

MEMORANDUM

TO: Joint Budget Committee

FROM: John Ziegler, JBC Staff

SUBJECT: Recommendations on TABOR Reserve and FY 2013-14 Long Bill Headnotes

DATE: March 19, 2013

Attached to this memorandum are recommendations on the funds to be designated as the TABOR reserve and the proposed changes to the FY 2013-14 long bill headnotes. The headnotes are the first several pages of the long bill that provide definitions and general provisions of the bill.

Recommendations Regarding the TABOR Reserve

Attachment 1, entitled "JBC Staff Recommendation for TABOR Reserve Designation - FY 2012-13 and FY 2013-14", reflects the staff recommendation on funds to be designated as the TABOR reserve.

FY 2012-13 TABOR Reserve Discussion: A TABOR reserve of \$319.3 million is required for FY 2012-13 according to the Office of State Planning and Budgeting (OSPB) March 2013 Revenue Forecast. The current Long Bill (HB 12-1331) headnote designation for the FY 2012-13 TABOR reserve includes a total of \$298.0 million. The components of the headnote are \$210.5 million (70.6 percent) in liquid assets and \$87.5 million (29.4 percent) in equity assets. As a result of projections contained in the OSPB March 2013 Revenue Forecast, the FY 2012-13 TABOR reserve needs to be increased by \$21.3 million. Staff recommends the JBC prepare an add-on to the 2013 Long Bill to increase the amounts designated of as part of the FY 2012-13 TABOR reserve by \$10.0 million from the Controlled Maintenance Trust Fund (CMTF) and \$11.3 million in state properties to account for this change in forecast. ***Please note, the designation of the \$10.0 million of additional CMTF requires an increase of a like amount of General Fund appropriated to the CMTF in last year's long bill. If the JBC adopts this recommendation, it will reduce any amount transferred to the State Education Fund at the end of FY 2012-13 by \$10.0 million.***

FY 2013-14 TABOR Reserve Discussion: A TABOR reserve of \$327.4 million is required for FY 2013-14 according to the OSPB March 2013 Revenue Forecast. Attachment 1 reflects the staff recommendation for the allocation of FY 2013-14 TABOR reserve as follows:

- \$83.0 million of the balance in the Major Medical cash fund,
- \$48.0million of the balance in the Controlled Maintenance Trust Fund,
- \$5.0 million of the balance in the unclaimed Property Fund,
- \$33.0 million of the balance in the Perpetual Base Account of the Severance Tax Fund,
- \$33.0 million of the balance in the Colorado Water Conservation Board Construction Fund (CCWB),

- \$34.0 million of the balance in the Division of Wildlife Cash Fund, and,
- \$91.4 million of state properties to constitute the TABOR reserve.

The staff recommendation for FY 2013-14 results in a designation comprised of 64.4 percent liquid cash funds and 27.9 percent based on equity in state properties for the TABOR reserve. The staff recommendation continues the current practice of using a portion of state properties as part of the TABOR reserve. Staff believes it is prudent to maintain a high percentage of cash as the TABOR reserve, especially given the recent experience with wildfires.

Staff recommends the General Assembly transfer or appropriate \$23.0 million General Fund to the CMTF (as requested in the Governor's November 1, 2012 budget submittal letter). The JBC also decided to appropriate an additional \$25.0 million from the FY 2013-14 expected CHIPRA bonus payments in the Department of Health Care Policy and Finance to the CMTF. These two actions result in a total of \$48.0 million being available to be designated from the CMTF as a part of the FY 2013-14 TABOR reserve. Therefore, staff recommends the General Assembly designate \$48.0 million from the CMTF as a part of the FY 2013-14 TABOR reserve. Section 24-75-302.5 (2) (a), C.R.S. permits the principal in the CMTF to constitute all or a portion of the TABOR reserve.

