STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
STATE CAPITOL
NASHVILLE, TENNESSEE 37243-0264
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Memorandum

To: Honorable Bill Haslam, Governor

Honorable Tre Hargett, Secretary of State

Honorable Justin P. Wilson, Comptroller of the Treasury

Honorable David H. Lillard, Jr., Treasurer

Commissioner Larry Martin, Finance and Administration

From: Justin P. Wilson, Chairman, Copeland Cap Study Committee

Date: December 17, 2013

Re: Copeland Cap Recommendations

Public Chapter 346, Acts of 2013 provides that the State Funding Board shall study the current constitutional provision commonly known as the "Copeland Cap", study the current statutory method of estimating the rate of growth of the state's economy, identify alternative methods of estimating the rate of growth, identify other states practices, and recommend statutory revisions and/or constitutional revisions, if any. At the request of the State Funding Board the Comptroller of the Treasury, Attorney General's Office, and Finance and Administration initiated a dialogue with members of the General Assembly. The study group held a first meeting on September 17th and the second on October 22nd. All members of the General Assembly were invited to attend and participate, and some members from the House and Senate did. The study group received comments from members and proposals from The Beacon Center and The Tennessee Analytic Group.

The "Copeland Cap", approved by voters of Tennessee in 1978, is found in Article II, §24 of the Tennessee Constitution. It states that "In no year shall the rate of growth of appropriations from state tax revenues exceed the estimated rate of growth of the state's economy as determined by law. No appropriation in excess of this limitation shall be made unless the General Assembly shall, by law containing no other subject matter, set forth the dollar amount and the rate by which the limit will be exceeded".

Tennessee Code Annotated §9-4-5201 prescribes that the growth of Tennessee's economy will be measured by personal income.

Brief History of the "Copeland Cap"

The provision in Article II, Section 24 of the Tennessee Constitution known as the "Copeland Cap" was proposed by the Limited Constitutional Convention of 1977 and approved by the voters of Tennessee at the November 1978 election.

The Limitation of State Spending was just one topic covered under the limited call for the 1977 Constitutional Convention. A Committee to examine possible limitations on state spending was formed by the Convention and it undertook a thorough examination of the topic. In describing the Committee's work to the Convention, the Chairman presented a long list of State officials, interested trade associations and others who presented their views to the Committee. Additionally, the Committee heard from two of the more prominent economists of the day who presented strong views on whether constitutional or statutory limitations should be placed on state spending. Dr. Milton Friedman of the University of Chicago and Dr. Walter Heller of the University of Minnesota both testified giving their contrasting views on the suitability of a constitutional limit on state spending, Friedman enthusiastically in favor and Heller equally as vehemently opposed. The Committee also heard from officials in other states who had dealt with state spending limitations in their home states.

The Committee considered a wide variety of options during the course of its meetings. Ultimately the Committee voted and approved a majority report. A minority report was also prepared by the Committee. The Committee Chairman presented the majority report to the Convention in a debate that was spread over several days. During the debate many delegates spoke or asked questions of the Committee. The questions ranged from technical issues of budgeting to more philosophical ones. But the wide range of questions gave a clear picture of what the Convention considered before it adopted language that ultimately was placed in the Constitution.

The final action of the Convention confirmed that the Convention was seeking to give those responsible for the state budget the flexibility to meet future challenges, but at the same time they wanted to set a standard that would require a certain level of accountability for future legislatures. The final version of the Copeland Cap compares the rate of growth of appropriations of state tax revenues to the estimated growth of the state's economy. After extensive debate wherein various proposals to lock in measures for comparison were considered, the Convention left it to the General Assembly to pass laws which determine how to measure the growth of appropriations as compared to the growth in the state's economy. After looking at several growth measures prominent in the late 70's the Convention rejected setting those measures in the Constitution because they foresaw that other measures more appropriate to future conditions would evolve over time.

The counterpoint to this flexibility was a requirement for accountability. The language finally adopted requires any General Assembly that wishes to vote for an appropriations bill that grows appropriations from state tax revenue at a rate faster than the general state economy is growing, to so state in a separate bill. This separate bill must have no other subject matter attached so that its intent is not subject to confusion.

In the end, the delegates to the 1977 Limited Constitutional Convention voted for a plan that they felt gave future General Assemblies the flexibility to take the action they deemed necessary to adequately deal with any financial situation that the State of Tennessee might face far into the future. But it also requires a certain measure of accountability to the electorate as to how the General Assembly manages the growth of state government. That plan was adopted by the voters of the State and is the legal framework we operate under today.

Copeland Cap Calculation

The "Copeland Cap" is a year-to-year calculation and is not evaluated based on cumulative growth. The Cap for the current fiscal year (Year 1) is the base from which personal income growth is added to become the Cap for the next fiscal year (Year 2). When the appropriation level of the Cap is measured, there are some Non-Tax Revenue sources that the Cap does not include. These have been defined in Attorney General Opinion 07-126 as the following: Court Fines & Penalties, Treasury Earnings, Departmental Current Service Revenue, Federal Funds, Proceeds from State Bonds & Notes, Gifts and Donations, Payments in Lieu of Taxes, Tobacco Litigation Settlement, and Lottery Revenues. Once the Year 1 Cap is established it becomes the base for the next fiscal year. The prior year's Cap is then adjusted for economic growth, as measured by personal income, and the new Cap is established.

The following two examples will help explain the calculation. The first is fiscal years 2013 and 2014.

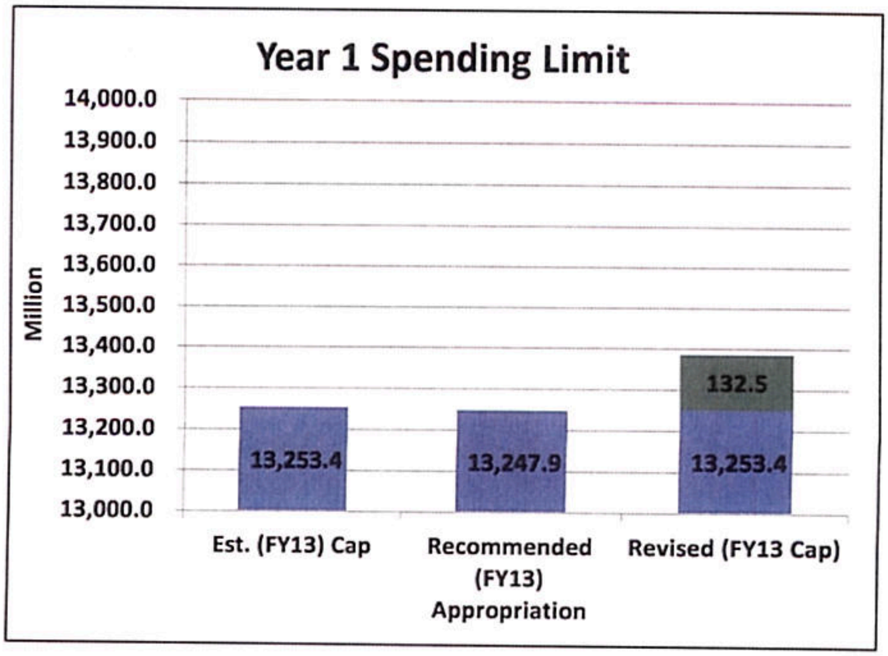
Est. FY 13 Cap – 13,253.4

Rec. FY 13 App. – 13,247.9

1.00% Adj. – 132.5

Rev. FY 13 Cap – 13,385.9

Available Cap – 138.0



Prior Year Cap – 13,385.9

PI Growth – 3.54%

PI Growth – 474.3

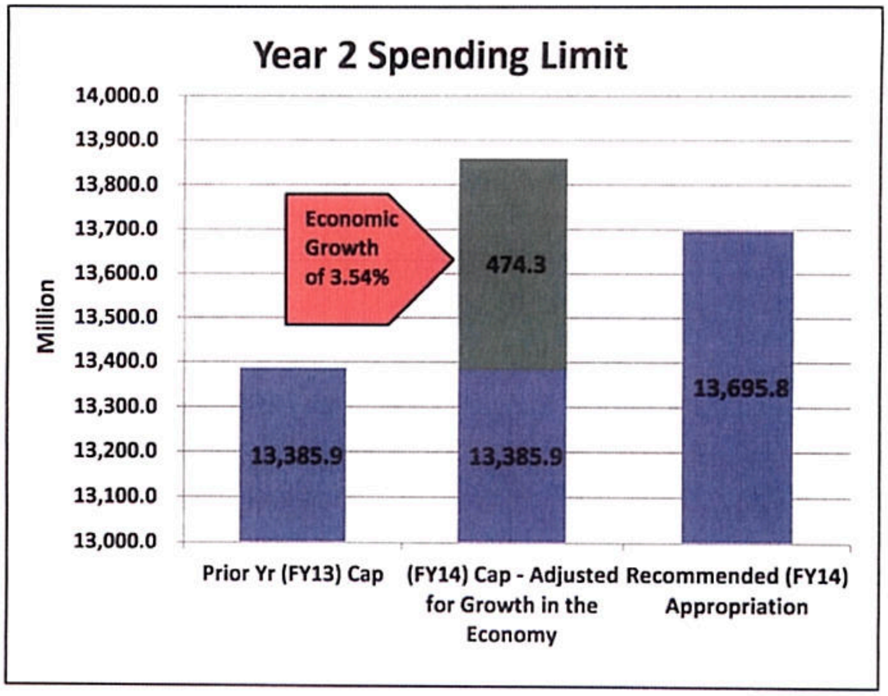
Cap with Growth – 13,860.2

Rec. FY 14 App. – 13,695.8

Adjustment – 0.0

Revised Cap – 13,860.2

Available Cap – 164.4



The Cap was increased in Year 1 (fiscal year 2013) to accommodate the revised FY 13 appropriation recommendation. This, in combination with personal income growth, resulted in an increase not being necessary for Year 2 (fiscal year 2014).

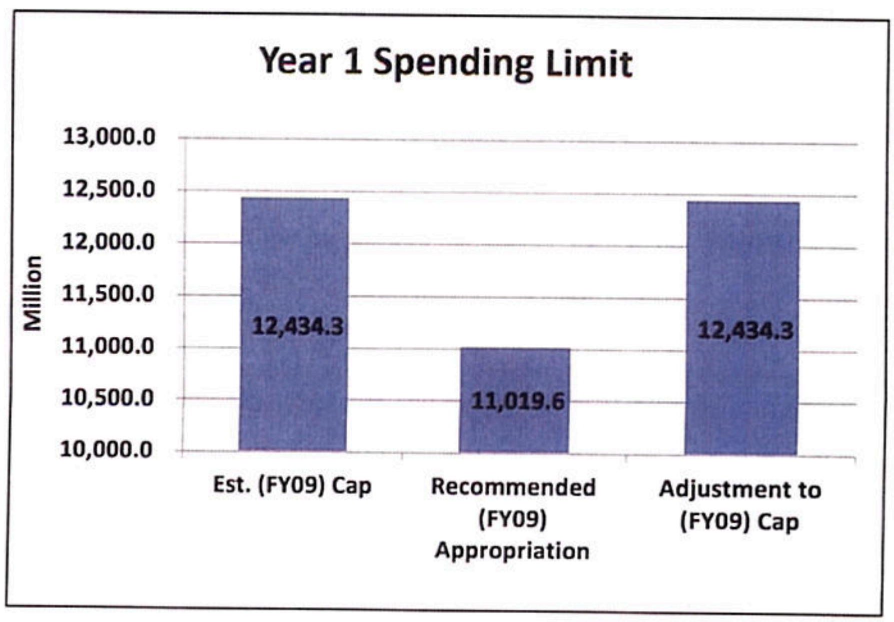
The next example is fiscal years 2009 and 2010.

