The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Rules Committee

BILL: CS/SJR 958

INTRODUCER: Budget Subcommittee on Finance and Tax

SUBJECT: State Government Revenue Limitation

DATE: February 23, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cote	Diez-Arguelles	BFT	**Fav/CS**
2.	Cote	Meyer, C.	BC	**Favorable**
3.	Cote	Phelps	RC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS........................		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This joint resolution amends Section 1, Article VII and creates Section 19, Article VII and Section 32, Article XII of the Florida Constitution. The joint resolution:

- Replaces the existing state revenue limitation based on Florida personal income growth with a new state revenue limitation based on changes in population and inflation.
- Requires excess revenues to be deposited into the Budget Stabilization Fund, used to support public education, or returned to the taxpayers.
- Adds fines and revenues used to pay debt service on bonds issued after July 1, 2012 to the state revenues subject to the limitation.
- Authorizes the Legislature to increase the revenue limitation by a supermajority vote.
- Authorizes the Legislature to place a proposed increase before the voters, requiring approval by 60 percent of the voters.

The proposed amendment will be submitted to the electors at the general election in 2012 or at an earlier election specifically authorized by law, and, if approved, will take effect upon approval by the electors. The new state revenue limitation will first apply to state fiscal year 2014-15.

II. Present Situation:

In 1994, Florida's voters approved an amendment to the State Constitution[1] that limits state revenue collections to the prior year's allowed revenue plus an adjustment for the growth in the Florida economy, as measured by state personal income.[2] The revenue limit in any year is determined by multiplying the average annual growth rate in Florida personal income in the previous five years by the maximum amount of revenue permitted under the limitation in the previous year. Excess collections are deposited in the Budget Stabilization Fund until it is fully funded and thereafter must be refunded to taxpayers as provided by general law. The Legislature, by a two-thirds vote of the membership of each house, may increase the allowable state revenue for any fiscal year. Such an increase must be in a separate bill that contains no other subject and must set forth the dollar amount by which the state revenues are increased. The Legislature must wait 72 hours after the third reading of the bill before taking a vote.
For purposes of the limitation, "state revenues" are defined as taxes, fees, licenses, and charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government.[3] "State revenues" does not include:

- Revenues necessary to meet bond requirements
- Revenues that provide matching funds for the federal Medicaid program (with the exception of revenues used to support the Public Medical Assistance Trust Fund and revenues used to fund elective expansions to Medicaid made after July 1, 1994);
- Proceeds from the state lottery returned as prizes;
- Receipts of the Florida Hurricane Catastrophe Trust Fund;
- Balances carried forward from prior fiscal years;
- Taxes, licenses, fees, and charges for services imposed by local governments; or
- Taxes, licenses, fees and charges for services required to be imposed by an amendment or revision to the constitution after July 1, 1994.

In addition to the revenues explicitly not included, the definition of state revenues excludes grants from the federal government and other revenues that are not "taxes, fees, licenses, and charges for services imposed by the legislature . . .."

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[1] Article VII, Section 1(e), Florida Constitution.

[2] Generally, Florida personal income is a measure of all earnings (wages, salaries, proprietor's income), plus dividends, interest, rent and transfer payments.

[3] Examples of state revenue sources covered by the limitation include auto title and lien fees, beverage licenses, cigarette and other tobacco products tax, corporation fees and income tax, documentary stamp taxes, estate tax, hotel and restaurant licenses and fees, hunting and fishing licenses, insurance premium tax, motor fuels taxes, pari-mutuel tax, pollutant taxes, sales and use tax, severance taxes, and unemployment compensation tax. (See *2010 Florida Tax Handbook* for examples of other state revenue sources, http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2010.pdf)

The constitution requires that in the event there is a transfer of responsibility for the funding of governmental functions between the state and other level of government, an adjustment to the revenue limitation must be made by general law to reflect the fiscal impact of this transfer. [4]

The constitution also requires the legislature to adopt procedures necessary to administer the revenue limitation by general law; however, such legislation has not been enacted.

