



COLORADO'S CONSTITUTIONAL SPENDING LIMIT

by Greg Sobetski

In 1992, voters approved an amendment to the Colorado Constitution — Article X, Section 20 — known as the Taxpayer's Bill of Rights (TABOR). TABOR limits annual growth in state spending.

A constitutional formula calculates the state spending limit by multiplying a base amount by inflation and population growth. The base amount is the lesser of the prior year's revenue or spending limit. The formula adds voter-approved revenue changes into the limit calculation.

$$\text{Spending limit} = \text{previous year's base} \\ \times (\text{annual change in inflation} + \text{population}) \\ + \text{voter-approved revenue changes}$$

In practice, the limit on state fiscal year spending functions as a limit on the amount of revenue the state can collect and retain from certain sources, because revenue is subject to the limit regardless of whether it is spent or saved. Revenue in excess of the limit must be refunded to taxpayers.

Referendum C. Passed by voters in 2005, Referendum C is a permanent voter-approved revenue change. Referendum C created a five-year "timeout period" between FY 2005-06 and FY 2009-10. During this time, the state was allowed to spend or save the full amount of revenue it collected, effectively setting the spending limit equal to revenue. Beginning in FY 2010-11, Referendum C allows the state to keep revenue up to a capped amount, known as the Referendum C cap. The cap is equal to the highest amount of revenue collected in a single fiscal year during the timeout period, adjusted by

inflation and population growth each year thereafter. The cap is grown from the prior year's cap irrespective of whether state revenue is above or below the cap. Because revenue was highest in FY 2007-08, the amount of revenue collected during that fiscal year became the base for computing the cap in subsequent years.

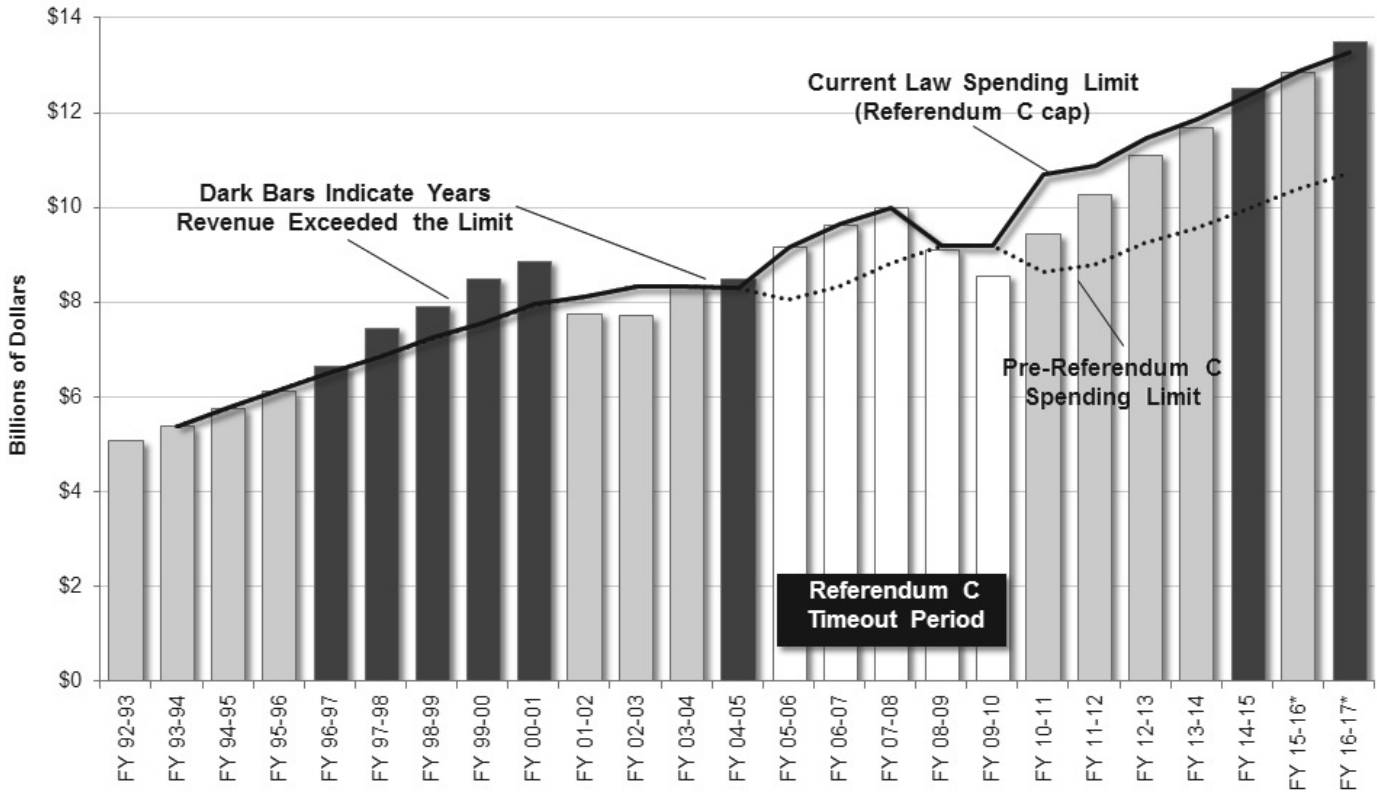
Figure 1 shows the spending limit and revenue subject to the limit since the adoption of TABOR in 1992. Dark bars indicate years in which revenue exceeded, or is expected to exceed, the spending limit, triggering a refund. White bars show the five-year timeout period created after the passage of Referendum C. The pre-Referendum C limit is shown for illustrative purposes.

