SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Government Efficiency Appropriations Committee

BILL: CS/SB 1158

INTRODUCER: Government Efficiency Appropriations Committee and Senator Haridopolos

SUBJECT: Limitation on State Appropriations

DATE: April 24, 2006 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gilreath	Johansen	GE	**Fav/CS**
2.			WM	
3.			RC	
4.				
5.				
6.				

I. Summary:

The joint resolution proposes an amendment to Article VII of the State Constitution to limit state appropriations for any fiscal year. The limit is determined by taking state appropriations allowed for the prior fiscal year plus a growth adjustment based on the average growth in personal income in Florida.

For the purposes of the appropriations limit, the resolution excludes appropriations to meet a state emergency declared by the governor, appropriations of federal funds, or appropriations of the proceeds of, or appropriations to retire bonds of the state.

The joint resolution allows the state appropriations limit for any fiscal year to be increased by a three-fifths vote of the membership of each house of the Legislature.

This joint resolution creates Section 19 of Article VII of the State Constitution.

II. Present Situation:

Florida

The Florida Constitution currently limits state revenue collected for any fiscal year, using a growth adjustment of an amount equal to the average annual rate of growth in Florida personal income over the most recent twenty quarters times the state revenues allowed for the prior fiscal year.[1] Florida personal income is to be established using information available from the United States Department of Commerce or its successor.

[1] Section 1(e), Art. VII, State Constitution.

"State revenues" is defined as taxes, fees, licenses, and charges for services imposed by the legislature on individuals, businesses, or agencies outside state government. However, the following exceptions to the revenue limitation are provided: revenues to meet bond requirements or provide matching funds for the federal Medicaid program; proceeds from the state lottery returned as prizes; receipts of the Florida Hurricane Catastrophe Fund; balances carried forward from prior fiscal years; and revenues from taxes, licenses, fees, and charges for services imposed by local, regional, or school district governing bodies, or required to be imposed by any amendment or revision to the constitution after July 1, 1994.

State revenues collected for any fiscal year in excess of the limitation are to be transferred to the budget stabilization fund until the fund reaches the maximum balance specified in Section 19(g) of Article III, after which it is to be refunded to taxpayers as provided by general law. State revenues for any fiscal year may be increased by a two-thirds vote of the legislature in a separate bill that contains no other subject and that sets forth the dollar amount by which the state revenues allowed will be increased.

Nationally

The National Conference of State Legislatures reports that there has been considerable attention given to tax and expenditure limitations in recent years.[2] While thirty states have some form of fiscal limit mechanism restricting spending or revenue growth, the components of the mechanisms vary widely. These fiscal mechanisms are designed to provide certain strictures to restrain the growth of governmental budgets either on the tax side or the spending side or on both. Twenty-three states having spending limits, four have tax limits, and three have both. About half are constitutional provisions and the other half are statutory.[3]

Traditional limits refer to revenue, expenditure or appropriation limits. The features and restrictiveness of these limits vary considerably, but generally, they fall into one of the categories described below:

- **Revenue limits**. Revenue limits tie allowable yearly increases in revenue to personal income or some other type of index such as inflation or population. The limit provides for the refund of excess revenues to taxpayers.
- **Expenditure limits**. This is the most common type of state limitation. Expenditure limits, like revenue limits, are typically tied to personal income or a growth index. The impact of expenditure limits depends upon the limit parameters. In many states, the limit is tied to a growth index related to the expansion of the economy. Somewhat more restrictive are expenditure limits with refund provisions if revenues exceed the authorized spending level.
- **Appropriations limited to a percentage of revenue estimates**. This variation of a spending limit simply ties appropriations to the revenue forecast, typically ranging from 95 percent to 99 percent of expected revenues. It does not establish an absolute limit or

[2] *State Tax and Expenditure Limits*, NCSL, 2005.