Currently, the following four state properties (value totaling \$104,094,018) are designated as part of the TABOR reserve:

- Parking Garage, 1350 Lincoln Street, Denver (value \$10,589,194)
- Legislative Services Building, 200 E. 14th Ave, Denver (value \$18,912,098)
- Centennial Building, 1313 Sherman St., Denver (value \$38,926,008)
- State Services Building, 1525 Sherman St., Denver (value \$35,666,718)

Staff recommends the Committee designate a combination of these state properties with a value of up to \$91.4 million as the state property portion of the TABOR reserve. This retains an additional \$12,694,018 in flexibility within state properties to cover the potential of forecast error.

Recommendations Regarding Changes to the Headnotes

The following outlines the recommended changes to the headnotes as contained in Attachment 2:

- Page 1, line 104 and bill summary - Updates the fiscal year to which the bill refers.
- Page 2, lines 7-25 and page 3, lines 1-9 - Reflects the designation of the TABOR reserve for FY 2013-14 as recommended by staff (staff will update the amounts to reflect the Committees decisions once those decisions have been made) including reordering the way in which the various components are to be utilized.
- Page 3, line 16 - Updates the fiscal year for which the long bill appropriations are in effect.

TABOR Reserve and Long Bill Headnotes Recommendation

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- Page 8, line 13 - Updates the date pertaining to state contracts authorized by appropriation in the act.

JBC Staff Recommendation for TABOR Reserve Designation - FY 2012-13 and FY 2013-14

OSPB Forecast	FY 2012-13			FY 2013-14 Staff Recommendation			Alternative 2		
	Cite	Dollar Amt	%	Cite	Dollar Amt	%	Cite	Dollar Amt	%
Fund/Equity Designated to TABOR									
Major Medical (Section 8-4-202 (1) (a), C.R.S.)	(a)	92,500,000	29.0%	(a)	83,000,000	25.4%			#DIV/0!
DOW CF (Liquid Assets) (Section 33-1-112 (1) (a), C.R.S.)	(b)	34,000,000	10.6%	(f)	34,000,000	10.4%			#DIV/0!
Perpetual Base Account of the Severance Tax Fund (Section 39-29-109(2)(a)(II))	(c)	33,000,000	10.3%	(d)	33,000,000	10.1%			#DIV/0!
CWCB Construction Fund (Section 37-60-112(1)(a))	(d)	33,000,000	10.3%	(e)	33,000,000	10.1%			#DIV/0!
Controlled Maintenance Trust Fund (Section 24-75-302.5 (2), C.R.S.)/a	(e)	13,000,000	4.1%	(b)	23,000,000	7.0%			#DIV/0!
Increase Cont. Maint. Trust Fund (Section 24-75-302.5 (2), C.R.S.)/a		10,000,000	3.1%		25,000,000				
Unclaimed Proeprty Fund (Section 38-13-116.7 (1). C.R.S.)	(f)	5,000,000	1.6%	(c)	5,000,000	1.5%			#DIV/0!
State Buildings (Equity Assets)	(g)	87,500,000	27.4%	(g)	91,400,000	27.9%			#DIV/0!
Increase to State Buildings		11,300,000	3.5%			0.0%			#DIV/0!
Total Available for 3% Reserve		319,300,000	100.0%		327,400,000	100.0%			#DIV/0!
Required TABOR Reserve Based on OSPB March 2013 Forecast		319,300,000			327,400,000				
Above/(Below) Required TABOR Reserve		0			0			0	

State Buildings Curnnetly Included in Long Bill Draft:	
Parking Garage, 1350 Linclon Street, Denver	10,589,194
Legislative Services Building, 200 E. 14th Ave, Denver	18,912,098
Centennial Building, 1313 Sherman St, Denver	38,926,008
State Services Building, 1525 Sherman St, Denver	<u>35,666,718</u>
Total	104,094,018
 <i>Potential Additional Buildings:</i>	
Human Services Building, 1575 Sherman St., Denver	<u>27,591,650</u>
Total Buildings with Additional	<u>131,685,668</u>
 Total Buildings - FY 2012-13	98,800,000
Excess in Level of Buildings Designated	<u>5,294,018</u>
 Total Buildings - FY 2013-14 Staff Revised Recommendation	91,400,000
Excess in Level of Buildings Designated	<u>12,694,018</u>

