



Joint Budget Committee Staff

Memorandum

To: Joint Budget Committee Members
From: Craig Harper, JBC Staff (303-866-3481)
Date: Monday, March 24, 2025
Subject: [FY 2025-26 TABOR Emergency Reserve designations](#)

This memorandum includes recommendations and background information to support the Committee's designation of assets for the TABOR emergency reserve for FY 2025-26. Yesterday, the Committee approved staff's recommended changes to most of the "headnotes" for the FY 2025-26 Long Bill. The Committee has not yet acted to include a provision to designate assets to constitute the State Emergency Reserve (SER) as required by Article X, Section 20 (5) of the State Constitution (the Taxpayer's Bill of Rights or "TABOR"). Staff recommends taking action now to designate the Emergency Reserve assets to be included in the headnotes.

Staff Recommendation

For FY 2025-26, staff recommends an SER of \$594.8 million based on the March 2024 revenue forecasts from the Office of State Planning and Budgeting (OSPB).¹ This total assumes enactment of S.B. 25-180 (TABOR Population Growth Calculation), which increases the emergency reserve requirement by \$2.8 million relative to the scenario without that bill.

- That represents an increase of \$20.8 million above the \$574.0 million designated for FY 2024-25.
- In addition to the mandatory increase, the designations for FY 2025-26 need to backfill \$28.0 million that has been transferred out of the State Emergency Reserve Cash Fund for FY 2024-25.
- Under statewide decision item R1, the Committee has also approved transfers of an estimated \$9.8 million from interest earnings on the State Emergency Reserve Cash Fund that would otherwise be available to support the reserve. If staff can find sufficient alternative sources of interest earnings to eliminate that transfer from the interest earnings bill, then the Committee may wish to do so.

Based on changes outlined above, the recommended scenario needs to include \$58.6 million in "new" funds to reach the required total for FY 2025-26. Staff has collaborated with the Governor's Office for the designations for FY 2025-26. The recommendations in the table below align with the proposal from the Governor's Office as adjusted through those discussions. It

¹ The total reserve requirement would be the same under either of the March forecasts.

March 23, 2025

maintains the two capital assets that are currently in the reserve (the State Services Building and the Merrick Parking Garage) – but avoids adding more capital assets. Instead, the Disaster Emergency Fund portion grows by \$35.0 million and the designated portion of the Unclaimed Property Tourism Promotion Trust Fund increases by \$23.5 million.

Table 1: Designated State Emergency Reserve Recommended Allocation		
	FY 2024-25	FY 2025-26
Cash Assets:		
Disaster Emergency Fund	\$134,225,000	\$169,230,055
State Emergency Reserve Cash Fund	202,000,000	164,246,861
Marijuana Tax Cash Fund	100,000,000	100,000,000
Unclaimed Property Tourism Promotion Trust Fund	5,000,000	28,548,084
Major Medical Insurance Fund	25,000,000	25,000,000
Severance Tax Perpetual Base Fund	35,000,000	35,000,000
Colorado Water Conservation Board Construction Fund	33,000,000	33,000,000
Total	\$543,000,000	\$555,025,000
Capital Assets: State Properties up to:		
	\$39,775,000	\$39,775,000
<i>Value of State Properties Listed in Headnote:</i>		
<i>State Parking Garage (1350 Lincoln Street, Denver)</i>	<i>\$11,554,000</i>	<i>\$11,550,000</i>
<i>State Services Building (1525 Sherman Street, Denver)</i>	<i>28,225,000</i>	<i>228,225,000</i>
Subtotal	\$39,779,000	\$39,775,000
TOTAL	\$574,000,000	\$594,800,000

CONSIDERATIONS

The scenario for FY 2025-26 does not require a transfer from the General Fund to the State Emergency Reserve Cash Fund, as there are sufficient cash fund balances available. However, staff continues to recommend that the General Assembly plan to make transfers to the fund when possible. Staff makes the recommendation for three basic reasons:

- **Growing Reserve Requirement.** The size of the reserve will increase over time as state revenues increase. Based on the March 2025 economic and revenue forecasts, the reserve needs to increase by \$20.8 million for FY 2025-26, and by another \$25.0 million for FY 2026-27.
- **Transfers Out Need to Be Replenished.** When the Governor transfers money out of the designated cash funds to pay for disaster emergency-related expenses, only a portion of

March 23, 2025

those funds are reimbursed back to the original cash fund. Thus, additional cash assets are needed to backfill these annual transfers.

