

# MEMORANDUM

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**TO:** Joint Budget Committee

**FROM:** John Ziegler, JBC Staff

**SUBJECT:** Recommendations on TABOR Reserve and FY 2016-17 Long Bill Headnotes

**DATE:** March 21, 2016

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Attached to this memorandum are recommendations on the funds to be designated as the TABOR reserve and the proposed changes to the FY 2016-17 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

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Attachment 1, entitled "JBC Staff Recommendation for TABOR Reserve Designation - FY 2015-16 and FY 2016-17", reflects the staff recommendation on funds to be designated as the TABOR reserve.

*FY 2015-16 TABOR Reserve Discussion:* A TABOR reserve of \$383.1 million is required for FY 2015-16 according to the Legislative Council Staff (LCS) March 2016 Revenue Forecast. The current Long Bill (SB 15-234) headnote designation for the FY 2015-16 TABOR reserve includes a total of \$386.7 million. The components of the headnote are \$256.3 million (66.3 percent) in liquid assets and \$130.4 million (33.7 percent) in equity assets. As a result of projections contained in the LCS March 2016 Revenue Forecast, no adjustment is required to the fiscal year 2015-16 TABOR reserve designation in the headnotes of SB 15-234. The projections in the OSPB March 2016 forecast would require a \$384.2 million TABOR reserve, therefore, no adjustment to FY 2015-16 under the OSPB forecast either. Therefore, **staff recommends no change to the FY 2015-16 TABOR reserve designation.**

*FY 2016-17 TABOR Reserve Discussion:* A TABOR reserve of \$398.6 million is required for FY 2016-17 according to both the LCS March 2016 Revenue Forecast and the OSPB March 2016 Forecast. Attachment 1 reflects the staff recommendation for the allocation of FY 2016-17 TABOR reserve as follows:

- \$83.0 million of the balance in the Major Medical cash fund,
- \$68.3 million 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,
- \$142.3 million of state properties to constitute the TABOR reserve.

The staff recommendation for FY 2016-17 results in a designation comprised of 64.3 percent liquid cash funds and 35.7 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 State's past experience with wildfires and floods.

There are currently funds available in the CMTF for the General Assembly to designate \$68.3 million from the CMTF as a part of the FY 2016-17 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 five state properties (value totaling \$140,208,000) are designated as part of the TABOR reserve:

- Parking Garage, 1350 Lincoln Street, Denver (value \$11,694,000)
- Legislative Services Building, 200 E. 14th Ave, Denver (value \$16,934,000)
- Centennial Building, 1313 Sherman St., Denver (value \$36,399,000)
- State Services Building, 1525 Sherman St., Denver (value \$43,785,000)
- Human Services Building, 1575 Sherman St., Denver (value \$31,396,000)

In order to achieve the required TABOR reserve, staff recommends the Committee add the following property to the list:

- Capital Annex Building, 1375 Sherman St., Denver (value \$28,225,000)

Staff recommends the Committee designate a combination of these state properties with a value of up to \$142.3 million as the state property portion of the TABOR reserve. This retains an additional \$26,161,000 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 and 2, line 104, line 105, and bill summary - Updates the fiscal year to which the bill refers.
- Page 2, lines 8-25 and page 3, lines 1-13 - Reflects the designation of the TABOR reserve for FY 2016-17 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 19 - Updates the fiscal year for which the long bill appropriations are in effect.

TABOR Reserve and Long Bill Headnotes Recommendation

Page 3

March 22, 2016

- Page 8, line 16 - Updates the date pertaining to state contracts authorized by appropriation in the act.

**JBC Staff Recommendation for TABOR Reserve Designation - FY 2015-16 and FY 2016-17**

<b>LCS Forecast</b>	<b>FY 2015-16</b>			<b>FY 2016-17</b>		
	<b>Cite</b>	<b>Dollar Amt</b>	<b>%</b>	<b>Staff Recommendation</b>		
<b>Fund/Equity Designated to TABOR</b>	<b>Cite</b>	<b>Dollar Amt</b>	<b>%</b>	<b>Cite</b>	<b>Dollar Amt</b>	<b>%</b>
Major Medical (Section 8-4-202 (1) (a), C.R.S.)	(a)	83,000,000	21.5%	(a)	83,000,000	20.8%
Controlled Maintenance Trust Fund (Section 24-75-302.5 (2)(a), C.R.S.)	(b)	68,328,000	17.7%	(b)	68,328,000	17.1%
Increase to Controlled Maintenance						
Unclaimed Property Fund (Section 38-13-116.7 (1). C.R.S.)	(c)	5,000,000	1.3%	(c)	5,000,000	1.3%
Perpetual Base Account of the Severance Tax Fund (Section 39-29-109(2)(a)(II)	(d)	33,000,000	8.5%	(d)	33,000,000	8.3%
CWCB Construction Fund (Section 37-60-112(1)(a)	(e)	33,000,000	8.5%	(e)	33,000,000	8.3%
DOW CF (Liquid Assets) (Section 33-1-112 (1) (a), C.R.S.)	(f)	34,000,000	8.8%	(f)	34,000,000	8.5%
State Buildings (Equity Assets)	(g)	130,372,000	33.7%	(g)	130,372,000	32.7%
Increase to State Buildings			0.0%		11,900,000	3.0%
Total Available for 3% Reserve		386,700,000	100.0%		398,600,000	100.0%
Required TABOR Reserve Based on LCS March 2016 Forecast		383,100,000			398,600,000	
Above/(Below) Required TABOR Reserve		3,600,000			0	