[3] In 2006, nearly a dozen states (Arizona, Iowa, Kansas, Nevada, Oklahoma, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, and Wisconsin) are debating tax and expenditure limitations, including possible ballot initiatives in at least two states (Ohio and Oregon).

tie growth to a measurable index. Delaware, Iowa, Mississippi, Oklahoma and Rhode Island have this type of appropriation limit in place.
- **Hybrids**. States also have combined components of various limits. For example, Oregon has a state spending limit tied to personal income growth, and a provision requiring refunds if revenues are more than 2 percent above the revenue forecast. This law limits spending and, in a sense, limits revenues by tying them to the forecasted amount. Colorado is another hybrid state.

There are two different formulas commonly found in fiscal limits: the more strict restraints of population growth plus inflation and the more flexible economic responsiveness of limits based on growth in state personal income. Population is generally a steady, if not slow or stagnant demographic indicator in a state. It is not generally volatile and it takes significant population inflows through interstate migration and international immigration to register a big increase year over year. Such events typically occur sporadically and in specific regions of the country. The consumer price index (CPI) inflation measure also has grown slowly in recent years. While the CPI trend is related to the low inflation environment experienced in the United States, it is by no means a guarantee of future levels. Also, it is widely accepted in economic circles that as the official government estimate of inflation, the CPI has the capacity to understate actual inflation. This occurs because of important adjustments that are made to the data over time. In general, the personal income growth measure tends to track economic ups and downs, decreasing during recessions and increasing during expansionary periods. As a result, use of this indicator tends to keep budget growth restrained to the level of general economic growth in a state.

State Tax and Expenditure Limits 2005				
State	**Year Adopted**	**Constitution or Statute**	**Type of Limit**	**Main Features of the Limit**
Alaska	1982	Constitution	Spending	A cap on appropriations grows yearly by the increase in population and inflation.
Arizona	1978	Constitution	Spending	Appropriations cannot be more than 7.41% of total state personal income.
California	1979	Constitution	Spending	Annual appropriations growth linked to population growth and per capita personal income growth.
Colorado	1991	Statute	Spending	General fund appropriations limited to the lesser of a) 5% of total state personal income or b) 6% over the previous year's appropriation.
	1992	Constitution	Revenue & Spending	Most revenues limited to population growth plus inflation. Changes to spending limits or tax increases must receive voter approval.
Connecticut	1991	Statute	Spending	Spending limited to average of growth in personal income for previous five years or previous year's increase in inflation, whichever is greater.
	1992	Constitution	Spending	Voters approved a limit similar to the statutory one in 1992, but it has not received the three-fifths vote in the legislature needed to take effect.
Delaware	1978	Constitution	Appropriations to Revenue Estimate	Appropriations limited to 98% of revenue estimate.
Florida	1994	Constitution	Revenue	Revenue limited to the average growth rate in state personal income for previous five years.
Hawaii	1978	Constitution	Spending	General fund spending must be less than the average