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

DRAFT

LLS NO. 13-0271.01 John Ziegler

SENATE BILL

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Levy,

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROVISION FOR PAYMENT OF THE EXPENSES OF THE**
102 **EXECUTIVE, LEGISLATIVE, AND JUDICIAL DEPARTMENTS OF THE**
103 **STATE OF COLORADO, AND OF ITS AGENCIES AND INSTITUTIONS,**
104 **FOR AND DURING THE FISCAL YEAR BEGINNING JULY 1, 2012**
105 **2013, EXCEPT AS OTHERWISE NOTED.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Provides for the payment of expenses of the executive, legislative, and judicial departments of the state of Colorado, and of its agencies and institutions, for and during the fiscal year beginning July 1, **2012 2013**, except as otherwise noted.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Definitions - general provisions.** As used in this
3 act, the following definitions and general provisions shall apply:

4 (1) Section 24-75-112, Colorado Revised Statutes, provides
5 definitions in order to specify the purpose of certain line items of
6 appropriation.

7 (2) The funds designated to constitute the state emergency
8 reserve for the ~~2012-13~~ 2013-14 fiscal year are:

9 (a) The major medical insurance fund, created in section 8-46-202
10 (1) (a), Colorado Revised Statutes, up to a maximum of ~~\$92,500,000~~
11 ~~\$83,000,000~~;

12 (b) The controlled maintenance trust fund, created in section
13 34-75-302.5, Colorado Revised Statutes, up to a maximum of
14 ~~\$13,000,000~~ \$48,000,000;

15 (c) The unclaimed property tourism promotion trust fund, created
16 in section 38-13-116.7 (1), Colorado Revised Statutes, up to a maximum
17 of \$5,000,000;

18 (d) The perpetual base account of the severance tax fund, created
19 in section 39-29-109 (2)(a)(II), Colorado Revised Statutes, up to a
20 maximum of \$33,000,000;

21 (e) The Colorado water conservation board construction fund,
22 created in section 37-60-121 (1)(a), Colorado Revised Statutes, up to a
23 maximum of \$33,000,000;

24 (f) The wildlife cash fund, created in section 33-1-112 (1) (a),
25 Colorado Revised Statutes, up to a maximum of \$34,000,000; and

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1 (g) Up to ~~\$87,500,000~~ \$91,400,000 of state properties as follows:

2 (I) The state parking garage located at 1350 Lincoln Street,
3 Denver, Colorado 80203, which has a value of \$10,589,194;

4 (II) The legislative services building located at 200 E. 14th
5 Avenue, Denver, Colorado 80203, which has a value of \$18,912,098;

6 (III) The centennial building located at 1313 Sherman Street,
7 Denver, Colorado, 80203, which has a value of \$38,926,008; and

8 (IV) The state services building located at 1525 Sherman Street,
9 Denver, Colorado, 80203, which has a value of \$35,666,718.

10 **SECTION 2. Appropriation.** (1) The sums in this section
11 hereinafter specified, or so much thereof as may be necessary for the
12 purposes shown, are hereby appropriated out of any moneys in the
13 general fund, the indicated cash funds, reappropriated funds, and federal
14 funds, for the payment of the ordinary operating costs of the executive,
15 legislative, and judicial departments of the state, and of its agencies and
16 institutions, for and during the fiscal year beginning July 1, ~~2012~~ 2013,
17 and:

18 (a) The figures in the column headed "item & subtotal" are the
19 amounts made available by appropriation for expenditure within each line
20 item, except for the figures that appear directly beneath a line, which
21 figures are subtotals of the preceding line item appropriation amounts.
22 The figures in the "total" column are the amounts made available by
23 appropriation for expenditure by the department, division, institution, or
24 program to which the totals relate.

25 (b) The figures in the "general fund", "general fund exempt",
26 "cash funds", "reappropriated funds", and "federal funds" columns

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1 indicate the source of funds for the amounts authorized in the expenditure
2 columns.

