In November of 1992, Colorado voters approved a measure - Article 10 Section 20 of the Constitution - Taxpayer Bill of Rights –

1. Some of the changes included: All taxing authority was no longer a responsibility of the General Assembly.
2. Created Spending and Revenue restrictions – revenue limited to growth plus inflation based on the prior year's spending and reserves (revenue cap). The current tax rates could not be increased without a vote of the people. The current definition of income tax or sales tax could not expand collection – so for example sales tax on items could not be expanded to services. It prohibited a state wide property tax.
3. Changed elections from biennial to annual – only in November. For school districts this created issues for costs of elections and timing for balancing budgets when revenue estimates changed.
4. It also changed when certain questions could be placed on the ballot. For example, revenue increases only in even numbered years.
5. It also determined the language that had to be part of any tax increase.
6. It also required that if a local or state government wanted to keep the revenue above their revenue cap they must go to the ballot and ask voters to retain the revenue. Most school districts and local governments have done this. The state did this for a 5-year period of time – this is known as Referendum C – which also created a new revenue limit and changed the spending limit calculations.
7. Established the 3% Reserve requirement for the state and all local governments with very restrictive language on its uses, how it could be accessed and repayment guidelines.
8. Established that revenue collected above the defined cap would be refunded to voters – mechanism for refund to be established by the General Assembly.
9. Established the "single subject" election determination for ballot questions.

$$\text{State TABOR Limit} = (\text{Previous Fiscal Year Spending}) \times (1 + \text{Inflation} + \text{Population Growth}) + (\text{Voter-Approved Revenue Changes})$$

Referendum C – 2005

What led up to Referendum C?

An economy that had hit a major recession, making drastic cuts to the state budget and potentially giving back refunds to tax payers. The legislature used the mechanism in TABOR to refer a measure to the voters. (See below)

> Shall there be an amendment to the Colorado Constitution to require voter approval for certain state and local government tax revenue increases and debt; to restrict property, income, and other taxes; to limit the rate of increase in state and local government spending; to allow additional initiative and referendum elections; and to provide for the mailing of information to registered voters Since 1992, state fiscal year spending has been subject to TABOR, which limits spending of TABOR revenue to the prior fiscal year's expenditures and reserve increases grown by inflation and population growth. Referendum C, approved by voters in 2005, allows the state to retain and spend money from existing revenue sources above the TABOR limit each year beginning in FY 2005-06. The state may spend all revenue subject to TABOR for five years through FY 2009-10. Beginning in

FY 2010-11, the state may spend revenue above the TABOR limit up to a capped amount known as the "Referendum C cap." The Referendum C cap grows from the prior year's cap instead of the prior year's spending by inflation plus population growth. In effect, Referendum C eliminated the "ratchet- down"[3] effect, where spending decreases when revenue falls below the TABOR limit.

Voter approval for revenue changes. TABOR requires voter approval to retain revenue above the TABOR limit. An example of a statewide voter-approved revenue change is Referendum C, which is discussed below.

Voter approval for tax increases. TABOR also requires voter approval for any new tax, tax rate increase, mill levy increase, an increase in a property assessment valuation ratio, extension of an expiring tax, or a tax policy change causing a net tax revenue gain. An example of a voter-approved tax increase is Amendment 35, which passed in November of 2004. Amendment 35 amended the constitution to increase taxes on cigarettes and other tobacco products and targeted the new revenue to fund health care and tobacco education and cessation programs. No voter approval is needed to decrease a tax imposed by statute.

Referendum C

Referendum C, passed by voters in 2005, is a voter-approved revenue change that allows the state to retain and spend all excess TABOR revenue collected above the TABOR limit for five years, from FY 2005-06 through FY 2009-10. This period of time is commonly referred to as the "five-year timeout period." After the timeout period, Referendum C allows the state to retain and spend all excess revenue up to a "cap", which is equal to the highest total state revenue for a fiscal year during the timeout period adjusted by inflation plus population growth for each subsequent year. Revenue collected above the cap will be refunded to taxpayers via the TABOR refund mechanisms. Based on the June 2009 Legislative Council forecast, FY 2007-08 will be the year with the highest revenue during the timeout period from which the cap will grow by inflation plus population growth.

Source: State Spending Limitations TABOR and Referendum C, Colorado Legislative Council, July 2009

A fee can be established by the General Assembly but the revenue that is generated counts towards the state revenue cap – this potentially creating issues when hitting the new revenue cap. All refunds must be paid out of the General Fund, even if the reason the refund is due is to an increase revenue generated by a fee – or revenue from a non-general fund source.

Sources: Colorado’s Constitutional Spending Limit, Colorado Legislative Council, September 2015, State Spending Limitations TABOR and Referendum C, Colorado Legislative Council, July 2009, HJR03-1033 Study, Colorado Legislative Council, September 2003