State Tax and Expenditure Limits 2005				
State	**Year Adopted**	**Constitution or Statute**	**Type of Limit**	**Main Features of the Limit**
				growth in personal income in previous three years.
Idaho	1980	Statute	Spending	General fund appropriations cannot exceed 5.33% of total state personal income, as estimated by the State Tax Commission. One-time expenditures are exempt.
Indiana	2002	Statute	Spending	State spending cap per fiscal year with growth set according to formula for each biennial period.
Iowa	1992	Statute	Appropriations	Appropriations limited to 99% of the adjusted revenue estimate.
Louisiana	1993	Constitution	Spending	Expenditures limited to 1992 appropriations plus annual growth in state per capita personal income.
Maine	2005	Statute	Spending	Expenditure growth limited to a 10-year average of personal income growth, or maximum of 2.75%. Formulas are based on state's tax burden ranking.
Massachusetts	1986	Statute	Revenue	Revenue cannot exceed the three-year average growth in state wages and salaries. The limit was amended in 2002 adding definitions for a limit that would be tied to inflation in government purchasing plus 2 percent.
Michigan	1978	Constitution	Revenue	Revenue limited to 1% over 9.49% of the previous year's state personal income.
Mississippi	1982	Statute	Appropriations	Appropriations limited to 98% of projected revenue. The statutory limit can be amended by majority vote of legislature.
Missouri	1980	Constitution	Revenue	Revenue limited to 5.64% of previous year's total state personal income.
Missouri, continued	1996	Constitution	Revenue	Voter approval required for tax hikes over approximately $77 million or 1% of state revenues, whichever is less.
Montana	1981	Statute	Spending	Spending is limited to a growth index based on state personal income.
Nevada	1979	Statute	Spending	Proposed expenditures are limited to the biennial percentage growth in state population and inflation.
New Jersey	1990	Statute	Spending	Expenditures are limited to the growth in state personal income.
North Carolina	1991	Statute	Spending	Spending is limited to 7% or less of total state personal income.
Oklahoma	1985	Constitution	Spending	Expenditures are limited to 12% annual growth adjusted for inflation.
	1985	Constitution	Appropriations	Appropriations are limited to 95% of certified revenue.
Oregon	2000	Constitution	Revenue	Any general fund revenue in excess of 2% of the revenue estimate must be refunded to taxpayers.
	2001	Statute	Spending	Appropriations growth limited to 8% of projected personal income for biennium.
Rhode Island	1992	Constitution	Appropriations	Appropriations limited to 98% of projected revenue.
South Carolina	1980 1984	Constitution	Spending	Spending growth is limited by either the average growth in personal income or 9.5% of total state personal income for the previous year, whichever is greater. The number of state employees is limited to a ratio of state population.
Tennessee	1978	Constitution	Spending	Appropriations limited to the growth in state personal income.

State Tax and Expenditure Limits 2005				
State	**Year Adopted**	**Constitution or Statute**	**Type of Limit**	**Main Features of the Limit**
Texas	1978	Constitution	Spending	Biennial appropriations limited to the growth in state personal income.
Utah	1989	Statute	Spending	Spending growth is limited by formula that includes growth in population, and inflation.
Washington	1993	Statute	Spending	Spending limited to average of inflation for previous three years plus population growth.
Wisconsin	2001	Statute	Spending	Spending limit on qualified appropriations (some exclusions) limited to personal income growth rate.

Source: National Conference of State Legislatures, 2005.

Design of Fiscal Limitations

The details matter in the design of a fiscal limitation mechanism and many questions must be answered. The Minnesota House Fiscal Analysis Department published an issue brief with some of the questions to consider regarding a tax or expenditure limit.[4]

- What is limited, revenues or expenditures?
  - If revenues, does the limit apply to all revenues, general fund revenues, tax only revenues (non-tax revenue would primarily be fees)? Is higher education tuition included? Is federal revenue included?
  - If expenditures, does the limit apply to all spending, or general fund spending only, or general fund and some other funds? Is spending of federal funds included? Is "spending" to increase budget reserves included?
  - If expenditures, is there an exception for spending to reduce taxes (i.e. state expenditures for property tax refunds or property tax credits)?
  - If expenditures, is the cost of bonding projects included in the limit or only the annual debt service on bonding projects (technically, the cost of bonding projects are appropriations from the state bond fund)?
- Should growth be limited by population growth plus inflation, or by growth in personal income in the state?
  - If population plus inflation, how should they be measured?
  - If personal income, how should income in the state be measured?
- How is the growth measure calculated?
  - Is the measure an estimate of future growth for the year being limited (an estimate of personal income change between 2004 and 2005) or is it actual measure of past change?
  - Should the measure be an annual change (i.e. FY 2005 adjusted by annual CPI change compared to FY 2003) or an average (i.e. FY 2005 adjusted by a three or five year average change compared to FY 2003)?
- Is the baseline revenue or spending a one-year amount or an average of several years
  - Is the limit based on revenue or spending in one base year (i.e. FY 2005)? Does it float (third previous year)?

