine=field_date%20DESC&field_subjects=All

iii. https://www.commonsenseinstituteus.org/colorado/research/taxes-and-fees/snapshot-of-fees-in-colorado-2024-update

iv. https://leg.colorado.gov/bills/sb22-233

v. https://leg.colorado.gov/bills/sb23b-003

vi. https://leg.colorado.gov/bills/sb21-260

vii. https://leg.colorado.gov/bills/sb22-216

viii. https://leg.colorado.gov/bills/hb24-1409

ix. https://leg.colorado.gov/bills/sb25-180

x. https://leg.colorado.gov/bills/sb25-173

xi. https://leg.colorado.gov/bills/hb21-1233

xii. https://leg.colorado.gov/bills/hb22-1205

xiii. https://leg.colorado.gov/bills/hb23-1112

xiv. https://leg.colorado.gov/bills/HB23-1272

xv. https://leg.colorado.gov/bills/HB24-1311

xvi. https://leg.colorado.gov/bills/HB24-1134

xvii. https://leg.colorado.gov/bills/HB24-1340

xviii. https://leg.colorado.gov/bills/SB25-013

xix. https://www.axios.com/local/denver/2025/04/01/colorado-budget-cuts-medicaid-education