Impacts of the Constitutional Revenue Limitation

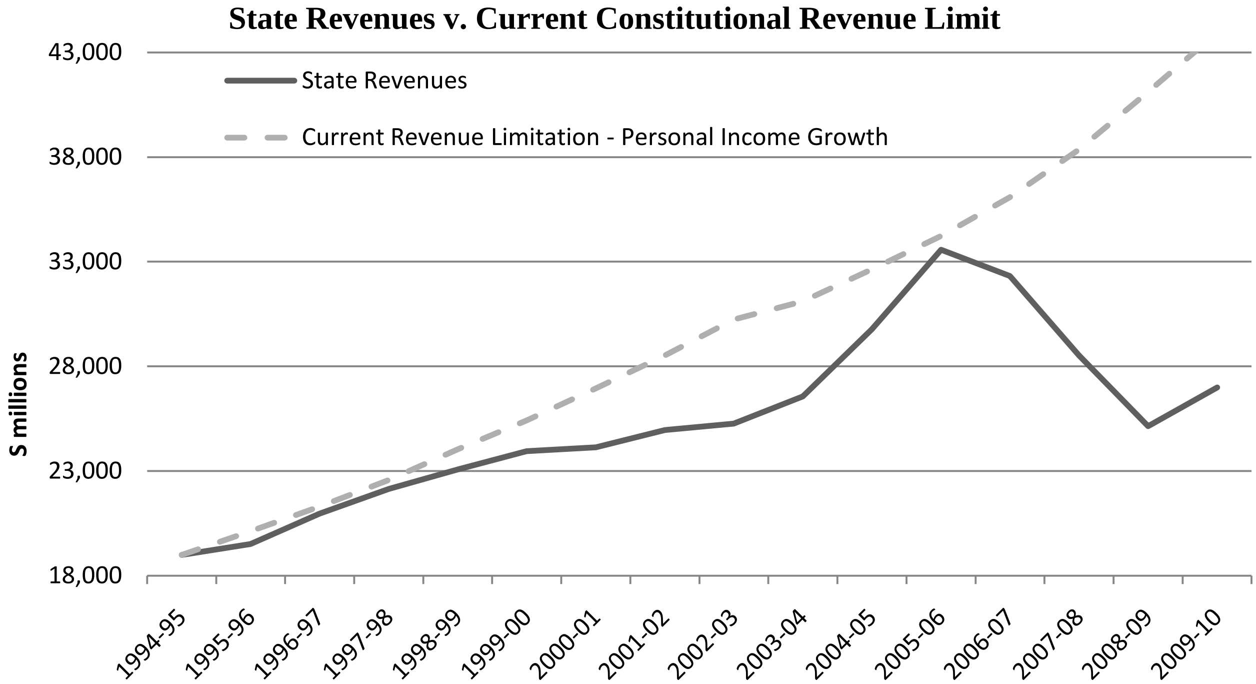
In the first few years after the adoption of the constitutional revenue limitation, state revenue collections were close to the constitutional limitation. Since that time, however, revenues subject to the limitation have generally grown more slowly than personal income. The only other year revenues came close to the limitation was in 2005-2006 when state revenues came within $658m of the limitation.

Since 1999, the Florida Legislature has enacted several measures to reduce state revenue. For example, the intangibles tax, sales and use tax, beverage tax, corporate income tax, and pari-mutuel tax have all been reduced by the Legislature. Additionally, changes in federal law have caused a reduction in estate tax revenue. These changes in tax laws have contributed to the widening gap between state revenues and the revenue limit.

Finally, the effects of the recent recession have also contributed to the widening gap. The gap is not expected to narrow in the foreseeable future.

The following chart displays the history of the current revenue limitation.

[4] In 2002, the Legislature removed State University System revenues from the definition of "state revenues." See Chapter 2002-387, Laws of Florida.



Tax and Expenditure Limits in Other States

Thirty states currently have some kind of limit on taxes or expenditures.[5] These limits are designed to restrain growth in government spending by placing constitutional or statutory restrictions on the amount government can spend or on the amount of revenue government can raise. Generally, they fall into one of the categories described below:

- Revenue limits which tie yearly increases in revenue to personal income or some other type of measure such as inflation or population;
- Expenditure limits similarly linked to personal income or another growth index;
- Appropriations limited to a percentage of the revenue estimate;
- Voter approval requirements for all tax increases over a specified amount; or
- Legislative supermajority requirements for a two-thirds, three-fourths, or four-fifths majority vote in both chambers to pass a tax increase or new taxes.
- Some states have combined components of these types of limits.