Est. FY 09 Cap – 12,434.3

Rec. FY 09 App. – 11,019.6

Adjustment – 0.0

Available Cap – 1,414.7



Prior Year Cap – 11,019.6

PI Growth - .22%

PI Growth – 24.2

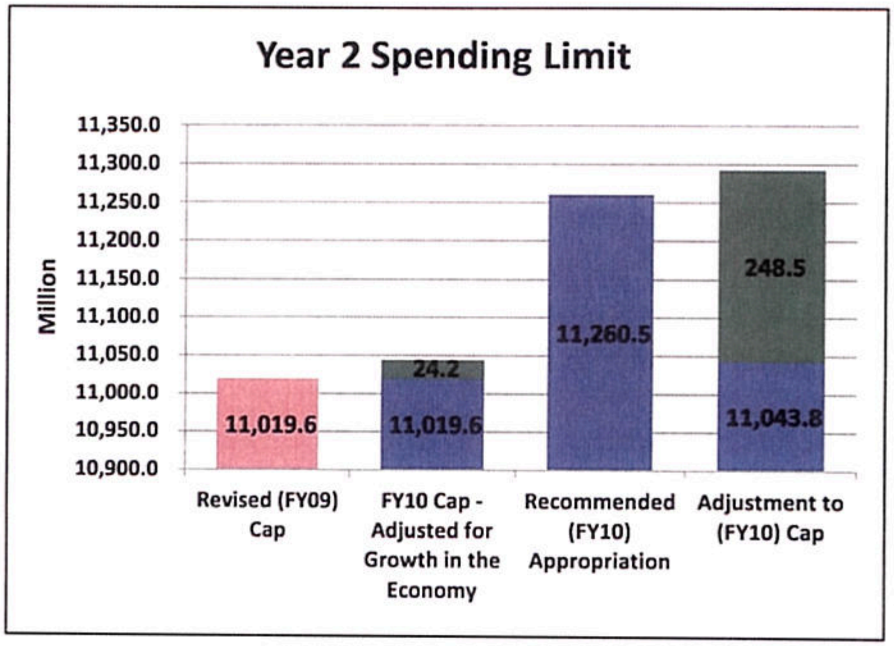
Cap with Growth – 11,043.8

Rec FY 10 App. – 11,260.5

2.25% Adj. – 248.5

Revised Cap – 11,292.3

Available Cap – 31.8



For Year 1 (fiscal year 2009), the revised appropriation was much lower than the already established cap. Since it is a year-to-year calculation the Year 2 Cap (fiscal year 2010) was adjusted downward to reflect the lowered appropriation level in Year 1. As a result, an adjustment to Year 2 was necessary to accommodate an increase in appropriations.

Constitutional and Statute Change Requirements

The Copeland Cap is written in the Tennessee Constitution and also codified in general law.

There are two ways provided in Article XI, §3 to amend the Tennessee Constitution. The first way is for both houses of the General Assembly to pass a proposed amendment by a majority of all of the members elected to each of the two houses. If so passed, the proposed amendment is referred to the next General Assembly (not merely the next session of the same General Assembly) and is published six months prior to the next election for General Assembly. If the next General Assembly votes in the affirmative on the proposed amendment by a two thirds majority of all members elected to each house, then the proposed amendment is placed on the ballot for approval by the electorate at the next election for Governor. If the amendment is approved by a majority of the voters voting for Governor then it shall become part of the Constitution.

The second way to amend the Tennessee Constitution is for the General Assembly to put the question of calling a constitutional convention on the ballot at any general election. If a majority of voters casting a ballot on the proposition approve, the delegates to the convention will be chosen at the next general election. Constitutional conventions can only be held once every six years.

It is not possible for any new proposed amendments to be approved by two General Assemblies before the next election for Governor in 2014. In order to maintain maximum flexibility in wording any proposals, it would seem wise to refrain from formally considering any proposed amendment to the constitutional piece of the Copeland Cap until the next General Assembly meeting in 2015.

Changes to the statutory portion of the Copeland Cap can be made by any General Assembly in the standard way set out in Article II, §18. In order for a bill to become law it must first be considered and passed on three different days in each house and on third and final reading must receive the approval of a majority of all members of each house. It is then signed by the speakers and sent to the Governor for approval. Once approved by the Governor or affirmed by the General Assembly over the Governor's objection, the bill becomes law.

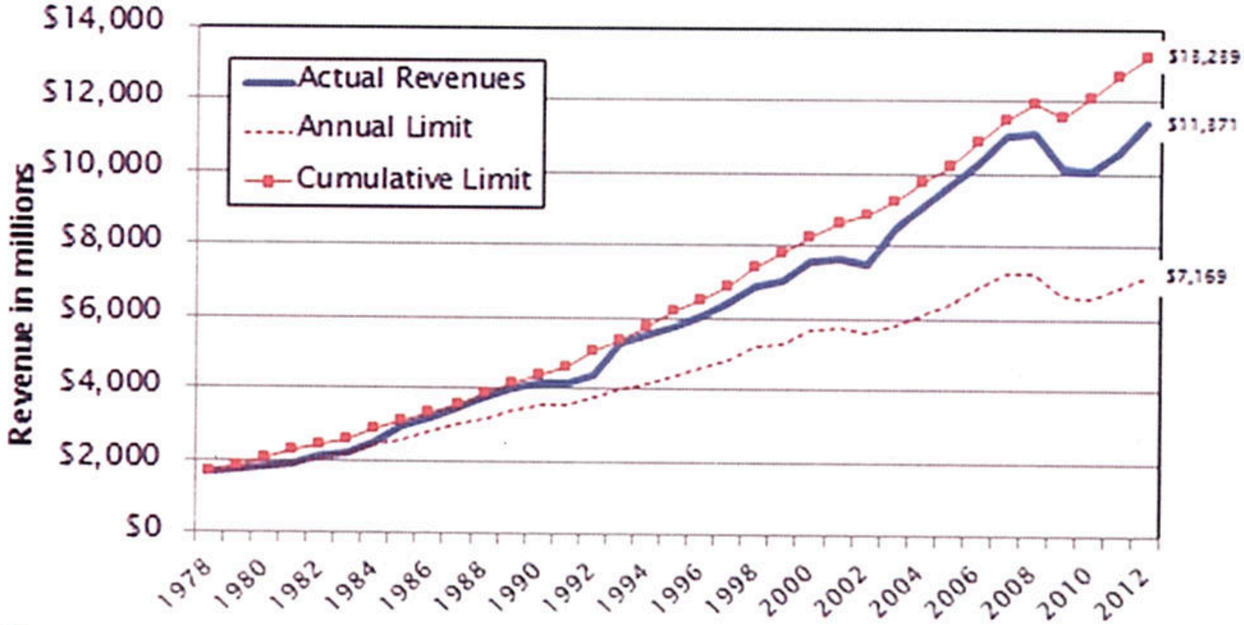
Other State Practices

During the second Copeland Cap meeting held on October 22, 2013, Dr. Bill Fox, Director of the UT Center for Business and Economic Research, testified about spending limit practices in other states. Tennessee is one of about 34 states that have a spending limit and one of 23 states that use the personal income measure to approximate the state's economy.

Dr. Fox detailed three different proxies for economic growth – personal income, gross domestic product (GDP), and population plus inflation. Dr. Fox modeled the calculation of the Cap for each proxy. Below is a brief description of each measure.

Personal Income is a measure of income that is received from all sources by persons who live in the state. It includes wages and salaries, supplements, proprietors' income, rental income, dividend income, interest income, and current transfer receipts. Personal income can also be thought of having three pieces. First it is the population growth, secondly personal income goes up due to inflation, and thirdly there is the real growth in the economy. Personal income is the sum of those three. The graph below is a personal income spending limit comparison.

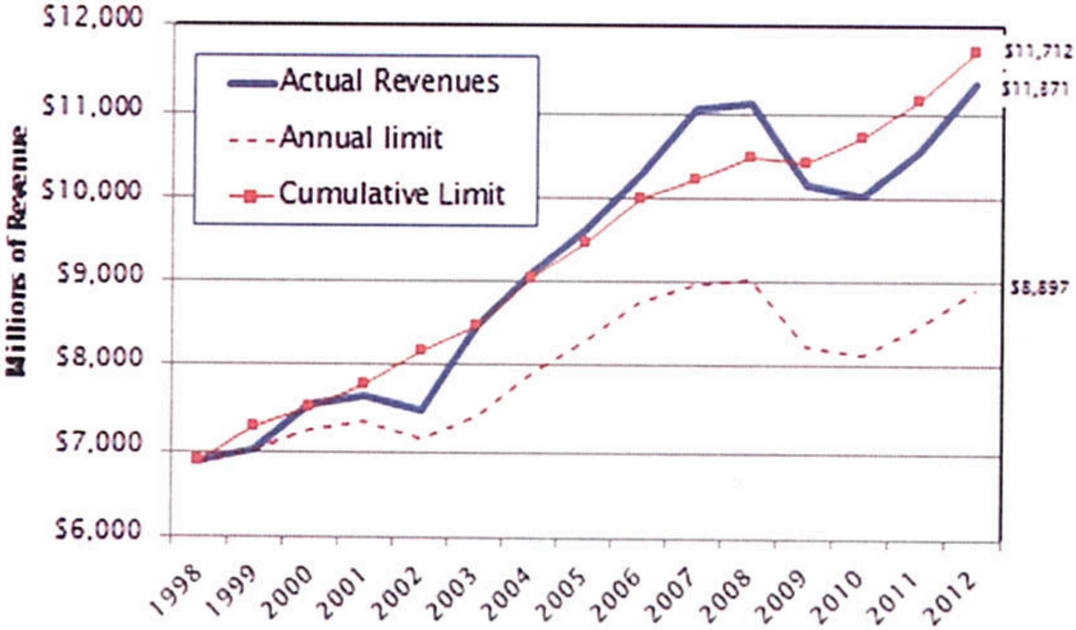
Personal Income Spending Limit Comparison



As one can see, the blue line represents actual revenues collected; the red line is where spending would be if the Cap had never been exceeded; and the orange line is where spending would be if the calculation was cumulative instead of year-to-year. Had the Cap never been exceeded, Tennessee would have appropriated approximately $4.2 billion, or 36.8%, less in fiscal 2012. A cumulative calculation would have resulted in fewer votes to exceed the Cap, but that would also remove some of the accountability from the General Assembly and Administration that the Cap intended to impose.

<u>Gross Domestic Product (GDP)</u> is a measure of value of production in the state. This was not an option when the Copeland Cap was implemented because individual state data was not available until 1997.

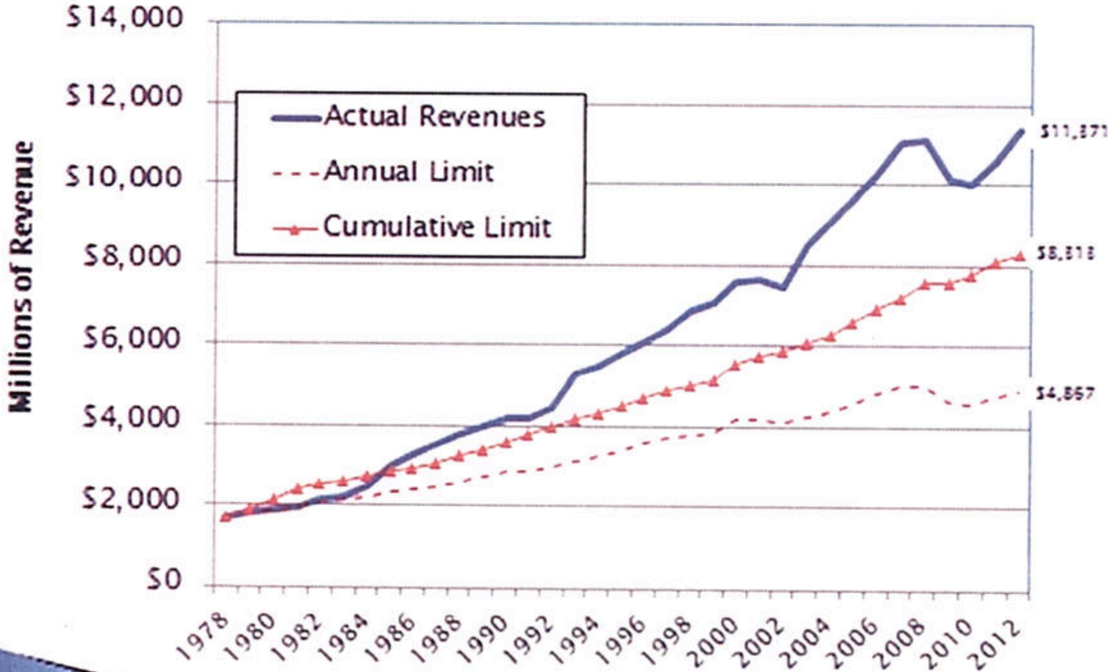
GDP Spending Limit Comparison



Had the hypothetical GDP Cap never been exceeded, Tennessee would have appropriated approximately $2.5 billion, or 21.9%, less in fiscal 2012. Again, a cumulative calculation would be less constrictive.