[4] *Revenue and Expenditure Limits.* Issue Brief. House Fiscal Research Department. February 2004. http://www.house.leg.state.mn.us/fiscal/files/ibrevexp.pdf

  - From another perspective, if spending or revenue falls short of the capped level in one budget period, does this result in a lower limit for the next year? (Use it or lose it?) Or is it the limit that grows each year?
- Once adopted, how often must the limit be adjusted?
  - Must the limit be adjusted when updated data for a year is available? If adjustment is not required, is it an option?
  - How does the limit interact with forecasted expenditures? For example, if the limit is on expenditures and expenditures are at the limit, then the number of K-12 education students increases in the second year of the biennium, are any adjustments in state expenditures required or allowed?
- If the limit is a revenue limit, is there a threshold after which revenue must be rebated?
  - For example, a rebate is only in effect if revenue collection exceeds the limit by more than a certain percent. (On a $14 billion annual budget, ½ of one percent would be $70 million.) This could eliminate rebating relatively small amounts.
  - What are the permissible uses of the excess revenue beyond the limit? Can they be used to fund any tax cut? Or only “rebates” or tax cuts of a specified nature?
- Is there an exception for disasters or emergencies (such as tornado relief)?
- Is an adjustment to the limit allowed for a major change in state/local funding relationships (such as the state takeover of the general education levy)?
- Can a limit be overridden by a super-majority vote of the legislature?
- Is there a sunset date on the revenue or spending limit (for example, expiration after 8 years)?
- Are any limits placed on revenue or spending of local governments?

III. Effect of Proposed Changes:

The joint resolution proposes the creation of Section 19 of Article VII of the State Constitution to limit state appropriations for any fiscal year to the state appropriations allowed for the prior fiscal year plus an adjustment for growth based on the average growth in Florida personal income, as used in the state revenue limitation.

The joint resolution provides that for the 2007-2008 fiscal year, state appropriations will be limited to state appropriations for the prior fiscal year plus an adjustment of growth. For purposes of this section, "growth" is defined as an amount equal to the average annual rate of growth in Florida personal income over the most recent twenty quarters times the state appropriations allowed under this section for the prior fiscal year. Florida personal income is to be determined by the legislature based on information available from the United States Department of Commerce or its successor on the first day of February prior to the beginning of the fiscal year. In practice, the calculation will rely on income data through the third calendar quarter of the year prior to the legislative session.

For purposes of calculating the limitation, "state appropriations" does not include appropriations to meet a state emergency declared by the governor; appropriations of federal funds; or appropriations of the proceeds of, or appropriations to retire, general obligation and revenue bonds of the state.

The joint resolution allows that the state appropriations allowed under this section for any fiscal year may be increased by a three-fifths vote of the membership of each house of the legislature in a separate bill that contains no other subject and that sets forth the dollar amount by which the state appropriations allowed will be increased. The vote may not be taken less than seventy-two hours after the second reading of the bill. An adjustment to the limitation on state appropriations is be made by the legislature to reflect the fiscal impact of transfers of responsibility for the funding of governmental functions between the state and other levels of government.

The joint resolution also provides that this section is self-executing, but that the legislature may provide for implementation by general law, if necessary.

The joint resolution, if passed by a three-fifths vote of each house of the legislature, will be considered by the voters in the November 7, 2006, general election.[5] If approved by a majority of those voting on the measure, the provisions of the joint resolution will take effect on January 2, 2007, and apply to appropriations for the 2007-2008 fiscal year.[6]

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

[5] Department of State, Division of Elections, Election Dates, http://election.dos.state.fl.us/online/elecdate.shtml.
[6] Section 5(a), Art. XI, State Constitution.

C. Government Sector Impact:

The approval by the voters of this proposed constitutional amendment may limit or restrict the ability of future legislatures to appropriate state funds. However, the timing and degree of such impacts is unknowable at this time.

Each constitutional amendment is required to be published by the Department of State in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election.[7] Costs for advertising vary depending upon the length of the amendment; however, the cost per amendment is estimated by the Department of State to be approximately $50,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A joint resolution filed during the 2005 session (SJR 2144) would amend Section 19 of Article III of the State Constitution to require that appropriations made for recurring purposes from nonrecurring general revenue funds for any fiscal year not exceed three percent of the total general revenue funds estimated to be available at the time such appropriation is made, unless approved by a three-fifths vote of the membership of each house.
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This Senate staff analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

[7] Section 5(d), Art. XI, State Constitution.

VIII. Summary of Amendments:

None.

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