In terms of limiting budgets, results from studies are mixed. Many studies conclude that the state limits have not been as effective as proponents envisioned because of the ease with which state governments can circumvent the limits. Some fiscal policy experts agree that voter approval and supermajority requirements place tighter constraints on state governments than other revenue and expenditure limits.

[5] This discussion of other state limitations is largely adapted from *State Tax and Expenditure Limits 2008*, National Conference of State Legislatures, http://www.ncsl.org/default.aspx?tabid=12633.

Revenue Limitation in Colorado

In 1992, Colorado voters passed what some consider the most restrictive revenue limitation in the nation.[6] The Colorado law applies to all taxing districts within the state and voter approval is required to approve any tax increase. Additionally, the Colorado revenue limitation restricts general revenue to the prior year's revenues adjusted for population growth and inflation. Since the limit is based on prior year's revenues rather than the prior year's revenue limitation, any decline in revenues due to a recession leads to a permanent ratcheting down of spending levels. After the recession in the early 2000s, the ratcheting down effect held the revenue base at recessionary levels. In 2005, Colorado voters suspended the revenue limitation for a period of five years to ease existing limits and allow the budget to recover and move forward.

III. Effect of Proposed Changes:

This joint resolution proposes an amendment to the Florida Constitution that replaces the current state revenue limitation with a new limitation. The major changes are:

- the use of personal income in the growth factor is replaced with a growth factor based on population and inflation;
- the base year is updated to Fiscal Year 2013-14;
- the definition of "state revenues" subject to the limitation is expanded to include fines and revenues used to pay debt service for bonds issued by the state after July 1, 2012; and
- the definition of "state revenues" subject to the limitation is revised to explicitly exclude receipts of Citizens Property Insurance Corporation, public universities and colleges.

State Revenue Limitation

Section 19 of Article VII of the State Constitution is created and limits state revenues in any fiscal year as follows:

- For the 2014-2015 fiscal year, to an amount equal to the state revenues collected during the 2013-2014 fiscal year multiplied by the sum of the adjustment for growth plus four one-hundredths.

- For the 2015-2016 fiscal year, to an amount equal to the state revenues collected during the 2014-2015 fiscal year multiplied by the sum of the adjustment for growth plus three one-hundredths.

- For the 2016-2017 fiscal year, to an amount equal to the state revenues collected during the 2015-2016 fiscal year multiplied by the sum of the adjustment for growth plus two one-hundredths.

[6] See, e.g., McGuire, Therese and Kim Rueben. 2006. "The Colorado revenue limit: The economic effects of TABOR." Washington, DC: Economic Policy Institute Briefing Paper No. 172, http://www.epi.org/publications/entry/bp172/.

- For the 2017-2018 fiscal year, to an amount equal to the state revenues collected during the 2016-2017 fiscal year multiplied by the sum of the adjustment for growth plus one one-hundredth.

- For the 2018-2019 fiscal year and thereafter, state revenues are limited to an amount equal to the state revenue limitation for the previous fiscal year multiplied by the adjustment for growth.

The “adjustment for growth” is defined as an amount equal to the average for the previous five years of the product of the inflation factor and the population factor. The “inflation factor” is defined as an amount equal to one plus the percent change in the calendar year annual average Consumer Price Index for All Urban Consumers, U.S city average, as published by the United States Department of Labor. Finally, the “population factor” is defined as an amount equal to one plus the percent change in the population of the state as of April 1 compared to April 1 of the prior year.

The adjustment for growth must be determined by March 1 preceding the applicable fiscal year using the latest available information, and once determined, may not be changed based on revisions to such information.