<u>Population plus inflation</u> is another measurement that can be used. There are two ways to measure inflation. The first one is by using the Consumer Price Index (CPI). The CPI reflects changes in the prices paid by urban consumers for a representative basket of goods and services. The second way is using a State and Local Government Deflator. This includes estimates for the entire range of government purchases.

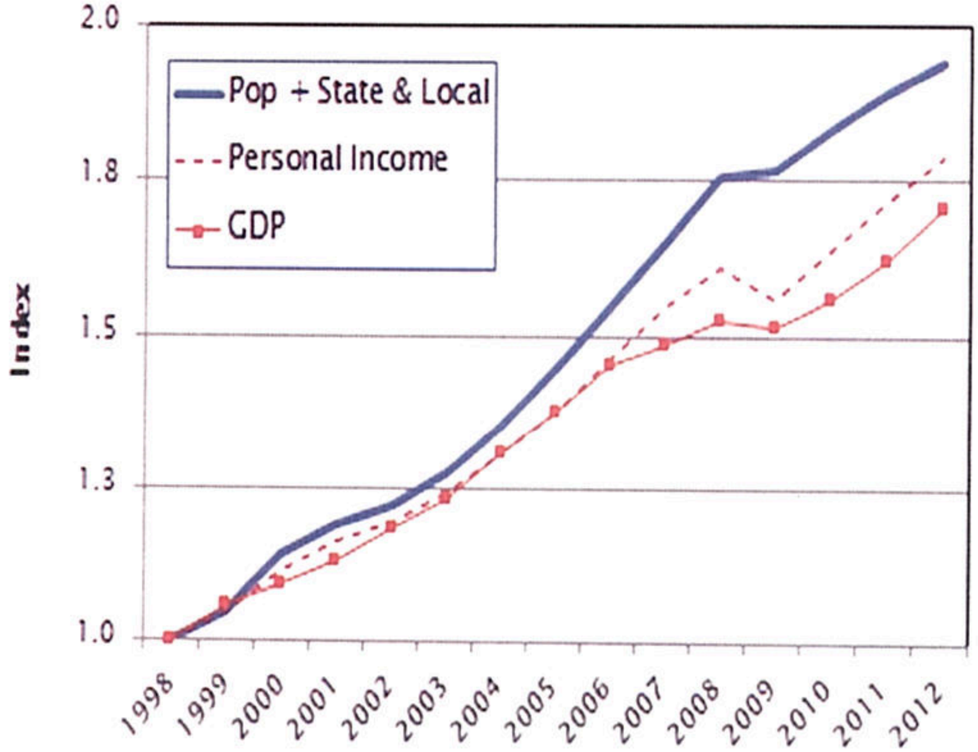
Population Growth plus Inflation (CPI) Spending Limit Comparison



The state would have appropriated $6.5 billion, or 57.0%, less in fiscal 2012 if this measure had never been exceeded. The red line would rise to $5.5 billion if a State and Local Government Deflator was used due to the high amounts the state spends on healthcare. Population plus Inflation does not link revenue growth to the economy because they are not measures of the economy. They are measures of demography. This method also assumes that the current level of spending is ideal and only adjustments for inflation and the size of the population are allowed. Future General Assemblies may desire more or less spending.

This last chart shows the growth of the three different economic growth measures discussed above. As one can see, personal income falls in the middle and is neither too frugal nor profligate.

Economic Growth Measures



Conclusion/Recommendation

There is considerable confusion about the Copeland Cap and what it does and does not do. One misconception is that the Cap is designed to restrain spending. The Cap is actually meant to create accountability and to let the General Assembly know when spending is growing faster than the economy that supports it.

Based on the information provided previously in this report, the study group recommends no statutory changes to the calculation of the "Copeland Cap". Also, to provide transparency and increase understanding of the Cap and its calculation each year, the Administration should report to the General Assembly the status of the Cap at the same time the budget and any supplemental amendment is presented for consideration.

STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
STATE CAPITOL
NASHVILLE, TENNESSEE 37243-0285

LARRY B. MARTIN
COMMISSIONER

MEMORANDUM

TO: Governor Bill Haslam
Secretary of State Tre Hargett
Comptroller Justin P. Wilson
Treasurer David H. Lillard, Jr.

FROM: Larry B. Martin, Commissioner of Finance and Administration

DATE: December 17, 2013

SUBJECT: Constitutional Spending Limit Study – 2013 Public Chapter 346

As a part of the study of the constitutional spending limit legislation (Chapter 346, Public Acts of 2013), the State Funding Board study group recommends increased transparency with regard to the calculation of the constitutional spending limit during the budget/appropriation process.

We concur and will not only continue reporting this information in the budget document, but will also be very clear in each of our budget presentations on the impact of our recommendation on this specific provision. Specifically, we will report to the General Assembly if an adjustment will or will not be required to enact the Governor's recommended budget. By reporting the spending limit calculation at the onset of the budget/appropriation process, all involved in the budget/appropriation process should gain a better understanding of the specific provision and its effect on the budget.

LBM:DT:ABS

State of Tennessee

PUBLIC CHAPTER NO. 346

HOUSE BILL NO. 1154

By Representatives Rogers, Joe Carr, Womick, Butt, Dunn, Evans, Weaver, Dale Carr, Alexander, Forgety, Dennis, Powers, Floyd, Eldridge, Ragan, Marsh, Doss, Casada, Lundberg, Carter, McCormick, Dean, Lollar, Hall, Haynes, Pody

Substituted for: Senate Bill No. 1235

By Senators Henry, Bell, Bowling, Gardenshire, Tracy

AN ACT to amend Tennessee Code Annotated, Title 4; Title 9 and Title 67, relative to limitations on appropriations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) The state funding board shall:

(1) Study the current constitutional provision commonly known as the "Copeland Cap" provided for in article II, § 24 of the Constitution of Tennessee;

(2) Study the current statutory method of estimating the rate of growth of the state's economy pursuant to title 9, chapter 4, part 52;

(3) Identify alternative methods of estimating the rate of growth of the state's economy;

(4) Identify practices as adopted through statutory or constitutional provisions in other states designed to limit or establish boundaries for state spending or to hold elected officials accountable for spending above defined limits or boundaries; and

(5) Recommend statutory revisions, constitutional revisions, combination of statutory and constitutional revisions, if any, to clarify, modify, reform or replace Tennessee's current spending limitations or boundaries and the accountability of its elected officials for actions that may exceed the limitations or boundaries.

(b) The attorney general and reporter shall furnish such assistance to the state funding board as shall be requested by the state funding board.

(c) The state funding board shall complete the duties described in subsection (a) and make its final report, including its findings and recommendations, to the speakers of the senate and house of representatives by February 1, 2014.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL NO. 1154

PASSED: APRIL 17, 2013

Beth Harwell

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 13th day of May 2013

BILL HASLAM, GOVERNOR

TN Constitution

Article II, Section 24

Section 24. Appropriation of public moneys. No public money shall be expended except pursuant to appropriations made by law. Expenditures for any fiscal year shall not exceed the state's revenues and reserves, including the proceeds of any debt obligation, for that year. No debt obligation, except as shall be repaid within the fiscal year of issuance, shall be authorized for the current operation of any state service or program, nor shall the proceeds of any debt obligation be expended for a purpose other than that for which it was authorized.

In no year shall the rate of growth of appropriations from state tax revenues exceed the estimated rate of growth of the state's economy as determined by law. No appropriation in excess of this limitation shall be made unless the General Assembly shall, by law containing no other subject matter, set forth the dollar amount and the rate by which the limit will be exceeded.

Any law requiring the expenditure of state funds shall be null and void unless, during the session in which the act receives final passage, an appropriation is made for the estimated first year's funding.

No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.

An accurate financial statement of the state's fiscal condition shall be published annually.

9-4-5201. Basis for estimated rate of growth of economy.

(a) The estimated rate of growth of the state's economy shall be based upon the projected change in Tennessee personal income.

(b) Tennessee personal income shall consist of those sources of income included in the United States department of commerce's definition of "personal income."

Acts 1979, ch. 408, § 1; T.C.A., §§ 9-621, 9-6-201.

Cross-References. General assembly to determine rate of growth of expenditures, Tenn. Const., art. II, § 24.

Section to Section References. This section is referred to in § 9-4-5203.

9-4-5202. Reports of estimated rate of growth of economy — Duties of state funding board.

(a) At least once each year, and whenever requested to do so by the commissioner of finance and administration or by the joint request of the chairs of the finance, ways and means committees of the senate and house of representatives, the state funding board shall secure from the Tennessee econometric model a report of the estimated rate of growth of the state's economy. Such report shall include the major assumptions and the methodology used in arriving at such estimate.

(b) Upon receiving the report specified in subsection (a), the state funding board shall make comments relating to the reasonableness of the estimate, including any different estimate the board deems necessary. The board shall also enclose a list identifying state tax revenue sources and nontax revenue sources, approved by the attorney general and reporter. The department of finance and administration shall provide to the board revenue estimates for each source.

(c) In the event data from Tennessee econometric model is unavailable, the funding board, after consulting with the finance, ways and means committees of the senate and house of representatives, shall obtain and/or prepare a report of the estimated rate of growth of the state's economy.

(d) The reports specified in subsections (a), (b) and (c) shall be forwarded to the commissioner of finance and administration and to each member of the general assembly, after review and definitive comment by the finance, ways and means committees of the senate and house of representatives.

(e) **(1)** In November of each year, the state funding board shall conduct public hearings to develop consensus estimates of state revenue for the upcoming fiscal year, as well as any revisions to the current fiscal year estimates, as the board deems appropriate.

(2) The funding board shall request economic forecasts and revenue estimates from representatives of state higher education institution business centers located in each of the grand divisions and such other groups or persons as the funding board deems appropriate.

(3) On December 1, or as soon thereafter as practical, the funding board shall present its state revenue estimates, together with a summary of the economic forecast upon which the estimates are based, to the governor and the chairs of the finance, ways and means committees of the senate and house of representatives. If, in the opinion of the funding board, circumstances warrant a review of state revenue estimates it has previously presented, or upon a request of the chairs, the funding board shall consider information it deems necessary and appropriate and may revise its state revenue estimates if appropriate. Any revision to its revenue estimates and reasons therefor shall be forwarded to the governor and chairs.

Acts 1979, ch. 408, § 2; T.C.A., § 9-622; Acts 1993, ch. 303, § 1; T.C.A. § 9-6-202.

Cross-References. Grand divisions, title 4, ch. 1, part 2.

Reporting requirement satisfied by notice to general assembly members of publication of report, § 3-1-114.

Section to Section References. This section is referred to in §§ 4-51-111, 9-4-5115.

Attorney General Opinions. Appropriations, constitutional limit on growth, OAG 94-92 (8/26/94).

9-4-5203. Governor's budget document — Appropriations exceeding growth of state's economy — Bills — Index.

(a) The budget document presented by the governor to the general assembly shall include a statement or showing projecting Tennessee personal income as provided in § 9-4-5201, for the ensuing fiscal year, for the calendar year in progress, for the fiscal year in progress, for the latest completed calendar year, and for calendar year 1977.

