

MEMORANDUM

TO: Joint Budget Committee

FROM: John Ziegler

SUBJECT: Adjustment to FY 2011-12 TABOR Reserve

DATE: March 25, 2011

As a result of the Governor's Executive order D 2011-08 that was signed on March 24, 2011 (see attached), \$1,500,000 was transferred from the Major Medical Insurance Fund to the Disaster Emergency Fund. This was done in response to the Indian Gulch Fire. This action decreased the amount available in the Major Medical Fund for designation as part of the FY 2011-12 TABOR reserve from \$94.0 million to \$92.5 million. S.B. 09-37 changed the Major Medical program to pay as you go. As a result, an additional \$1.5 million will need to be designated for the FY 2011-12 TABOR reserve.

The Major Medical Insurance Fund constitutes a portion of the actual cash moneys in the TABOR reserve. Therefore, **staff recommends the JBC designate \$1.5 million General Fund as the third priority in the TABOR reserve (following the Major Medical Fund and the Wildlife Cash Fund and proceeding state properties) to replace the reduction in the Major Medical Insurance Fund.** Staff is recommending this course of action because staff believes it prudent to replace the moneys that have been transferred from the Major Medical Insurance Fund with a source of funding that can be replenished if used in the future and that the designated amounts should be cash, not real property. The designation of \$1.5 million General Fund will restrict the use of that General Fund for any other purpose.

The JBC could also choose one of the following two alternatives:

1. Designate \$1.5 million from one of the following funds as part of the TABOR reserve:
 - The Perpetual Base Account of the Severance Trust Fund.
 - The Secretary of State Cash Fund.
 - The Unclaimed Property Trust Fund.
 - The Unclaimed Property Tourism Promotion Trust Fund

Designation of money in any of these funds would lead to the State Controller restricting usage by the departments for that specific amount of money to the TABOR reserve. Staff believes it prudent for the General Assembly to designate moneys that can be replenished if used in the future to replace the moneys that have been transferred from the Major Medical Insurance Fund. Therefore, staff is not recommending the designation of these funds as a portion of the TABOR reserve.

2. Designate an additional \$1.5 million in state properties. Staff believes that the amount that is designated to replace the moneys transferred from the Major Medical Insurance Fund should be cash and not real property. Therefore, staff does not recommend this option.

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol
Denver, Colorado 80203
Phone (303) 866-2471
Fax (303) 866-2003



John W. Hickenlooper
Governor

D 2011-08

EXECUTIVE ORDER

Declaring a Disaster Emergency Due to the Indian Gulch Fire in Jefferson County

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to relevant portions of the Colorado Disaster Emergency Act of 1992, C.R.S. § 24-32-2100, *et seq.*, John W. Hickenlooper, Governor of the State of Colorado, hereby issues this Executive Order declaring a state of disaster emergency due to the wildfire in Jefferson County, Colorado.

I. Background and Purpose

On Sunday, March 20, 2011, a wildfire (“Indian Gulch Fire”) broke out west of Golden in Jefferson County in between Golden Gate and Clear Creek Canyons. As of the morning of March 24th, the fire has spread to more than 1,500 acres, including state and private lands. Over 280 homes are currently threatened as well as several area businesses. In addition, gusty winds and dry weather threaten to exacerbate the fire. Because of the fire’s proximity to state lands, the city of Golden, and residences in Golden Gate Canyon, an aggressive response is essential. Approximately 37 agencies, including the Colorado State Forest Service, the U.S. Forest Service and local emergency teams, have responded to the wildfire by deploying a variety of resources, including approximately 290 firefighters, 30 engines, two air tankers and three helicopters.

Additionally, the U.S. Department of Homeland Security’s Federal Emergency Management Agency (“FEMA”) has authorized the use of federal funds to help with firefighting costs. FEMA’s authorization makes federal funding available to reimburse seventy-five percent of the state’s eligible firefighting costs under an approved grant for responding to and controlling designated fires.

The Governor is responsible for meeting the dangers to the state and people presented by disasters. The Colorado Disaster Emergency Act of 1992, defines a disaster as “the occurrence or imminent threat of widespread or severe damages, injury or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to . . . fire.” C.R.S. § 24-32-2103(1.5). The Indian Gulch Fire’s proximity to state lands, the city of Golden, and residences in Golden Gate Canyon pose an imminent danger to life and property and, therefore, constitute a disaster for the purposes of the Act.