Like the current limitation, the proposed limitation does not apply to all revenues received by the state. The limitation applies only to revenues generally considered to be within the Legislature’s control and used to fund state expenditures. “State revenues” are defined to mean taxes, fees, licenses, fines, and charges for services imposed by the legislature on individuals, businesses or agencies outside state government. “State revenues” does not include:

- Revenues necessary to meet bond requirements set forth in documents authorizing the issuance of bonds by the state for bonds issues prior to July 1, 2012;
- Revenues that provide matching funds for the federal Medicaid program (with the exception of revenues used to support the Public Medical Assistance Trust Fund and revenues used to fund optional expansions made after July 1, 1994);
- Proceeds from the state lottery returned as prizes;
- Receipts of the Florida Hurricane Catastrophe Trust Fund and Citizens Property Insurance Corporation;
- Receipts of public universities and colleges;
- Balances carried forward from prior fiscal years;
- Taxes, licenses, fees, fines and charges for services imposed by local, regional or school district governing bodies; or
- Taxes, licenses, fees, fines and charges for services authorized by an amendment or revision to the constitution after May 6, 2011.

Revenues in Excess of the Limit

State revenues collected for any fiscal year in excess of the revenue limitation are transferred to the Budget Stabilization Fund until the fund reaches its maximum balance as provided in Article

III, Section 19(g) of the Florida Constitution[7]. Thereafter, excess revenues must be used for the support and maintenance of public schools by reducing the minimum financial effort required from school districts for participation in a state-funded education finance program, or, if the minimum financial effort is no longer required, returned to taxpayers as provided by general law.

Authority of the Legislature to Increase the Revenue Limitation

The Legislature has two options to increase the state revenue limitation:

1) The Legislature, by a two-thirds vote of the membership of each house, may increase the revenue limitation for any fiscal year. Unless otherwise provided by the bill increasing the revenue limitation, the increased revenue limitation shall be used to determine the revenue limitation for future fiscal years.

2) The Legislature, by a three-fifths vote of the membership of each house, may increase the allowable state revenue for any one fiscal year. Increases to the revenue limitation by a three-fifths vote must be disregarded when determining the revenue limitation in subsequent fiscal years.

A bill increasing the revenue limitation must contain no other subject and set forth the dollar amount by which the state revenue limitation is increased. The vote may not be taken less than 72 hours after the third reading in either house of the legislature of the bill in the form that it will be presented to the Governor before taking a vote.

Authority of the Voters to Increase the Revenue Limitation

The Legislature may place before the voters a measure to increase the state revenue limitation by a concurrent resolution approved by a two-thirds vote of the membership of each house. The measure must set forth the dollar amount by which the state revenue limitation will be increased and must be approved by a vote of at least 60 percent of the electors voting on the measure in a general election. Unless otherwise provided by the ballot language presented to the voters, the increased revenue limitation must be used to determine the revenue limitation for future fiscal years.

Revenue Limit Adjustment by the Legislature

The Legislature must provide by general law for adjustments to the state revenue limitation to reflect the fiscal impact of transfers of responsibility for the funding of government functions between the state and other levels of government occurring after May 6, 2011 or the fiscal impact of a new federal mandate.

