CSFP Briefing Document: Colorado's Constitution – How it Impacts the State's Budget: A Quick Lesson on Gallagher, TABOR, Amendment 23 & the impact of Negative/Budget Stabilization Factor on Amendment 23.

The ***Gallagher Amendment*** **was referred to the ballot by the legislature and passed by voters in 1982** to control for residential and commercial fluctuations in property tax support for local governments. It created a formula that could fluctuate mill levies up and down and adjust for economic changes in residential and commercial growth patterns.

Article 10 Section 20 – also known as the TABOR Amendment**, was passed by the voters of Colorado in 1992**. Article 10 Section 20 added numerous changes and limits to Colorado's constitution:

- **Operations of state and local governments:**
  - no taxing authority
  - both a revenue and a spending cap for state and local governments.
- **Election process:**
  - mandates all revenue increases be voted on by voters
  - defines when and in what year elections can be held
  - states specific language terminology that must be used when asking voters to raise revenue.
- **Situations not contemplated:**
  - Adjustments in revenue and spending limits to state and local budgets when there is a change in revenue tax collections or a change in the economy
  - Impact of Gallaher to state and local government budgets in conjunction with Article 10 Section 20.
- **Between 1966 and 1990 there were 7 attempts to pass a tax limitation initiative** before the TABOR amendment passed in 1992.

Referendum C **(referred by the legislature) - passed by voters in 2005 to address the revenue limit in Article 10 Section 20.** A time-out was granted and the ratchet effect in Article 10 Section 20 was removed. This gave temporary relief to the state's budget.

***Amendment 23* was a citizen's initiative approved by the voters in 2000.** It was designed to increase funding in Colorado after years of declining funding between the late 1980s through the 1990s. Amendment 23 was not a tax increase. Amendment 23:

- Required the statewide base and total funding for categorical programs increase by at least the rate of inflation. (For the first 10 years funding increased by the rate of inflation plus 1% to return funding to 1988 levels.)
    - Categoricals are outside the school finance formula – consisting of special education, English language learners, Gifted and Talented, small schools, transportation, and vocational education.
- Created the State Education Fund – diverting 1/3 of 1% of income tax to the State Education Fund. This revenue is exempt from TABOR limitations.

In *2009 the Legislature created the "Budget Stabilization Factor"* as a mechanism in the school finance act to reduce Amendment 23's requirement of annual inflationary increases to per pupil funding. In 2010 the Legislature **renamed the Budget Stabilization Factor to the "Negative Factor**".

- The **Negative Factor takes money away** from per pupil funding.
- The 2015 ruling of the **Supreme Court determined that the Negative Factor created during the recession is legal** and that the voters in 2000 allowed for the legislature to reduce funding.
- In 2017 the **Legislature renamed the Negative Factor the "Budget Stabilization Factor"**.
- Between **2009 and 2017-18 the Negative / Budget Stabilization Factor has resulted in almost $5 billion in lost revenue to K-12**. The Budget Stabilization Factor has now been in place for 9 fiscal years.