3 (c) The figures in the "general fund" and "general fund exempt"
4 columns indicate the maximum amount that may be expended from the
5 general fund for the purposes shown.

6 (d) Where the letter "(M)" appears directly to the right of a
7 general fund or general fund exempt figure, that general fund or general
8 fund exempt appropriation, when combined with the related general fund
9 or general fund exempt transfers from the centralized appropriations to
10 the office of the executive director, is used to support a federally
11 supported program and is the maximum amount of general fund or
12 general fund exempt moneys that may be expended in that program,
13 except where otherwise provided. In the event that additional federal
14 funds are available for the program, the combined general fund or general
15 fund exempt amount noted as "(M)" shall be reduced by the amount of
16 federal funds earned or received in excess of the figure shown in the
17 "federal funds" column for that program. In the event that the federal
18 funds earned or received are less than the amount shown in the "federal
19 funds" column, the combined general fund or general fund exempt
20 amount noted as "(M)" shall be reduced proportionately. Where general
21 fund or general fund exempt support is required as a condition for the
22 acceptance of federal funds and the state matching requirements are
23 reduced, the combined general fund or general fund exempt amount noted
24 as "(M)" shall be reduced proportionately. These provisions shall apply
25 only to the general fund or general fund exempt amount which remains
26 unexpended at the time of the change in federal requirements or funding.

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1 It is intended that the general fund or general fund exempt amount and the
2 federal funds amount shall be expended in equally proportioned amounts
3 throughout the year.

4 (e) (I) The figures in the "cash funds" or "reappropriated funds"
5 columns, including the figures in any related lettered notes, indicate all
6 non-general fund and non-general fund exempt sources and all nondirect
7 federal fund sources and may be cash funds established by statute,
8 nonstatutory cash accounts, tuitions, overhead reimbursements, certain
9 fees, governmental and nongovernmental "third-party" payments,
10 payments for services, and interagency transfers. Such figures indicate the
11 maximum amount that may be expended from cash funds or the specified
12 cash fund sources for the purposes shown. The amount of each cash funds
13 or reappropriated funds appropriation is expressly declared to be
14 nonseverable from the agency, source, and purpose of such appropriation,
15 and such amount shall not be used for any other agency, source, or
16 purpose.

17 (II) The provisions of this paragraph (e) shall not apply where this
18 act specifically provides otherwise or where cash funds are marked with
19 an "(L)". The "(L)" designation refers to the funds of local governments
20 or to the funds of service organizations from which the state purchases
21 services, the amounts of which are not appropriated in this act and the
22 inclusion of which is informational only.

23 (III) Whenever a state agency receives cash funds or
24 reappropriated funds from a centralized appropriation made to the office
25 of the executive director of such agency's department and this act does not
26 set forth such funds as a duplicate appropriation to said receiving agency,

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1 the provisions of this paragraph (e) shall not apply to the receipt of such
2 funds.

3 (IV) Whenever the controller creates an account solely for the
4 purpose of establishing the obligation of a state agency to generate cash
5 funds or reappropriated funds for distribution to another state agency to
6 which such funds are appropriated by this act, the provisions of this
7 paragraph (e) shall not apply to the account created or to such
8 distribution.

9 (f) Where the letter "(H)" appears directly to the right of a cash
10 funds or reappropriated funds figure, that appropriation, when combined
11 with the related cash funds or reappropriated funds transfers from the
12 centralized appropriations to the office of the executive director, is used
13 to support a federally supported program and is the maximum amount of
14 cash funds or reappropriated moneys that may be expended in that
15 program, except where otherwise provided. In the event that additional
16 federal funds are available for the program, the combined cash funds or
17 reappropriated funds amount noted as "(H)" shall be reduced by the
18 amount of federal funds earned or received in excess of the figure shown
19 in the "federal funds" column for that program. In the event that the
20 federal funds earned or received are less than the amount shown in the
21 "federal funds" column, the combined cash funds or reappropriated funds
22 amount noted as "(H)" shall be reduced proportionately. Where cash
23 funds or reappropriated funds support is required as a condition for the
24 acceptance of federal funds and the state matching requirements are
25 reduced, the combined cash funds or reappropriated funds amount noted
26 as "(H)" shall be reduced proportionately. These provisions shall apply

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1 only to the cash funds or reappropriated funds amount which remains
2 unexpended at the time of the change in federal requirements or funding.
3 It is intended that the cash funds or reappropriated funds amount and the
4 federal funds amount shall be expended in equally proportioned amounts
5 throughout the year.