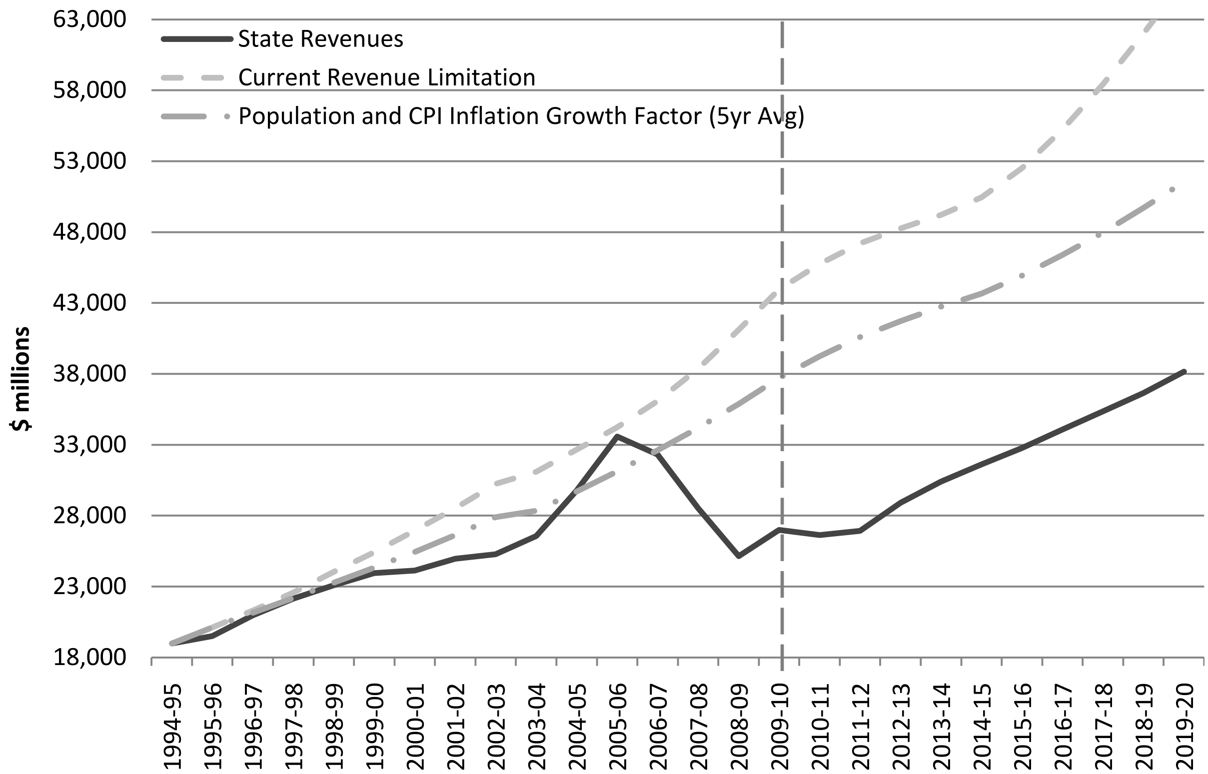
[7] Ten percent of the last completed fiscal year's net revenue collections for the General Revenue Fund.

Likely Impacts of Proposed Constitutional Amendment

Over time, the proposed state revenue limitation is more likely to constrain growth in state revenues than the current limitation.

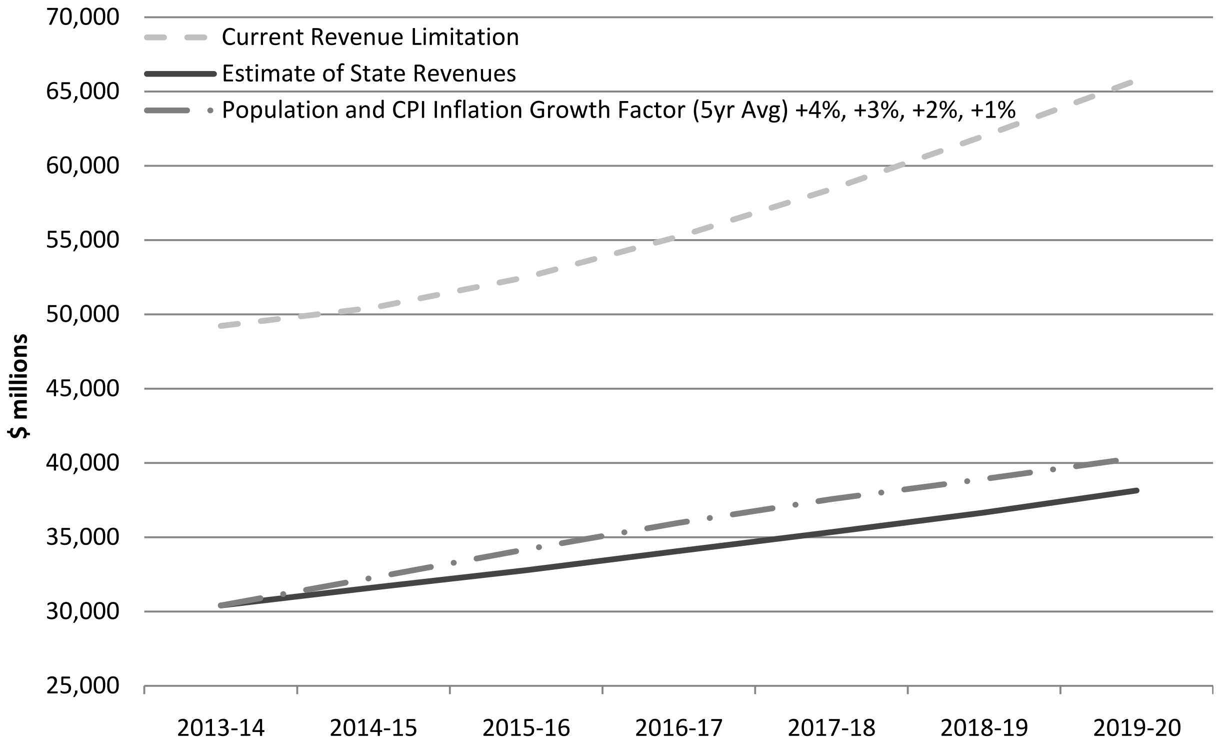
The limitation adopted by the voters in 1994 does not appear to have worked as a meaningful limitation on state revenues. Revenue growth since that time has lagged behind growth in the state's economy. If the adjustment for growth proposed in this CS/SJR 958 had been in effect since 1994, all other things being equal, state revenues would have exceeded the revenue limitation in fiscal years 2004-05 and 2005-06, as shown on the following chart.