<b>State Buildings Currently Included in Long Bill Draft:</b>	
Parking Garage, 1350 Lincoln Street, Denver	11,694,000
Legislative Services Building, 200 E. 14th Ave, Denver	16,934,000
Centennial Building, 1313 Sherman St, Denver	36,399,000
State Services Building, 1525 Sherman St, Denver	43,785,000
Human Services Building, 1575 Sherman St., Denver	31,396,000
<b>Total</b>	<b>140,208,000</b>
<i>Potential Additional Buildings:</i>	
Capitol Annex Building, 1375 Sherman St., Denver	<b><u>28,225,000</u></b>
Total Buildings with Additional	<u>168,433,000</u>
Total Buildings - FY 2015-16	130,372,000
<b>Excess in Level of Buildings Designated</b>	<b><u>9,836,000</u></b>
Total Buildings - FY 2016-17 Staff Recommendation	142,272,000
<b>Excess in Level of Buildings Designated</b>	<b><u>(2,064,000)</u></b>

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

DRAFT

LLS NO. 16-0622.01 John Ziegler

HOUSE BILL

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HOUSE SPONSORSHIP

Hamner,

SENATE SPONSORSHIP

Lambert,

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House Committees

Senate Committees

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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, 2015  
105 2016, EXCEPT AS OTHERWISE NOTED.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Provides for the payment of expenses of the executive, legislative, and judicial departments of the state of Colorado, and of its agencies and

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.*

institutions, for and during the fiscal year beginning July 1, ~~2015~~ 2016, except as otherwise noted.

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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 reserve  
8 for the ~~2015-16~~ 2016-17 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 \$83,000,000;

11 (b) The controlled maintenance trust fund, created in section  
12 24-75-302.5 (2) (a), Colorado Revised Statutes, up to a maximum of  
13 \$68,328,000;

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

17 (d) The severance tax perpetual base fund, created in section  
18 39-29-109 (2) (a) (I.5), Colorado Revised Statutes, up to a maximum of  
19 \$33,000,000;

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

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

25 (g) Up to ~~\$130,372,000~~ \$142,272,000 of state properties as

1 follows:

2 (I) The state parking garage located at 1350 Lincoln Street,  
3 Denver, Colorado 80203, which has a value of \$11,694,000;

4 (II) The legislative services building located at 200 E. 14th  
5 Avenue, Denver, Colorado 80203, which has a value of \$16,934,000;

6 (III) The centennial building located at 1313 Sherman Street,  
7 Denver, Colorado, 80203, which has a value of \$36,399,000; and

8 (IV) The state services building located at 1525 Sherman Street,  
9 Denver, Colorado, 80203, which has a value of \$43,785,000.

10 (V) The human services building located at 1575 Sherman Street,  
11 Denver, Colorado, 80203, which has a value of \$31,396,000.

12 (VI) THE CAPITOL ANNEX BUILDING LOCATED AT 1375 SHERMAN  
13 ST., DENVER, COLORADO, 80203, WHICH HAS A VALUE OF \$28,225,000.

14 **SECTION 2. Appropriation.** (1) The sums included in this  
15 section are appropriated out of any moneys in the general fund, the  
16 indicated cash funds, and reappropriated funds, for the payment of the  
17 ordinary operating costs of the executive, legislative, and judicial  
18 departments of the state, and of its agencies and institutions, for and  
19 during the fiscal year beginning July 1, 2015 2016, and:

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

27 (b) The figures in the "general fund", "general fund exempt",

1 "cash funds", "reappropriated funds", and "federal funds" columns  
2 indicate the source of funds for the amounts authorized in the expenditure  
3 columns or the source of funds for the figures that are included for  
4 informational purposes only.

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

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



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

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

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

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

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  
27 only to the cash funds or reappropriated funds amount which remains

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

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

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

16 Title XX Social Services Block Grant

17 Maternal and Child Health Block Grant

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

23 Child Care Development Funds

24 Temporary Assistance for Needy Families Block Grant

25 (III) The figures in the "federal funds" column for all other  
26 programs are anticipated federal funds, and, although these funds are not  
27 appropriated in this act, they are noted for the purpose of indicating the

1 assumption used relative to those funds in developing the basic  
2 appropriations amounts.

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

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

14 (k) Pursuant to section 24-30-202 (2), C.R.S., the controller shall  
15 examine all state contracts entered into during the fiscal year commencing  
16 July 1, 2015 2016, to determine whether such contracts are authorized by  
17 an appropriation within this act, and, pursuant to section 24-30-202 (3),  
18 C.R.S., no agency shall incur obligations by contract in excess of the  
19 amounts appropriated by this act.

20 (l) (I) Where the letter "(I)" appears directly to the right of a figure  
21 or in a letternote referencing a figure, that amount is not an appropriation,  
22 nor does it limit the expenditure of such moneys. The figure is included  
23 for informational purposes only. It provides a record of funds anticipated  
24 to be expended and, in some instances, may indicate assumptions used  
25 relative to those funds in developing appropriated amounts.

26 (II) The (I) notation applies to a general fund, general fund  
27 exempt, or cash funds figure when the amount is continuously

1 appropriated to, or otherwise authorized by law to be spent by, a  
2 department or agency of state government pursuant to a provision of state  
3 statute or the state constitution.

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

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