II. Declaration and Directives

- A. The Indian Gulch Fire hereby constitutes a disaster emergency for the purposes of C.R.S. § 24-32-2103.
- B. The State Emergency Operations Plan (“Plan”) is hereby activated. All State departments and agencies shall take whatever actions may be required and requested by the Director of the Division of Emergency Management or the Colorado State Forest Service, including provision of appropriate staff and equipment as necessary.
- C. Pursuant to C.R.S. § 24-32-2106, the funds in the Disaster Emergency Fund are hereby found insufficient; therefore, pursuant to Section 1 (2)(b)(I) of Ch. 453, Session Laws of Colorado 2010, it is ordered that \$1,500,000 be transferred from the Major Medical Insurance Fund to the Disaster Emergency Fund. It is further ordered that up to \$1,500,000 from the Disaster Emergency Fund is encumbered to pay for the response and recovery efforts related to the Indian Gulch Fire since its inception. The Colorado State Forester is hereby authorized and directed to allocate the funding to the appropriate government agencies. These funds shall remain available for this purpose for one year from the date of this Executive Order, and any unexpended funds shall remain in the Disaster Emergency Fund.
- D. The Director of the Colorado Division of Emergency Management and the Colorado State Forest Service are authorized and directed to coordinate application to the federal government for funds available for reimbursement and to coordinate application for any other funds available related to this disaster emergency.

III. Duration

This Executive Order shall expire thirty days from its date of signature unless extended further by Executive Order, except that the funds described in paragraph II(C) above shall remain available for the described purposes for one year from the date of this Executive Order.



GIVEN under my hand and the
Executive Seal of the State of
Colorado this twenty-fourth day of
March, 2011.

A handwritten signature in black ink, reading "John W. Hickenlooper". The signature is fluid and cursive, with a large initial "J" and "H".

John W. Hickenlooper
Governor

JBC Staff Revised Recommendation for TABOR Reserve Designation - FY 2010-11 and FY 2011-12

OSPB Forecast	FY 2010-11			FY 2011-12					
	Cite	Dollar Amt	%	Alternative 1 (Staff Revised Rec)			Alternative 2		
Fund/Equity Designated to TABOR	Cite	Dollar Amt	%	Cite	Dollar Amt	%	Cite	Dollar Amt	%
Major Medical (Section 8-4-202 (1) (a), C.R.S.)	(I)	94,000,000	33.5%	(I)	94,000,000	32.1%	(I)	94,000,000	32.1%
<i>Decrease Major Medical</i>			0.0%		<i>(1,500,000)</i>	-0.5%		<i>(1,500,000)</i>	-0.5%
DOW CF (Liquid Assets) (Section 33-1-112 (1) (a), C.R.S.)	(II)	20,000,000	7.1%	(II)	20,000,000	6.8%	(II)	20,000,000	6.8%
DOW CF (Equity Assets) (Section 33-1-112 (1) (a), C.R.S.)		80,000,000	28.5%		80,000,000	27.3%		80,000,000	27.3%
<i>General Fund</i>		0	0.0%	<i>(III)</i>	<i>1,500,000</i>	0.5%			
State Buildings (Equity Assets)	(III)	86,600,000	30.9%	(IV)	98,800,000	33.7%	(III)	98,800,000	33.7%
<i>Increase to State Buildings</i>			0.0%		0	0.0%		<i>1,500,000</i>	0.5%
Controlled Maintenance Trust Fund (Section 24-75-302.5 (2), C.R.S.)/a			0.0%		0	0.0%			0.0%
Total Available for 3% Reserve		280,600,000	100.0%		292,800,000	100.0%		292,800,000	100.0%
Required TABOR Reserve Based on OSPB March 2011 Forecast		280,600,000			292,800,000			292,800,000	
Above/(Below) Required TABOR Reserve		0			0			0	

State Buildings Currently Included in Long Bill Draft:

Parking Garage, 1350 Lincoln 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

Total Buildings - Alternative 1 Staff Revised Recommendation 98,800,000
Excess in Level of Buildings Designated **5,294,018**

Total Buildings - Alternative 2 100,300,000
Excess in Level of Buildings Designated **3,794,018**