Current vs. Proposed Growth Factors
starting with 1994-95 base year



Based on the most current revenue projections and estimates of near term growth in population and inflation, the proposed revenue limitation is expected to exceed the amount of state revenues subject to the limitation at least until fiscal year 2019-2020, as shown on the following chart. These projections will change based on new estimates of revenues, population, and the consumer price index.

Current vs. Proposed Revenue Limitation
starting with 2013-14 base year[8]



Population and CPI Inflation Growth Factor (5yr Avg.) +4%, +3%, +2%, +1%							
		4%	3%	2%	1%		
Base Year 2013-14	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**2019-20**
Estimate of State Revenues	30,399	31,619	32,766	34,067	35,348	36,655	38,145
Adjustment for growth		1.0617	1.0589	1.0522	1.0443	1.0363	1.0365
Revenue Limit	30,399	32,276	34,178	35,962	37,556	38,918	40,340
Revenues (Over) or Under the Limit		657	1,413	1,895	2,208	2,263	2,194

[8] "State revenues" shown on this chart and graph are state revenues covered under the current limitation and do not include fines or revenues used to pay debt service for bonds issued by the state after July 1, 2012. The inclusion of these additional revenues is not expected to materially affect the general shape of state revenues. State Medicaid expenditures excluded from state revenues are based on the estimated percentage growth between FY 2012-13 and FY 2013-2014 remaining constant into the future. The Medicaid expenditure estimate does not include the impact of federal health care reform legislation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

B. None. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 1, Article XI of the State Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held 90 days after the proposal has been filed with the Secretary of State's office, or at an earlier special election, if approved by a law enacted with a three-fourths vote of the membership of each house of the legislature.

Section 5(e), Article XI of the State Constitution, requires 60 percent voter approval for a constitutional amendment to take effect. If approved by 60 percent of the electors voting on the measure in the next general election, the amendment will take effect upon approval.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The provisions of this joint resolution will restrict the ability of state government to raise taxes, licenses, fees, fines, or charges for services and limits the use of revenues received in excess of the constitutional limitation.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Division of Elections of the Department of State (division) is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county. The average cost per word to advertise an amendment is $106.14 according to the division.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Budget Subcommittee on Finance and Tax on February 17, 2011:
The CS makes two technical changes:
- Replaces the phrase "community colleges" with "public colleges".
- Replaces the term "percentage point" with the term "one-hundredths" to reflect proper form.

The CS also clarifies the language of the ballot summary statement that explains the use of revenues in excess of the limit. This language parallels the language in the bill.

B. Amendments:

None.