



Memorandum

To: Joint Budget Committee Members
From: Craig Harper, JBC Staff (303-866-3481)
Date: March 24, 2026
Subject: FY 2026-27 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 2026-27. Last week, the Committee approved staff's recommended changes to most of the "headnotes" for the FY 2026-27 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 2026-27, staff recommends an SER of \$614.4 million to meet the 3.0 percent TABOR requirement based on the March 2026 revenue forecast from the Office of State Planning and Budgeting (OSPB).¹ This total assumes enactment of a coming JBC bill to adjust the inflation calculation for CY 2025. That bill increases the allowable TABOR growth rate by 0.1 percent and therefore increases the emergency reserve requirement by \$0.6 million relative to the scenario without the bill.

The recommendation represents an increase of \$19.6 million (3.3 percent) above the \$594.8 million designated for FY 2025-26. Staff has collaborated with the Executive Branch to adjust for available balances in the cash funds currently designated as part of the SER and account for updated values of designated capital assets. The recommendation:

- Increases the designation in the Disaster Emergency Fund (DEF) by \$43.1 million, which is viable for FY 2026-27 based on projected balances. The designation from the DEF could go higher for FY 2026-27 but staff is aware of concerns about future obligations from the fund and is not recommending maximizing the designation from the DEF.
- Increases the designations from capital assets (specifically the Legislative Annex and the Merrick Garage) by \$13.6 million. Increases in estimated valuation allow for that increase.
- Decreases the designation for the Unclaimed Property Tourism Promotion Trust Fund (UPTPTF) by \$23.5 million. The current year included a one-time increase from \$5.0 million to \$28.5 million. The

¹ This recommendation would be the same under either March forecast (OSPB or Legislative Council Staff).

recommendation for FY 2026-27 returns the portion from the UPTPTF to \$5.0 million, consistent with prior years.

- Decreases the State Emergency Reserve Cash Fund (SERCF) designation by \$13.5 million to account for anticipated decreases in the fund balance.

Note: The recommendation **maintains** the current designation of \$100.0 million in the Marijuana Tax Cash Fund (MTCF). If the General Assembly moves forward with a proposal to use those funds to purchase a prison (as proposed in an OSPB comeback) or for some other purpose then that action would require replacement of that amount in the emergency reserve.

Table 1: Recommended State Emergency Reserve Allocations

	FY 2025-26 Designation	FY 2026-27 Designation
Cash Assets:		
Disaster Emergency Fund	\$169,230,055	\$212,368,830
State Emergency Reserve Cash Fund	164,246,861	150,721,859
Marijuana Tax Cash Fund	100,000,000	100,000,000
Unclaimed Property Tourism Promotion Trust Fund	28,548,084	5,000,000
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	\$555,025,000	\$561,090,689
Capital Assets: State Properties up to:		
	\$39,775,000	\$53,337,711
<i>Value of State Properties Listed in Headnote:</i>		
<i>State Parking Garage (1350 Lincoln Street, Denver)</i>	<i>\$11,554,000</i>	<i>\$16,100,000</i>
<i>Capitol Annex Building (1375 Sherman Street, Denver)</i>	<i>28,225,000</i>	<i>37,237,711</i>
Subtotal	\$39,779,000	\$53,337,711
TOTAL	\$594,800,000	\$614,428,400

Considerations

The scenario for FY 2026-27 does not require a transfer from the General Fund to the SERCF, as there are sufficient cash fund balances available to support likely needs (see discussion below). 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:

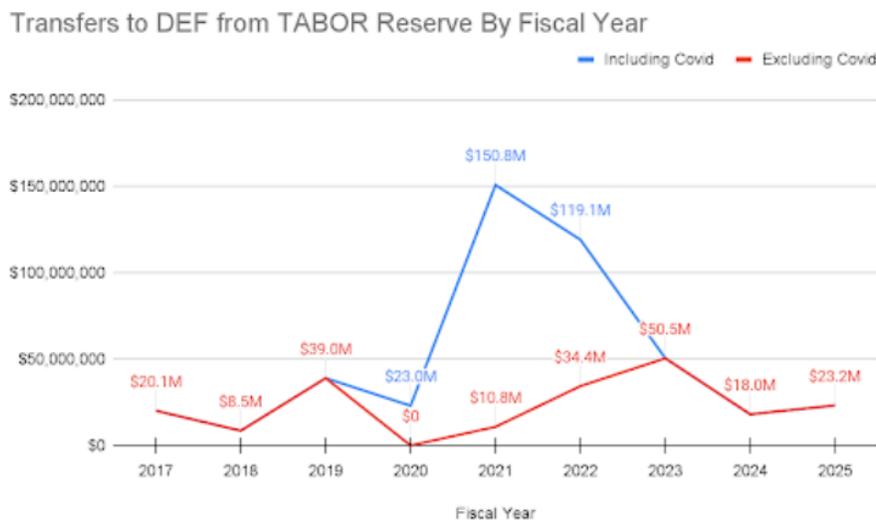
- Growing Reserve Requirement. The size of the reserve will increase over time as state revenues increase. Based on the March 2026 economic and revenue forecasts, the reserve needs to increase by \$19.6 million for FY 2026-27, and by another \$19.6 million for FY 2027-28.
- Transfers Out Need to Be Replenished. When the Governor transfers money out of the designated cash funds to pay for disaster emergency-related expenses, only a portion of those funds are reimbursed back to

the original cash fund. Thus, additional cash assets are needed to backfill these annual transfers or the fund balance will decline.

- 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 March 2026, 164 workers or spouses were eligible for benefits, with 100 actively receiving benefits. The remaining 64 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.

JBC Staff and OSPB Staff agree on the importance of maintaining sufficient cash balances in the emergency reserve to meet the needs for emergencies in a given year. The staff agencies also agree that meeting that need does not appear to require cash balances equal to 3.0 percent of fiscal year spending (as required by TABOR). As shown in the figure below:

- The most the State has ever used from the emergency reserve in a given year was \$150.8 million in FY 2020-21 (in the context of the public health emergency for COVID-19), before the creation of the SERCF in S.B. 21-227 (a JBC bill).
- Similarly, the State used \$119.1 million in FY 2021-22, again driven by the public health emergency costs.
- Outside of the costs directly related to the public health emergency, the highest annual use to date was \$50.5 million in FY 2022-23.



Given those trends, it is clear that the Emergency Reserve needs to have significant liquid assets to manage emergency situations. JBC Staff will continue to work with the Executive Branch on a longer-term strategy for the emergency reserve and the SERCF. Federal COVID funds supported the extraordinary expenditures in FY 2020-21 and FY 2021-22. And FEMA reimbursements of amounts that originated in the SERCF are also credited to fund. However, actually increasing the balance of the fund in most years will require action by the General Assembly. If the SERCF is to remain the key source of funding for actual emergency response then it will be necessary to supplement the fund with additional transfers when possible.

Background Information

Use of the 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.

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 the 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.

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

- 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. For the FY 2026-27 designation, capital assets would account for 9.5 percent of the total.