

# MEMORANDUM

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**TO:** Joint Budget Committee

**FROM:** John Ziegler, JBC Staff

**SUBJECT:** Recommendations on TABOR Reserve and FY 2014-15 Long Bill Headnotes

**DATE:** March 19, 2014

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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 2014-15 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 2013-14 and FY 2014-15", reflects the staff recommendation on funds to be designated as the TABOR reserve.

*FY 2013-14 TABOR Reserve Discussion:* A TABOR reserve of \$342.7 million is required for FY 2013-14 according to the Office of State Planning and Budgeting (OSPB) March 2014 Revenue Forecast. The current Long Bill (SB 13-230) headnote designation for the FY 2013-14 TABOR reserve includes a total of \$329.6 million. The components of the headnote are \$236.0 million (71.6 percent) in liquid assets and \$93.6 million (28.4 percent) in equity assets. As a result of projections contained in the OSPB March 2014 Revenue Forecast, the FY 2013-14 TABOR reserve needs to be increased by \$13.1 million. Staff recommends the JBC prepare an add-on to the 2014 Long Bill to increase the amounts designated of as part of the FY 2013-14 TABOR reserve by \$2.7 million from the Controlled Maintenance Trust Fund (CMTF) and \$10.5 million in state properties to account for this change in forecast.

*FY 2014-15 TABOR Reserve Discussion:* A TABOR reserve of \$361.5 million is required for FY 2014-15 according to the OSPB March 2014 Revenue Forecast. Attachment 1 reflects the staff recommendation for the allocation of FY 2014-15 TABOR reserve as follows:

- \$83.0 million of the balance in the Major Medical cash fund,
- \$78.0 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,
- \$95.5 million of state properties to constitute the TABOR reserve.

The staff recommendation for FY 2014-15 results in a designation comprised of 73.6 percent liquid cash funds and 26.4 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 and floods.

The JBC appropriated an additional \$78.0 million to the CMTF during supplemental process for FY 2013-14. Therefore, funds are currently available in the CMTF for the General Assembly to designate \$78.0 million from the CMTF as a part of the FY 2014-15 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 \$105,172,000) are designated as part of the TABOR reserve:

- Parking Garage, 1350 Lincoln Street, Denver (value \$11,554,000)
- 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 \$40,285,000)

Staff recommends the Committee designate a combination of these state properties with a value of up to \$95.5 million as the state property portion of the TABOR reserve. This retains an additional \$9,672,000 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 and bill summary - Updates the fiscal year to which the bill refers.
- Page 2, lines 8-24 and page 3, lines 1-11 - Reflects the designation of the TABOR reserve for FY 2014-15 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 18 - Updates the fiscal year for which the long bill appropriations are in effect.
- Page 8, line 18 - Updates the date pertaining to state contracts authorized by appropriation in the act.

**JBC Staff Recommendation for TABOR Reserve Designation - FY 2013-14 and FY 2014-15**

<b>OSPB Forecast</b>	<b>FY 2013-14</b>			<b>FY 2014-15 Staff Recommendation</b>		
	<b>Cite</b>	<b>Dollar Amt</b>	<b>%</b>	<b>Cite</b>	<b>Dollar Amt</b>	<b>%</b>
<b>Fund/Equity Designated to TABOR</b>						
Major Medical (Section 8-4-202 (1) (a), C.R.S.)	(a)	83,000,000	24.2%	(a)	83,000,000	23.0%
Controlled Maintenance Trust Fund (Section 24-75-302.5 (2)(a), C.R.S.)	(b)	48,000,000	14.0%	(b)	<b>78,000,000</b>	21.6%
Increase to Controlled Maintenance		<b>2,605,982</b>				
Unclaimed Property Fund (Section 38-13-116.7 (1). C.R.S.)	(c)	5,000,000	1.5%	(c)	5,000,000	1.4%
Perpetual Base Account of the Severance Tax Fund (Section 39-29-109(2)(a)(II)	(d)	33,000,000	9.6%	(d)	33,000,000	9.1%
CWCB Construction Fund (Section 37-60-112(1)(a)	(e)	33,000,000	9.6%	(e)	33,000,000	9.1%
DOW CF (Liquid Assets) (Section 33-1-112 (1) (a), C.R.S.)	(f)	34,000,000	9.9%	(f)	34,000,000	9.4%
State Buildings (Equity Assets)	(g)	93,600,000	27.3%	(g)	93,600,000	25.9%
<b>Increase to State Buildings</b>		<b>10,494,018</b>	3.1%		<b>1,900,000</b>	0.5%
Total Available for 3% Reserve		342,700,000	100.0%		361,500,000	100.0%
Required TABOR Reserve Based on OSPB March 2014 Forecast		342,700,000			361,500,000	
Above/(Below) Required TABOR Reserve		0			0	

<b>State Buildings Currently Included in Long Bill Draft:</b>	
Parking Garage, 1350 Lincoln Street, Denver	11,554,000
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	<u>40,285,000</u>
Total	105,172,000
<i>Potential Additional Buildings:</i>	
Human Services Building, 1575 Sherman St., Denver	<b><u>30,596,000</u></b>
Total Buildings with Additional	<b><u>135,768,000</u></b>
Total Buildings - FY 2013-14	104,094,018
<b>Excess in Level of Buildings Designated</b>	<b><u>1,077,982</u></b>
Total Buildings - FY 2014-15 Staff Recommendation	95,500,000
<b>Excess in Level of Buildings Designated</b>	<b><u>2,672,000</u></b>

**Attachment 2**  
**Second Regular Session**  
**Sixty-ninth General Assembly**  
**STATE OF COLORADO**

**DRAFT**

LLS NO. 14-0422.01 John Ziegler

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Duran,**

**SENATE SPONSORSHIP**

**Steadman,**

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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, ~~2013~~**  
105             **2014, 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/bills/summaries>.)*

Provides for the payment of expenses of the executive, legislative,

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.*

and judicial departments of the state of Colorado, and of its agencies and institutions, for and during the fiscal year beginning July 1, ~~2013~~ 2014, 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 ~~2013-14~~ 2014-15 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 ~~\$48,000,000~~ \$78,000,000;

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

1 (g) Up to ~~\$93,600,000~~ \$95,500,000 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~~ \$11,554,000;

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 \$16,934,000;

7 (III) The centennial building located at 1313 Sherman Street,  
8 Denver, Colorado, 80203, which has a value of ~~\$38,926,008~~ \$36,399,000;  
9 and

10 (IV) The state services building located at 1525 Sherman Street,  
11 Denver, Colorado, 80203, which has a value of ~~\$35,666,718~~ \$40,285,000.

12 **SECTION 2. Appropriation.** (1) The sums in this section  
13 hereinafter specified, or so much thereof as may be necessary for the  
14 purposes shown, are hereby appropriated out of any moneys in the general  
15 fund, the indicated cash funds, reappropriated funds, and federal funds,  
16 for the payment of the ordinary operating costs of the executive,  
17 legislative, and judicial departments of the state, and of its agencies and  
18 institutions, for and during the fiscal year beginning July 1, ~~2013~~ 2014,  
19 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.

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

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



1 set forth such funds as a duplicate appropriation to said receiving agency,  
2 the provisions of this paragraph (e) shall not apply to the receipt of such  
3 funds.

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

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

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

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, 2013 2014, 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  
27 to be expended and, in some instances, may indicate assumptions used

1 relative to those funds in developing appropriated amounts.

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

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

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