(b) The budget document presented by the governor shall also include a statement or a summary showing recommended appropriations from state tax revenues for the ensuing fiscal year, such actual appropriations for the fiscal year in progress, and the 1977-1978 fiscal year appropriations from state tax revenues.

(c) When in any budget document the percentage increase of recommended appropriations from state tax revenues exceeds the percentage increase of estimated Tennessee personal income as defined in § 9-4-5201, for the ensuing fiscal year, the governor shall submit a bill or bills for introduction in both houses of the general assembly which shall contain no other subject matter and shall set forth the dollar and percentage by which the estimated growth of the state's economy is exceeded by the appropriations of state tax revenue in accordance with the Constitution of Tennessee, art. II, § 24.

(d) When the percentage increase of appropriations of state tax revenue by the general assembly exceeds the percentage increase of estimated Tennessee personal income as defined in § 9-4-5201, for the ensuing fiscal year, the general assembly shall by law containing no other subject matter, set forth the dollar and the percentage by which the estimated growth of the state's economy is exceeded by the appropriations of state tax revenue in accordance with the article II, § 24 of the Tennessee constitution.

(e) The index of appropriations from state tax revenues for the 2011-2012 fiscal year may exceed the index of estimated growth in the state's economy by two hundred fifty million dollars ($250,000,000) or two and one one-hundredths percent (2.01%).

Acts 1979, ch. 408, § 3; T.C.A., § 9-623; Acts 1984 (1st Ex. Sess.), ch. 9, § 1; 1984 (1st Ex. Sess.), ch. 11, § 1; 1985, ch. 446, § 1; 1985, ch. 447, § 1; 1986, ch. 938, § 1; 1989, ch. 577, § 1; 1989, ch. 578, § 1; 1991, ch. 520, § 1; 1992, ch. 1004, § 1; 1997, ch. 512, § 1; T.C.A. § 9-6-203; Acts 1999, ch. 402, § 1; 2000, ch. 992, § 1; 2002, ch. 857, § 1; 2004, ch. 960, § 1; 2007, ch. 589, § 1; 2007, ch. 590, § 1; 2009, ch. 553, § 1; 2010, ch. 1110, § 1; 2011, ch. 471, § 1; 2012, ch. 1025, § 1.

Code Commission Notes.

Former subsection (e), concerning the amount by which the index of appropriations from state tax revenues may exceed the index of estimated growth in the state's economy in fiscal years 1984-2011, was deleted as obsolete by the code commission in 2012.

Compiler's Notes. For the Preambles to the acts pursuant to Tenn. Const. art. II, § 24 providing for the dollar amount and rate by which the growth of appropriations from state tax revenues will exceed the estimated growth in the state's economy and to amend title 9, chapter 4, part 52, please refer to Acts 2007, chs. 589 and 590.

Amendments. The 2012 amendment added (e).

Effective Dates. Acts 2012, ch. 1025, § 2. May 15, 2012.

Cross-References. Rate of growth of appropriations limited, Tenn. Const., art. II, § 24.

Attorney General Opinions. Both the Tenn. Const., art. II, § 24 and T.C.A. § 9-4-5203 require officials to determine the percentage increase in "appropriations from state tax revenues" from the previous fiscal year in preparing the budget for each fiscal year, OAG 07-126 (8/27/07).

State Tax and Expenditure Limits[1]

State	Year Adopted	Constitution or Statute	Type of Limit	Main Features of the Limit	Legislative Votes Required to Pass Revenue Increase [2]
Alaska	1982	Constitution	Spending	A cap on appropriations grows yearly by the increase in **population and inflation.**	majority
Arizona	1978	Constitution	Spending	Appropriations cannot be more than 7.41% of total state **personal income.**	2/3 elected
California	1979	Constitution	Spending	Annual appropriations growth linked to **population growth** and per capita personal **income growth.**	2/3 elected
Colorado	1991	Statute	Spending	General fund appropriations limited to the lesser of either a) 5% of total state **personal income** or b) 6% over the **previous year's appropriation.**	majority
	1992	Constitution	Revenue & Spending	Most revenues limited to **population growth plus inflation.** Changes to spending limits or tax increases must receive voter approval.	
	2005	Referendum	Revenue & Spending	**Revenue limit suspended** by voters until 2011, when new base will be established.	
	2009	Statute	Spending	Revised general fund appropriations limit to remove the 6% of prior year appropriations alternative, while retaining a limit based on 5% of total state **personal income.**	
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.	majority
	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 full effect.	
Delaware	1978	Constitution	Appropriations to Revenue Estimate	Appropriations limited to **98% of revenue estimate.**	3/5 elected
Florida	1994	Constitution	Revenue	Revenue limited to the average growth rate in state **personal income** for previous five years. Corporate income taxes require a 3/5 elected vote.	2/3 elected
Hawaii	1978	Constitution	Spending	General fund spending must be less than the average growth in **personal income** in previous three years.	majority
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.	majority
Indiana	2002	Statute	Spending	State spending cap per fiscal year with growth set according to formula for each biennial period.	majority
Iowa	1992	Statute	Appropriations	Appropriations limited to **99% of the adjusted revenue estimate.**	majority
Louisiana	1993	Constitution	Spending	Expenditures limited to 1992 appropriations plus annual growth in state per capita **personal income.**	2/3 elected
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.	majority
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.	majority
Michigan	1978	Constitution	Revenue	Revenue limited to 1% over 9.49% of the previous year's state **personal income.** State property taxes require 3/4 elected vote.	majority
Mississippi	1982	Statute	Appropriations	Appropriations limited to **98% of projected revenue.** The statutory limit can be amended by majority vote of legislature.	3/5 elected
Missouri	1980	Constitution	Revenue	Revenue limited to 5.64% of previous year's total state **personal income.**	2/3 elected
	1996	Constitution	Revenue	Voter approval required for tax hikes over approximately $77 million or 1% of state revenues, whichever is less.	
Nevada	1979	Statute	Spending	Proposed expenditures are limited to the biennial percentage growth in state **population and inflation.**	2/3 elected
New Jersey	1990	Statute	Spending	Expenditures are limited to the growth in state **personal income.**	majority
North Carolina	1991	Statute	Spending	Spending is limited to 7% or less of total state **personal income.**	majority
Ohio	2006	Statute	Spending	Appropriations limited to greater of either 3.5% or **population plus inflation growth.** To override need 2/3 supermajority or gubernatorial emergency declaration.	2/3 elected
Oklahoma	1985	Constitution	Spending	Expenditures are limited to 12% **annual growth adjusted for inflation.**	3/4 elected
	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.**	3/5 elected
	2001	Statute	Spending	Appropriations growth limited to 8% of projected **personal income** for biennium.	
Rhode Island	1992	Constitution	Appropriations	Appropriations limited to **97% of projected revenue.**	majority
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.	majority
Tennessee	1978	Constitution	Spending	Appropriations limited to the growth in state **personal income.**	majority
Texas	1978	Constitution	Spending	Biennial appropriations limited to the growth in state **personal income.**	majority
Utah	1989	Statute	Spending	Spending growth is limited by formula that includes **growth in population, and inflation.**	majority
Washington	1993	Statute	Spending	Spending limited to **average of inflation** for previous three years **plus population growth.**	majority
Wisconsin	2001	Statute	Spending	Spending limit on qualified appropriations (some exclusions) limited to **personal income** growth rate.	majority

[1] *NCSL Report - State Tax and Expenditure Limits - 2010 by Bert Waisanen (http://www.ncsl.org/issues-research/budget/state-tax-and-expenditure-limits-2010.aspx)*

[2] *NASBO Budget Processes in the States, Summer 2008*

Copeland Cap
-- A Dialogue

Response to Public Chapter 346, Acts of 2013

OFFICE OF THE ATTORNEY GENERAL · STATE OF TENNESSEE

F&A Finance and Administration

TENNESSEE COMPTROLLER OF THE TREASURY

Public Chapter 346, Acts of 2013

- Directs the State Funding Board to study the current statutory and constitutional provisions commonly known as the “Copeland Cap”.
- Directs the State Funding Board to identify practices adopted by other states relating to accountability in state spending.

Tennessee Comptroller of the Treasury

Constitution of Tennessee

- Article II, § 24

Tennessee Comptroller of the Treasury

Statutory Implementation

- T.C.A. §§ 9-4-5201-03

Tennessee Comptroller of the Treasury

TN Attorney General

- Brief History of the Adoption of the Copeland Cap.

Article II, § 24 TN Constitution

- Paragraph One
  - No public money shall be expended except pursuant to appropriations made by law. Expenditures for any fiscal year shall not exceed the state's revenues and reserves, including the proceeds of any debt obligation, for that year. No debt obligation, except as shall be repaid within the fiscal year of issuance, shall be authorized for the current operation of any state service or program, nor shall the proceeds of any debt obligation be expended for a purpose other than that for which it was authorized.

Article II, § 24 TN Constitution

- Paragraph Two
  - In no year shall the rate of growth of appropriations from state tax revenues exceed the estimated rate of growth of the state's economy as determined by law. No appropriation in excess of this limitation shall be made unless the General Assembly shall, by law containing no other subject matter, set forth the dollar amount and the rate by which the limit will be exceeded.

Tenn. Code Ann. § 9-4-5201

- (a) The estimated rate of growth of the state's economy shall be based upon the projected change in Tennessee personal income.
- (b) Tennessee personal income shall consist of those sources of income included in the United States Department of Commerce's definition of "personal income."

Tenn. Code Ann. § 9-4-5202 – Selected Provision

- (a) At least once each year, and whenever requested to do so by the commissioner of finance and administration or by the joint request of the chairs of the finance, ways and means committees of the senate and house of representatives, the state funding board shall secure from the Tennessee econometric model a report of the estimated rate of growth of the state's economy. Such report shall include the major assumptions and the methodology used in arriving at such estimate.

Tenn. Code Ann. § 9-4-5202 – Selected Provision

- (b) Upon receiving the report specified in subsection (a), the state funding board shall make comments relating to the reasonableness of the estimate, including any different estimate the board deems necessary. The board shall also enclose a list identifying state tax revenue sources and nontax revenue sources, approved by the attorney general and reporter. The department of finance and administration shall provide to the board revenue estimates for each source.

Tenn. Code Ann. § 9-4-5203 – Selected Provision

- (a) The budget document presented by the governor to the general assembly shall include a statement or showing projecting Tennessee personal income as provided in § 9-4-5201, for the ensuing fiscal year, for the calendar year in progress, for the fiscal year in progress, for the latest completed calendar year, and for calendar year 1977.

Tenn. Code Ann. § 9-4-5203 – Selected Provision

- (b) The budget document presented by the governor shall also include a statement or a summary showing recommended appropriations from state tax revenues for the ensuing fiscal year, such actual appropriations for the fiscal year in progress, and the 1977-1978 fiscal year appropriations from state tax revenues.

Tenn. Code Ann. § 9-4-5203 – Selected Provision

- (c) When in any budget document the percentage increase of recommended appropriations from state tax revenues exceeds the percentage increase of estimated Tennessee personal income as defined in § 9-4-5201, for the ensuing fiscal year, the governor shall submit a bill or bills for introduction in both houses of the general assembly which shall contain no other subject matter and shall set forth the dollar and percentage by which the estimated growth of the state's economy is exceeded by the appropriations of state tax revenue in accordance with the Constitution of Tennessee, art. II, § 24.

Tenn. Code Ann. § 9-4-5203 – Selected Provision

- (d) When the percentage increase of appropriations of state tax revenue by the general assembly exceeds the percentage increase of estimated Tennessee personal income as defined in § 9-4-5201, for the ensuing fiscal year, the general assembly shall by law containing no other subject matter, set forth the dollar and the percentage by which the estimated growth of the state's economy is exceeded by the appropriations of state tax revenue in accordance with the article II, § 24 of the Tennessee constitution.