6 (g) Reappropriated funds means moneys appropriated again
7 subsequent to an initial appropriation in the same fiscal year. The
8 designation of moneys as reappropriated funds has no bearing on whether
9 the moneys constitute a grant from the state of Colorado pursuant to
10 section 20 (2) (d) of article X of the state constitution.

11 (h) (I) The figures in the "federal funds" column earned or
12 received under the following federal programs which are subject to a state
13 match or which are subject to transfer to other block grants shall be limits
14 on the amount of expenditures of such funds, and such funds shall be
15 expended in accordance with applicable state and federal statutes,
16 including all provisions of this act:

17 Title XX Social Services Block Grant

18 Maternal and Child Health Block Grant

19 (II) The figures in the "federal funds" column earned or received
20 under the following federal programs shall be limits on the amount of
21 expenditures of such funds, and such funds shall be expended in
22 accordance with applicable state and federal statutes, including all
23 provisions of this act:

24 Child Care Development Funds

25 Temporary Assistance for Needy Families Block Grant

26 (III) The figures in the "federal funds" column for all other

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1 programs are anticipated federal funds, and, although these funds are not
2 appropriated in this act, they are noted for the purpose of indicating the
3 assumption used relative to those funds in developing the basic
4 appropriations amounts.

5 (i) The general assembly accepts no obligation directly or
6 indirectly for support or continuation of non-state-funded programs or
7 grants where no direct or indirect state contribution is required.
8 Furthermore, the general assembly accepts no obligation for costs
9 incurred by or claimed against nonappropriated federally funded
10 programs.

11 (j) No moneys appropriated by this act shall knowingly be paid to
12 any organization, business firm, person, agency, or club which places
13 restrictions on employment or membership based on sex, sexual
14 orientation, race, age, marital status, creed, color, religion, national origin,
15 ancestry, or physical handicap.

16 (k) Pursuant to section 24-30-202 (2), Colorado Revised Statutes,
17 the controller shall examine all state contracts entered into during the
18 fiscal year commencing July 1, ~~2012~~ 2013, to determine whether such
19 contracts are authorized by an appropriation within this act, and, pursuant
20 to section 24-30-202 (3), Colorado Revised Statutes, no agency shall
21 incur obligations by contract in excess of the amounts appropriated by
22 this act.

23 (l) (I) Where the letter "(I)" appears directly to the right of a figure
24 or in a letternote referencing a figure, that amount is not an appropriation,
25 nor does it limit the expenditure of such moneys. The figure is included
26 for informational purposes only. It provides a record of funds anticipated

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1 to be expended and, in some instances, may indicate assumptions used
2 relative to those funds in developing appropriated amounts.

3 (II) The (I) notation applies to a general fund, general fund
4 exempt, or cash funds figure when the amount is continuously
5 appropriated to, or otherwise authorized by law to be spent by, a
6 department or agency of state government pursuant to a provision of state
7 statute or the state constitution.

8 (III) The (I) notation applies to a reappropriated funds figure when
9 the amount is continuously appropriated to, or otherwise authorized by
10 law to be spent by, a department or agency of state government pursuant
11 to a provision of state statute or the state constitution or, in some
12 instances, when the underlying federal funds source from which the
13 amount is reappropriated is subject to the (I) notation.

14 (IV) The (I) notation applies to all federal funds except when the
15 federal funds represent a limit on expenditures as specified in paragraph
16 (h) of this section, when the letter (M) or (H) appears to the right of a
17 general fund, cash funds, or reappropriated funds figure in the same line
18 item, or when the general assembly has the authority to appropriate the
19 federal funds.