- **One Existing Cash Asset is Time-limited and Can Affect TABOR Refunds.** The Major Medical Fund currently constitutes \$25.0 million of the SER. The source of revenue for this fund is a surcharge assessed to insurance carriers and self-insured employers. The amount designated from this fund will need to decrease over time to ensure that the Department of Labor and Employment is able to make payments to eligible injured workers without imposing a workers' compensation premium surcharge. As of October 2024, 623 workers or spouses were eligible for benefits, with 197 actively receiving benefits. The remaining 462 eligible but inactive beneficiaries had not submitted a claim for two years – but could do so at any time. Any money remaining in this fund when the last of the liabilities have been paid will revert to the General Fund. The Department has previously estimated that this will take place in 2046.
- **Staff understands the increased designation for the Unclaimed Property Tourism Promotion Trust Fund to be temporary.** That increase may not be viable for multiple years, and staff would recommend replacing it to the extent possible with cash assets.

Background Information

Use of State Emergency Reserve

TABOR requires the State to set aside an emergency reserve equal to at least three percent of fiscal year spending, and limits expenditures from this reserve for declared emergencies. TABOR defines “emergency” to exclude economic conditions, revenue shortfalls, and salary or fringe benefit increases. Unused reserves apply to the next year’s State Emergency Reserve (SER).²

The SER may be expended in any given fiscal year upon:

- The declaration of a state emergency by the passage of a joint resolution which is approved by a two-thirds majority of the members of both houses of the General Assembly and which is approved by the Governor; or
- The declaration of a disaster emergency by the Governor.

Declaring a disaster emergency of any kind gives the Governor access to the Disaster Emergency Fund (DEF). Pursuant to Section 24-33.5-706 (4), C.R.S., the stated legislative intent is that money required during a disaster first be paid from money regularly appropriated to state and local agencies. If these existing resources prove insufficient, the Governor may make money available from the DEF. If money in the DEF is insufficient, the Governor may transfer to the DEF and expend money that has been appropriated for other purposes. The declaration of a disaster emergency also authorizes expenditures from the Reserve.

² See Section 20 (5) of Article X of the Colorado Constitution and Section 24-77-104, C.R.S.

March 23, 2025

If the DEF is credited with reimbursements for previous State expenditures for a particular disaster, the Governor *may* transfer money to the Reserve fund(s) as repayment for the amounts the Governor originally transferred from said fund(s) to the DEF.

From FY 1994-95 through FY 2017-18, annual transfers from the Reserve to the DEF ranged from \$0 to \$53.4 million, with an average of \$6.9 million over this 24-year period. These transfers were typically related to wildfire and flood disaster emergencies. The number and magnitude of transfers from the Reserve have increased significantly in recent years.

Designation and Composition of Reserve

Pursuant to Section 24-77-104, C.R.S., the SER “shall consist of moneys as are annually designated by the general assembly in the general appropriation bill or by separate bill to constitute said emergency reserve.” The General Assembly typically designates the fund sources and assets that comprise the annual SER in the headnotes at the beginning of the annual Long Bill.

The General Assembly’s practice has been to estimate the size of the required SER for the next fiscal year based on the preceding March revenue forecasts. The components of the SER have been based on the available balances in certain cash funds and the replacement values of certain State properties provided by the Department of Personnel’s Risk Management Unit.

Since FY 1993-94, the General Assembly has designated the General Fund, various cash funds, and capital assets to satisfy the SER requirement.

- In FY 1995-96, the SER consisted entirely of General Fund.
- From FY 1996-97 through FY 2000-01, the SER consisted entirely of the Controlled Maintenance Trust Fund.
- In all other fiscal years, the SER has included amounts in multiple cash funds.
- Since FY 2003-04, the SER has also often included capital assets. In all but one fiscal year these assets have comprised less than 40.0 percent of the SER.