Tenn. Code Ann. § 9-4-5203 – Selected Provisions

- (e)(1) The index of appropriations from state tax revenues for the 2011-2012 fiscal year may exceed the index of estimated growth in the state's economy by two hundred fifty million dollars ($250,000,000) or two and one one-hundredths percent (2.01%).
- (2) The index of appropriations from state tax revenues for the 2012-2013 fiscal year may exceed the index of estimated growth in the state's economy by one hundred thirty-two million five hundred thousand dollars ($132,500,000) or one percent (1.0%)

Copeland Cap Calculation
Finance and Administration

Key Points

- This is a year-to-year calculation
- The State does not evaluate based on cumulative growth
- The appropriation level is measured using appropriated tax revenues that are expected to be received in that specific fiscal year
- Personal Income is the metric used to measure growth in the economy
- The first step is to evaluate the current fiscal year (Year 1) before calculating for the Recommended Fiscal Year (Year 2)

The Base for Measuring Growth in the Economy

- For Year 1: The already established Cap is the Base
- For Year 2: Year 1 Cap adjusted for the Growth in the Economy (Personal Income)
  - Exception: A significant reduction in Year 1 appropriation would reset the Year 2 Base to the Year 1 Appropriation Level (See Example for 2009)

F&A Finance and Administration

Copeland Cap Calculation

MEASURING THE APPROPRIATION LEVEL

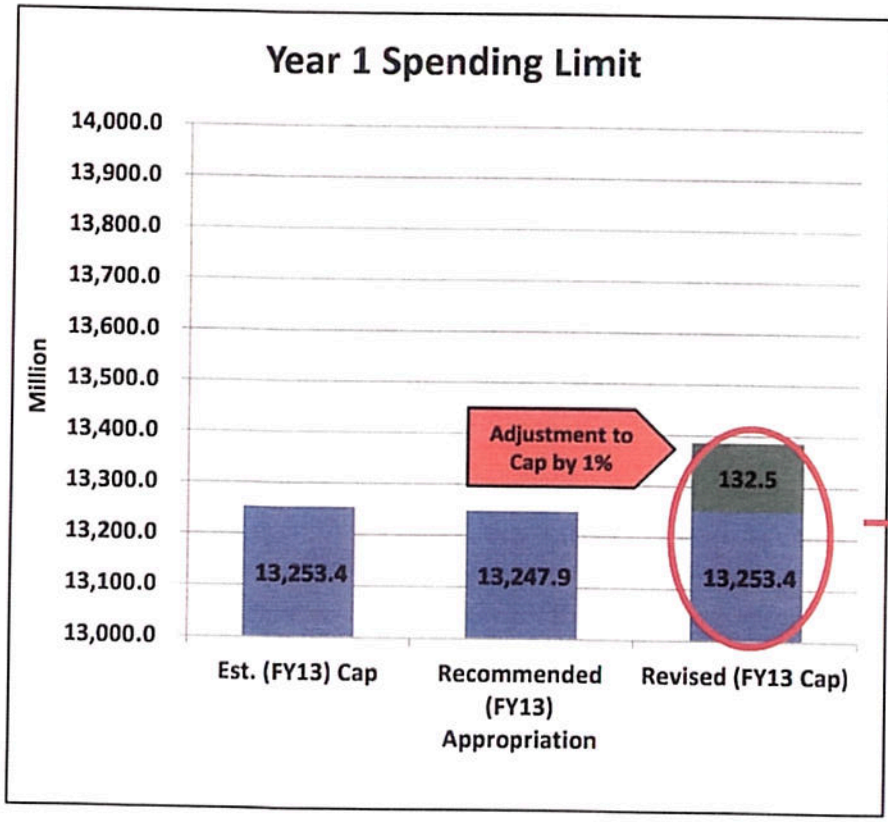
The appropriation level is measured using appropriated tax revenues that are expected to be received in that specific fiscal year.

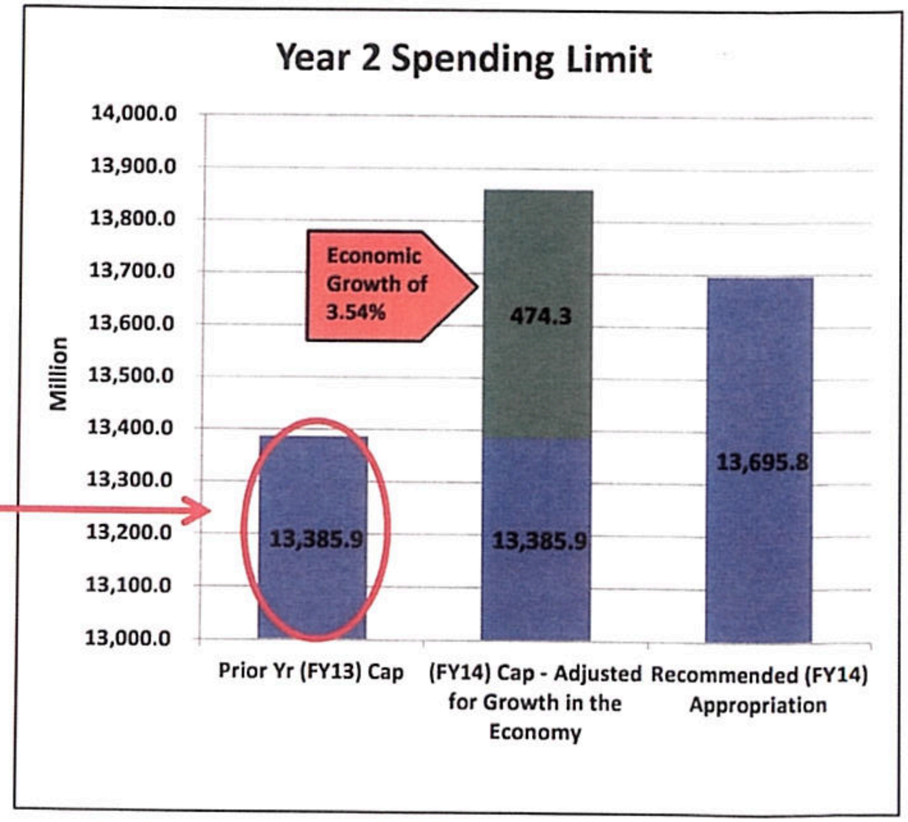
- The Appropriated Tax Revenue is used to simplify the identification of appropriations funded from state tax revenue
- The impact of any tax revenue legislation is included to determine the total growth level for appropriations
- It does not include Non-Tax Revenue as defined by the Attorney General
  - Example of Non-Tax Revenue:
    - Court Fines & Penalties
    - Treasury Earnings
    - Departmental Current Service Revenue
    - Federal Funds
    - Proceeds from State Bonds & Notes
    - Gifts and Donations
    - Payments in Lieu of Taxes
    - Tobacco Litigation Settlement
    - Lottery Revenues

F&A Finance and Administration

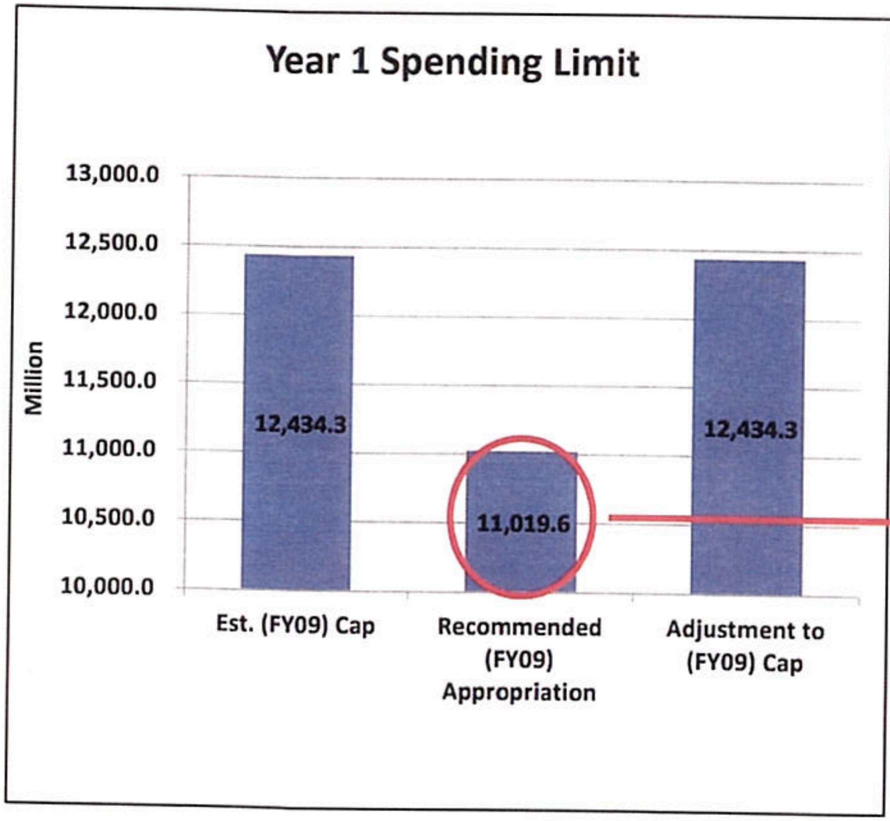
Copeland Cap Calculation

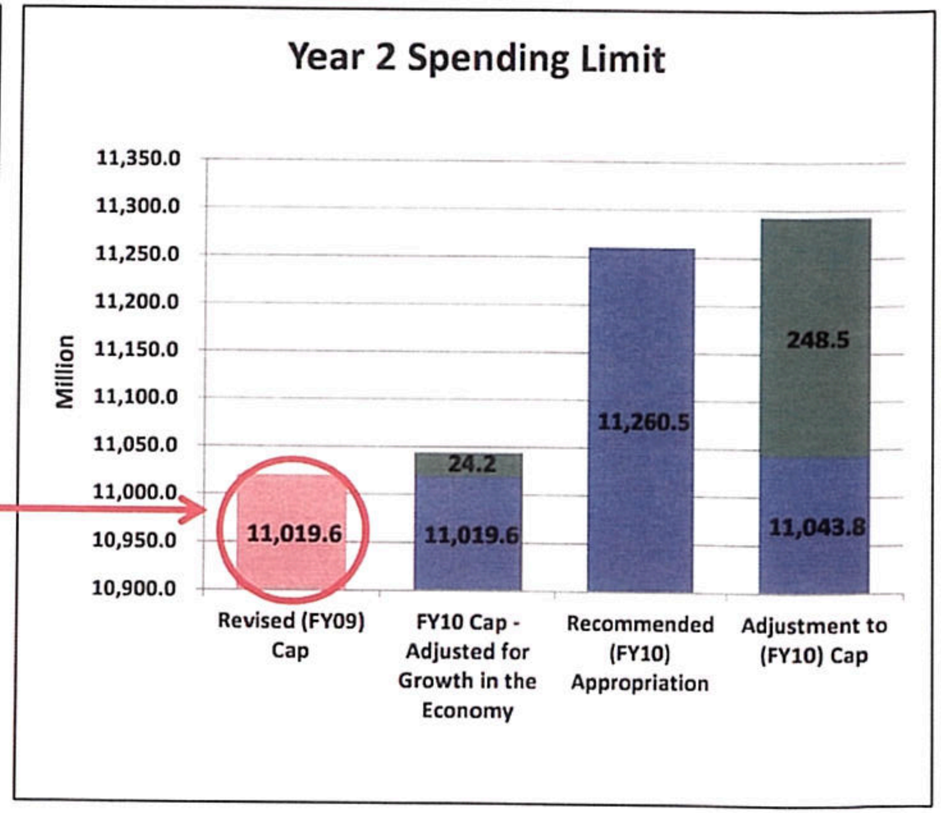
Example 1: 2013 – 2014





Copeland Cap Calculation
Example 2: 2009 – 2010





State Tax and Expenditure Limits

- Traditional Limits
  - Expenditure Limits
  - Revenue Limits
  - Appropriations Limited to a Percentage of Revenue Estimates
  - Hybrids

- 30 states operate under a tax or expenditure limitation
  - 23 states having expenditure limits
  - 4 states have revenue limits
  - 3 state have both revenue AND expenditure limits

- Common Measurements
  - Population Growth Plus Inflation (Alaska, Colorado, Nevada, Ohio, Utah, Washington)
  - Personal Income (19 States)

- Other Limits
  - Voter Approval Requirements (Three States)
  - Supermajority Requirements (15 States)

F&A Finance and Administration

Questions?