Referendum C included a provision requiring that revenue collected above the original limit but below the Referendum C cap be spent only on health care, public education, transportation, and local fire and police pensions.

Refund of Excess Revenue

The constitution requires that revenues collected above the limit be refunded to taxpayers in the following year. Since TABOR was adopted in 1992, state revenue has exceeded the spending limit seven times during the seventeen years the limit applied, triggering refunds in 1997 through 2001, 2005, and 2015. The limit did not apply during the Referendum C timeout period from FY 2005-06 to FY 2009-10.

Figure 1
Constitutional Spending Limit and State Revenue
Bars Show Revenue Subject to the Spending Limit



Source: Colorado State Controller's Office and Legislative Council Staff, June 2015 Forecast.
 *Forecast.

In FY 2014-15, revenue exceeded the spending limit for the first time since FY 2004-05, triggering refunds in 2015. The *TABOR surplus*, the amount collected above the limit, totaled \$150 million. Revenue collected in excess of the state spending limit is refunded to taxpayers unless the state receives voter approval to retain and spend the refund amount. Refunds occur during the fiscal year after excess revenue is collected. More information on the mechanisms used to refund revenue in excess of the limit can be found in LCS Issue Brief 15-08.

Legislative Council Staff (LCS) publishes quarterly forecasts of state revenue subject to the spending limit. The most recent LCS forecast, dated June 2015, estimates that revenue will exceed the spending limit in FY 2016-17. While LCS does not forecast revenue in excess of the spending limit in FY 2015-16, the difference between the forecast and the projected spending limit is within reasonable margins of forecast error in both years.

Revenue Subject to the Spending Limit

All state revenue is subject to the limit except:

- federal funds;
- voter-approved revenue increases;
- sales of government property;
- gifts;
- damage awards; and,
- revenue collected by enterprises, defined as government-owned businesses that provide a service, obtain less than 10 percent of their funding from state and local government sources combined, and have bonding authority.

In FY 2013-14, the state collected \$11.7 billion in revenue subject to the spending limit, representing 37.1 percent of total state revenue. The largest sources of revenue exempt from the limit include federal funds and revenue to higher education enterprises, including colleges and college saving programs.