OFFICE OF THE ATTORNEY GENERAL
STATE OF TENNESSEE

F&A
Finance and Administration

TENNESSEE
COMPTROLLER
OF THE TREASURY

Copeland Cap – A Dialogue

Meeting II

Response to Public Chapter 346, Acts of 2013

Thoughts

"If we had the same process at the federal level, we wouldn't be in the shape we are in."

– High federal official to
Valerie Copeland Rutledge
September, 2013

Tennessee
Comptroller
of the Treasury

Recap of Previous Meeting

- Charge of General Assembly and Funding Board
- Constitutional Framework
- Legislative Implementation
- Computation

Tennessee Comptroller of the Treasury

Legal Framework of the Copeland Cap – TN Attorney General's Office

- The Process to Amend the Constitution
- The Process to Change the Statute

Article II, § 24 TN Constitution

- Paragraph One
  - No public money shall be expended except pursuant to appropriations made by law. Expenditures for any fiscal year shall not exceed the state's revenues and reserves, including the proceeds of any debt obligation, for that year. No debt obligation, except as shall be repaid within the fiscal year of issuance, shall be authorized for the current operation of any state service or program, nor shall the proceeds of any debt obligation be expended for a purpose other than that for which it was authorized.

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Article XI, § 3 TN Constitution

- Paragraph One
  - Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays thereon, and referred to the general assembly then next to be chosen;

Article XI, § 3 TN Constitution Cont.

- Paragraph One
  - and shall be published six months previous to the time of making such choice; and if in the general assembly then next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people at the next general election in which a Governor is to be chosen.

Article XI, § 3 TN Constitution Cont.

- Paragraph One
  - And if the people shall approve and ratify such amendment or amendments by a majority of all the citizens of the State voting for Governor, voting in their favor, such amendment or amendments shall become a part of this Constitution. When any amendment or amendments to the Constitution shall be proposed in pursuance of the foregoing provisions the same shall at each of said sessions be read three times on three several days in each house.

Legislative Process

- Proposed amendment read on three separate days in each of the two houses and agreed to by a majority of all members in each of the two houses
- Published six months prior to the next legislative session
- Read three times on three separate days in each of the two houses and agreed to by two-thirds of all members in each of the two houses
- Submitted for approval at the next gubernatorial election
- Must be approved by a number of votes equal to a majority of the votes cast for governor

Constitutional Convention

- At any general election, the question of calling a limited or unlimited constitutional convention can be submitted to the voters by the legislature

- Constitutional conventions can only be held once every six years

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Article II, § 18 TN Constitution

- A bill shall become law when it has been considered and passed on three different days in each House and on third and final consideration has received the assent of a majority of all the members to which each House is entitled under this Constitution, when the respective speakers have signed the bill with the date of such signing appearing in the journal, and when the bill has been approved by the Governor or otherwise passed under the provisions of this Constitution.

Changing the Statute

- Bill is read on three different days in each of the two houses and agreed to by a majority of all members in each of the two houses

- Signed by both Speakers and approved by the Governor

Measuring Economic Growth for Expenditure Limits

William F. Fox, Director
Center for Business and Economic Research
University of Tennessee, Knoxville
October 22, 2013

State Approaches to Measuring Growth in Expenditures Caps

- Personal income – about 23 states
  - Limit expenditures to a fixed percent of personal income
  - Limit expenditure growth to growth in personal income
- Population plus inflation – about 5 states
- Arbitrary growth amount
  - Ohio has 3.5 percent minimum
  - Indiana has 6.0 percent maximum
- Another option – GDP growth

Personal Income

A measure of income that is received from all sources by persons who live in the state.

PI = wage & salary disbursements and supplements + proprietors' income + rental income + dividend income + interest income + current transfer receipts – contributions for govt social insurance

GDP

EXPENDITURE–BASED

A measure of production by the total expenditure of money used to buy things, regardless of the various uses to which that production can be put. Production can be used for immediate consumption, for investment in new fixed assets or inventories, or for replacing depreciated fixed assets.

GDP (expenditure) = Consumption + Investment + Government Spending + Net Exports

INCOME–BASED

A measure of incomes that firms pay households for factors of production they hire--wages for labor, interest for capital, rent for land and profits for entrepreneurship.

GDP (income) = Rents + Interest + Profits + Wages + Statistical Adjustments (including corporate income taxes, dividends, undistributed corporate profits)

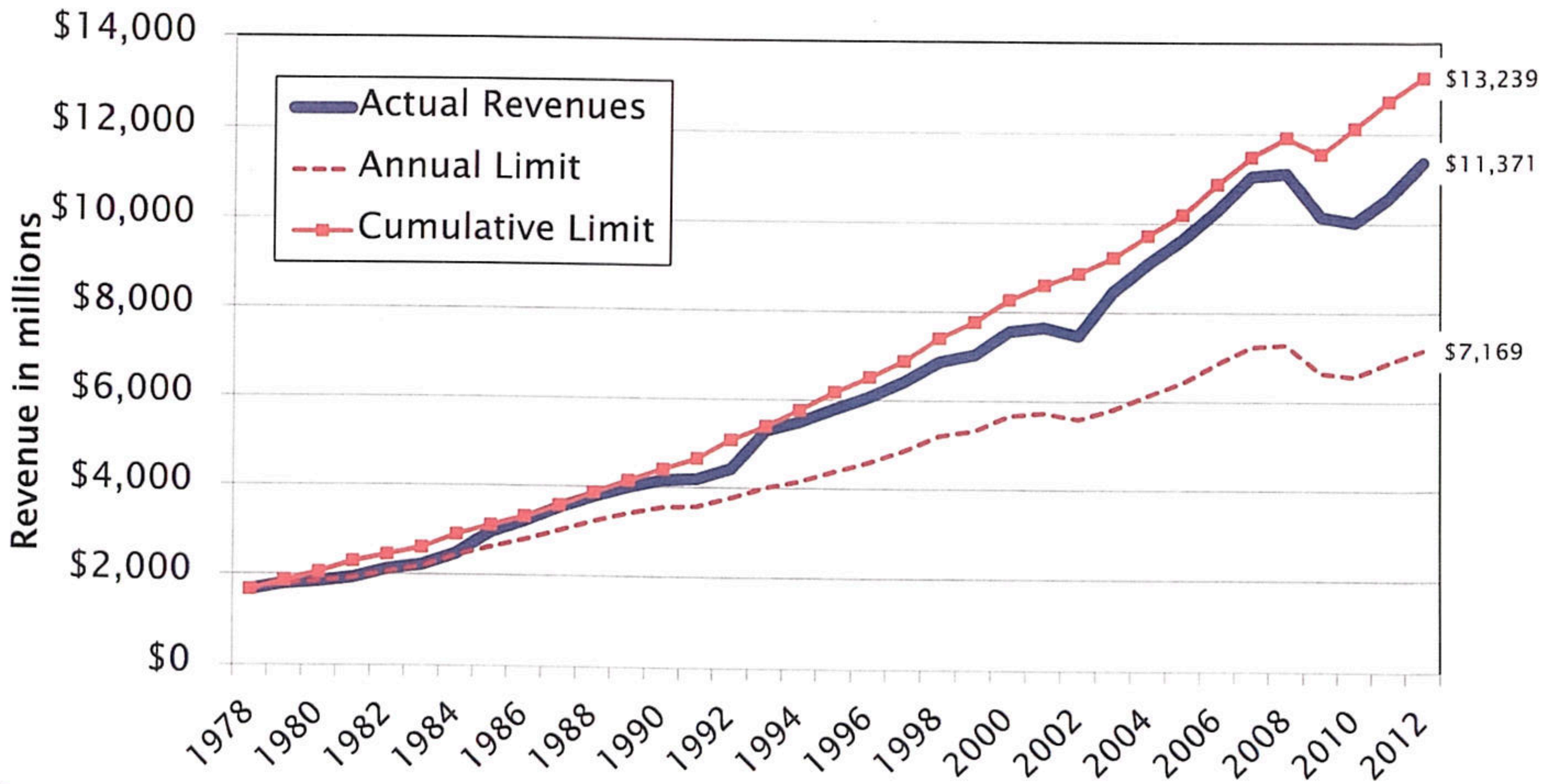
Inflation plus Population Change

- *TABOR in Colorado*
- *Population growth*
- *Inflation*
  - rise in the general level of prices of goods and services in an economy
  - important to choose correct measure

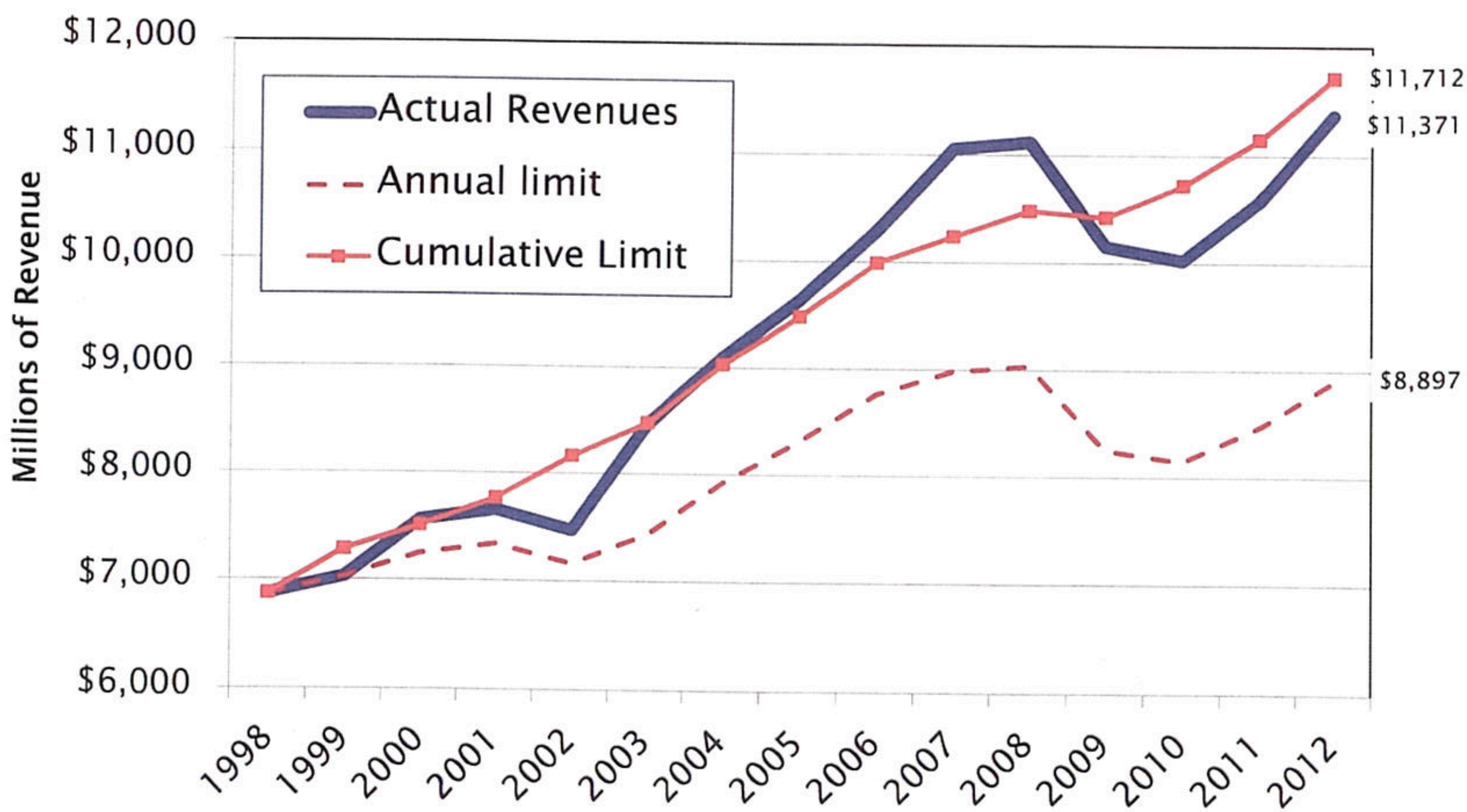
Inflation Options

- *Consumer Price Index*
  - changes in the prices paid by urban consumers for a representative basket of goods and services
- *State & Local Government Deflator*
  - includes estimates for the entire range of government purchases

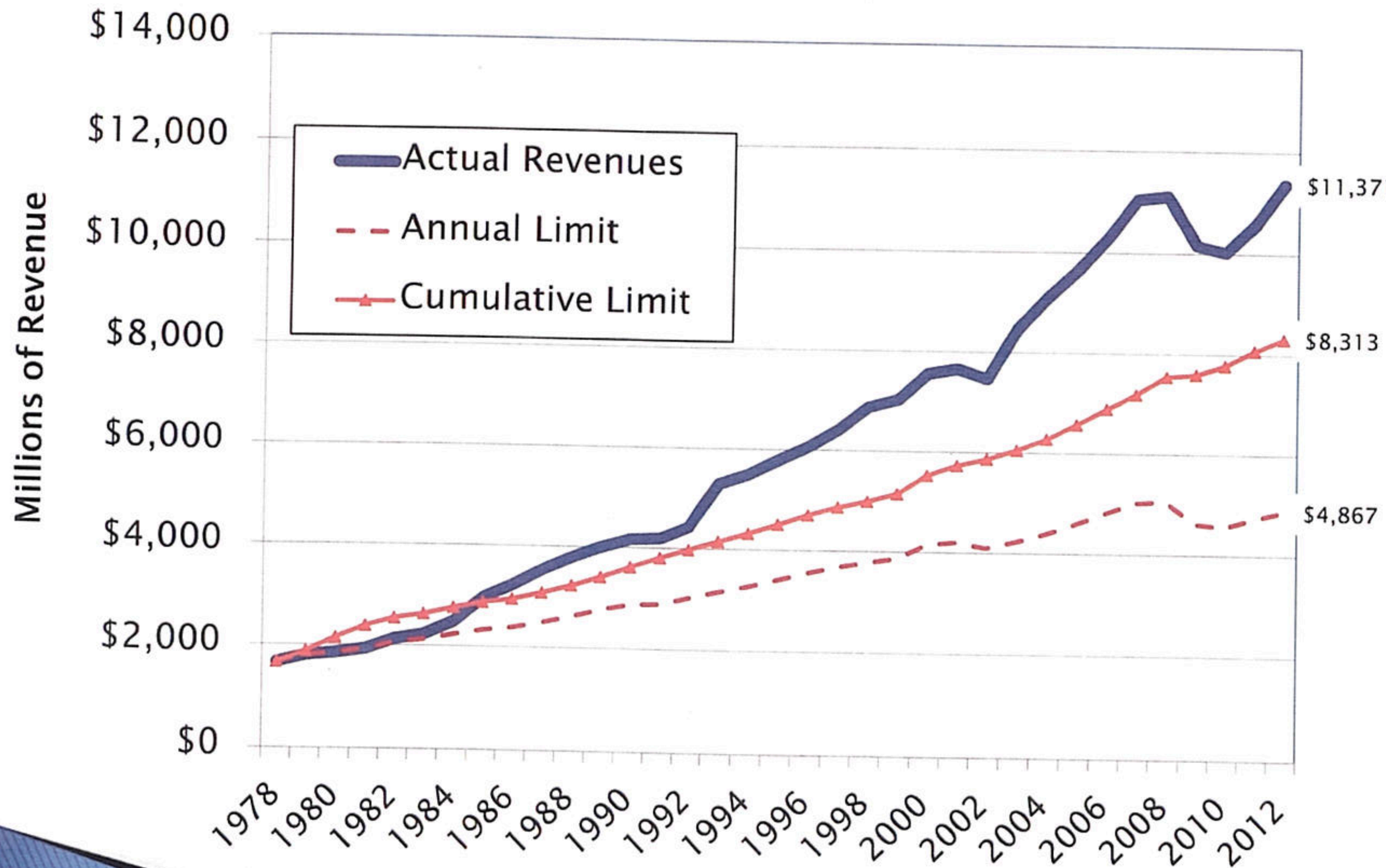
Personal Income Spending Limit Comparison



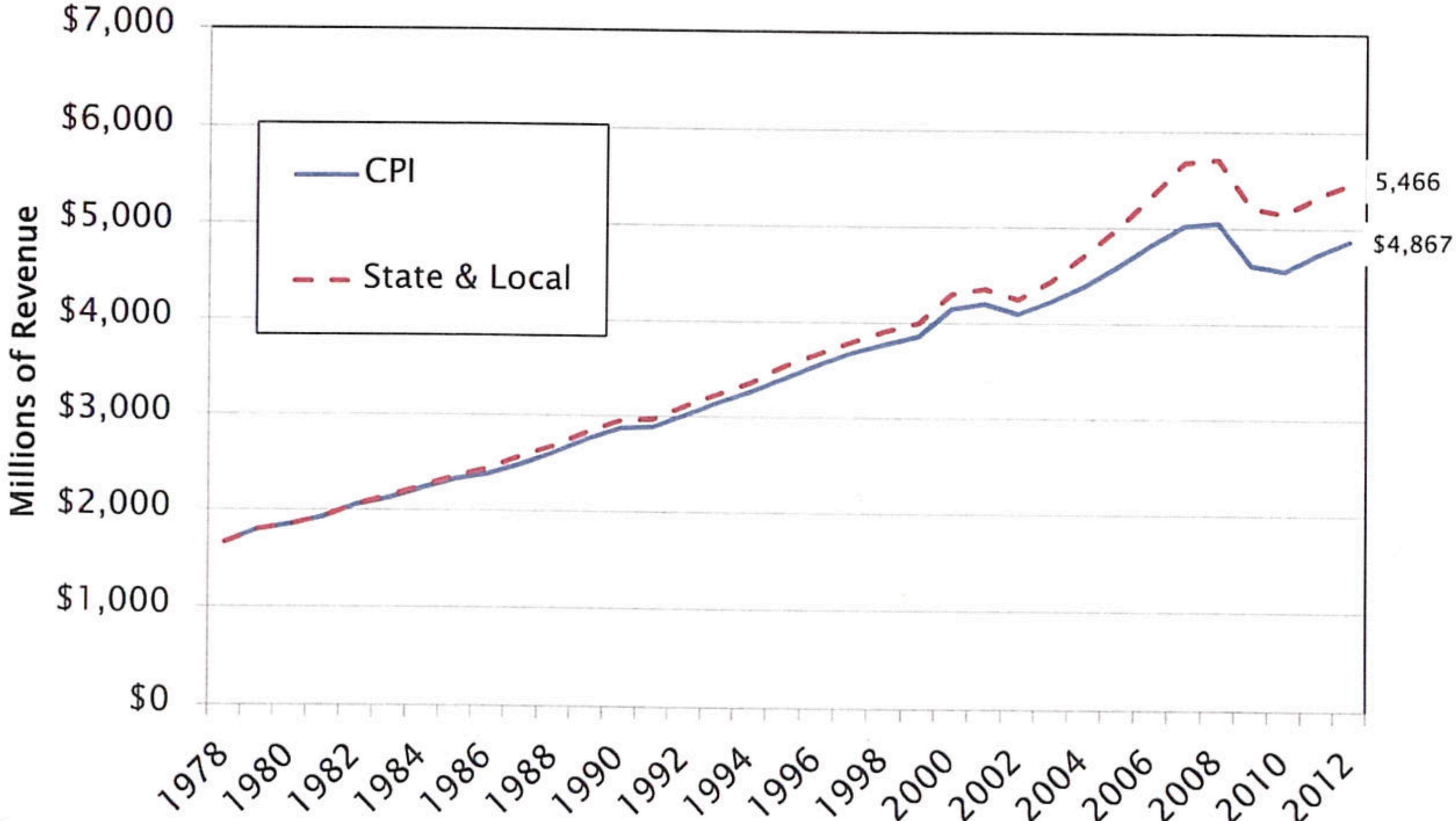
GDP Spending Limit Comparison



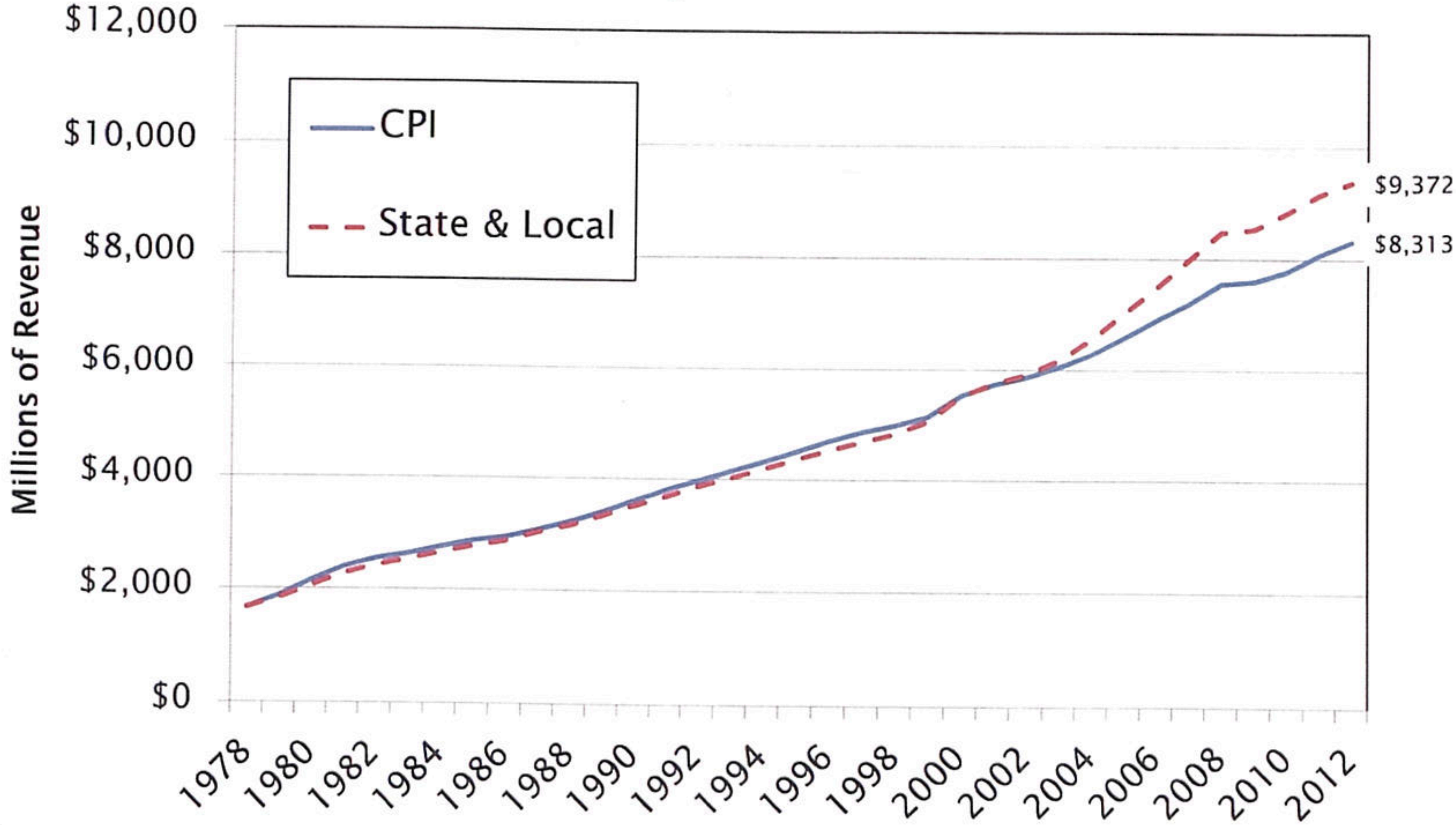
Population Growth plus Inflation (CPI) Spending Limit Comparison



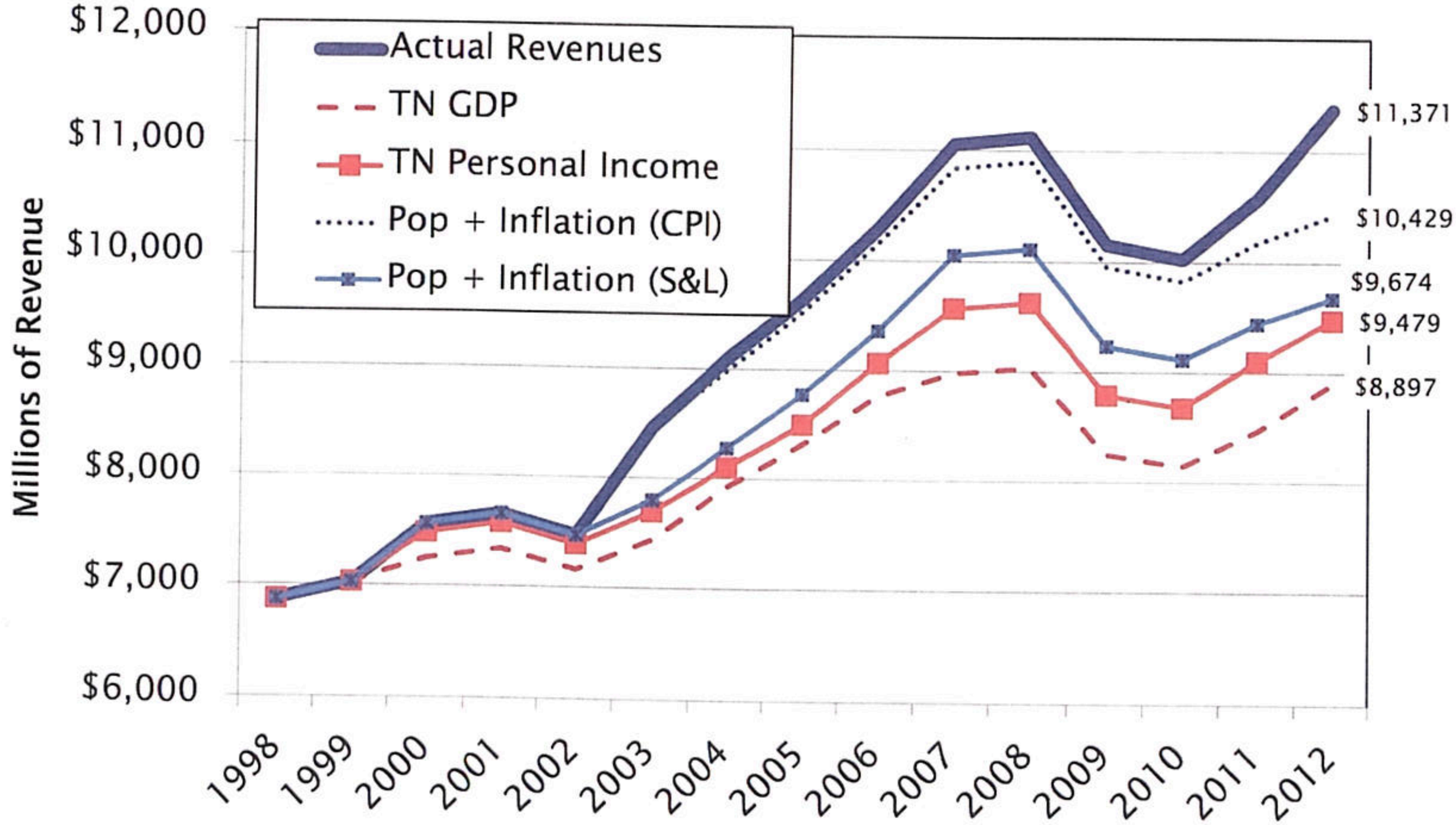
Population Growth plus Inflation (CPI vs State and Local) Annual Limit Options



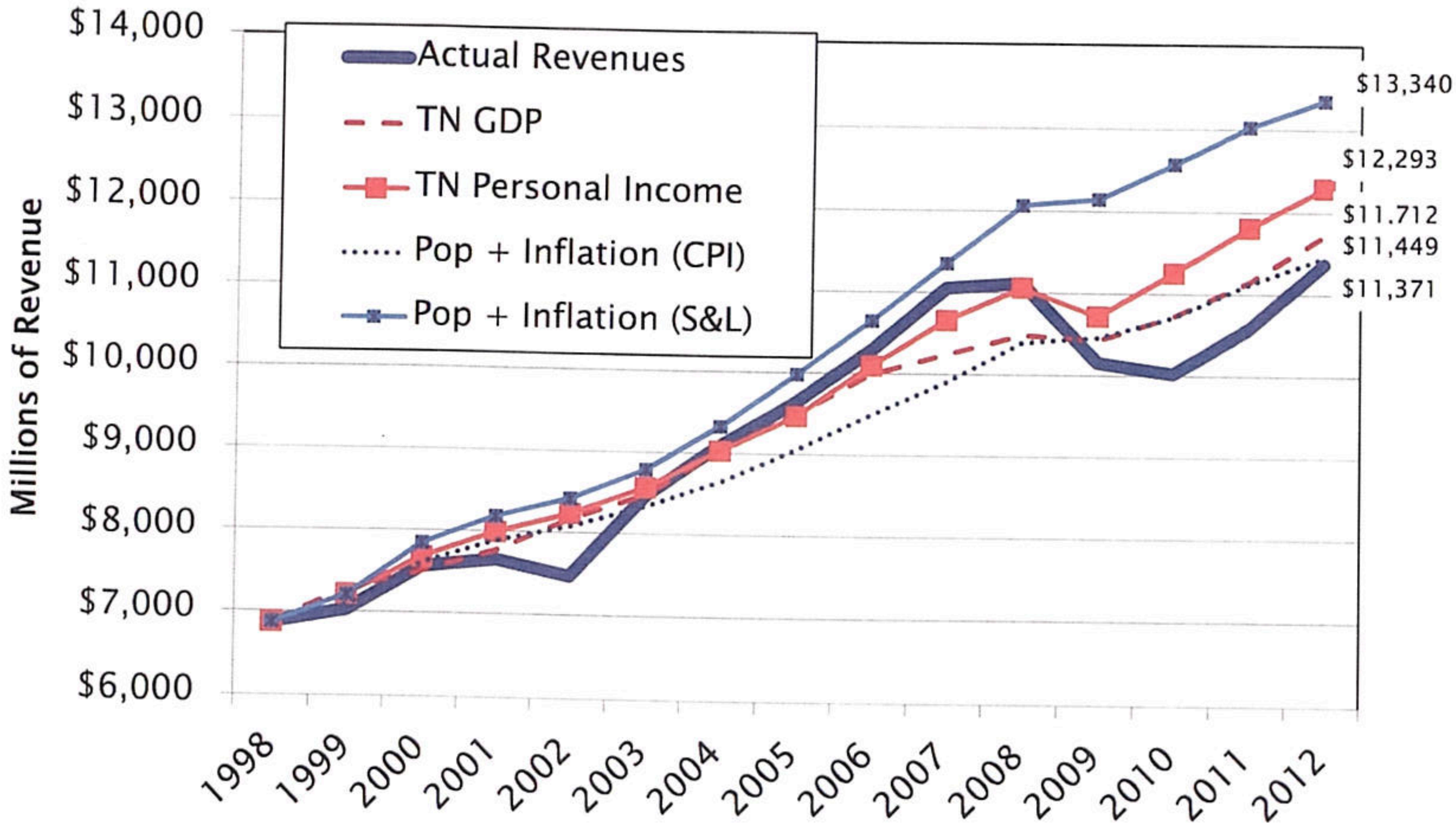
Population Growth plus Inflation (CPI vs State and Local) Cumulative Limit Options



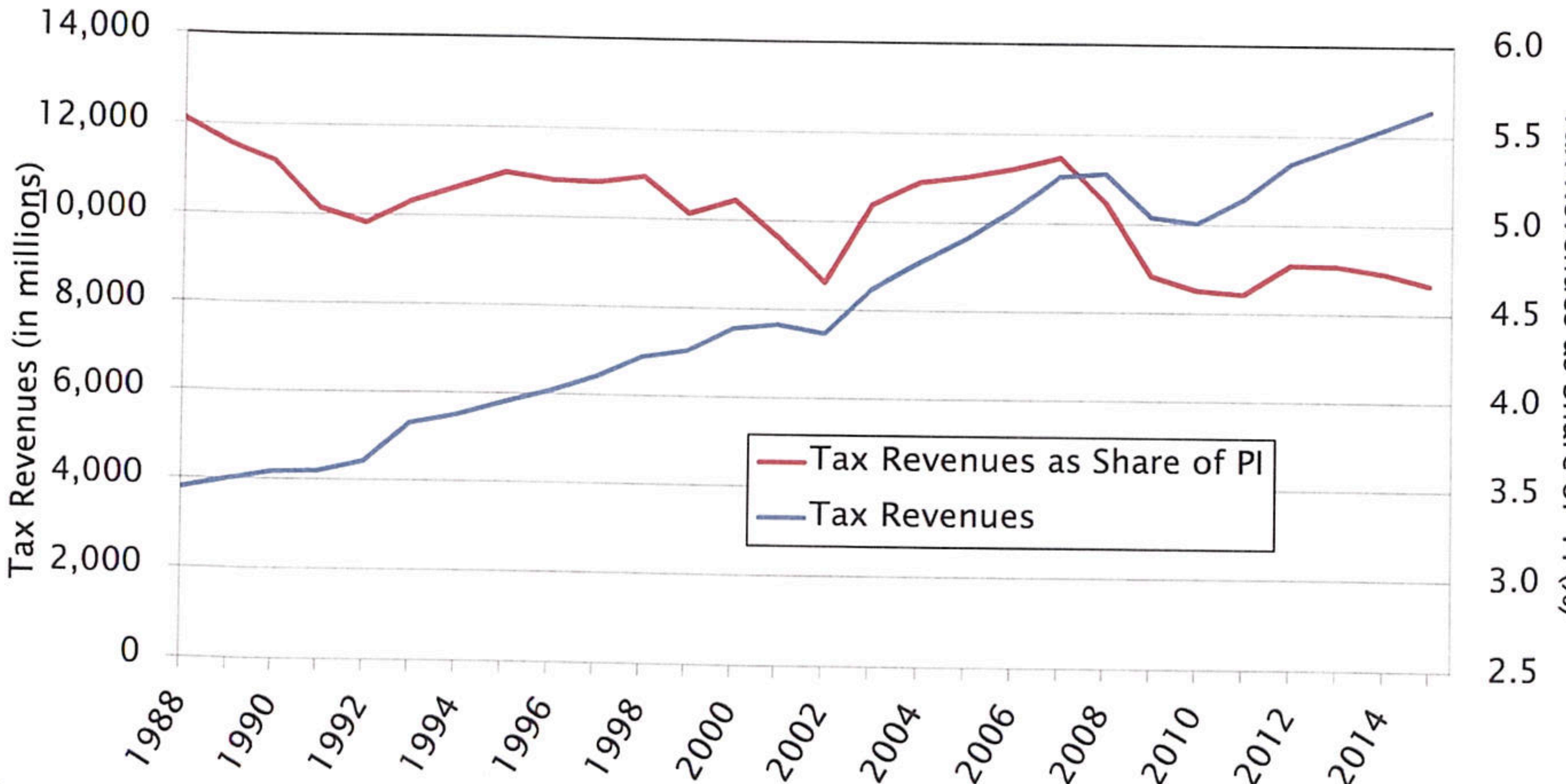
Annual Spending Limit Options



Cumulative Spending Limit Options



Tennessee Tax Revenues, Total and Share of Personal Income



Economic Growth Measures