

**MEMO**

**To: Joint Budget Committee**

**From: Skip Miller President and Hilary Glasgow, Executive Director Colorado WINS**

**Re: Budget Balancing Options for FY2021**

**Date: May 11, 2020**

State workers are among the many Coloradans on the front lines of the coronavirus crisis. We are putting our lives on the line and risking the health and wellness of our families to provide desperately needed care and services to Coloradans during this crisis.

We are processing hundreds of thousands of unemployment claims; caring for those in mental health facilities and veterans' homes; and testing people for the virus. Economists agree, the contraction of public sector spending during the last recession led to a steeper recession and a slower recovery (Source: [Economic Policy Institute, April 18, 2019](#)). Only government can provide the social infrastructure necessary to support working families during this crisis, but to do so requires corporations and the wealthy to contribute their fair share.

To limit damage to our economy and protect services that will help us get through this together, no matter where we come from, where we work, or the color of our skin, **ColoradoWINS urges the Legislature to adopt these priorities to arrive at a balanced budget:**

1. **Use federal funds first.** Fight for flexibility in using Colorado's \$1.7 billion in federal funds under the CARES Act and make sure our Senators and members of Congress are fighting for more in the next relief package.
2. **Use reserves second:** Colorado has about \$1.5 billion in reserve funds. This is an emergency, and it is time to use that money.
3. **Tax the wealthy and corporations:** Invoke emergency authority to pass temporary tax increases, and impose them *only* on wealthy Coloradans while cutting taxes for most of us.
4. **Eliminate loopholes and giveaways, and adopt other tax policy changes:** We and others have identified over \$275 million in revenue Colorado could gain by closing loopholes and eliminating tax breaks.
5. **Transfers, other savings:** Transferring money from other parts of the government and, if need be, canceling the planned raise for state employees could handle any remaining shortfall.

These suggested priorities are in line with a set of [budgeting principles](#) that put working families first in prioritizing expenditures for the FY 2021 budget. Additionally, we urge the legislature to commit to the following:

- Ensure that preserving vital services for Coloradans is a priority in the FY 2021 budget and hold our families and communities harmless from public service cuts.
- Bring state employees to the table to help address the crisis and allow state employees to work in partnership with the state and identify savings that will not adversely impact public services and state jobs.
- Avoid any privatization of vital public services.

## **Budget Balancing Options**

Below are details on implementing these principles. We recognize that JBC has already adopted or is likely to adopt some of these recommendations, such as the fund transfers, suspending some tax breaks and deferring the planned pay increase for classified employees. We appreciate the unprecedented challenges you are grappling with and we thus urge you to consider these recommendations to avoid inflicting drastic pain on Coloradans.

*Note: We base these recommendations on an estimated loss of \$3 billion in revenue for FY20 and FY21 (Source: [Colorado Sun, 4/27/2020](#).) Of course, there will be revised numbers soon, which may require adjustments to these specifics, but we believe the general principles should still guide our budget decisions.*

### **USE OF FEDERAL FUNDS**

**CARES Act funding:** The State of Colorado will receive \$1.7B through the federal CARES Act (Source: [Colorado Sun, 4/27/20](#)). Under current rules, this money can only be used to cover expenses directly attributable to Covid-19, but some states, such as [New Jersey](#), have won more flexibility. Colorado should press the federal government to allow CARES Act dollars to be used to replace tax revenues decimated by the coronavirus.

**Further federal stimulus:** The Federal government is considering legislation to provide states and local governments \$500 billion to cover revenue losses. We estimate Colorado's share, based on population, at \$8.77 billion. Splitting this amount 50-50 with local governments and spreading it over three years would provide an additional \$1.46 billion.

### **TEMPORARY TAX INCREASES ON WEALTHY INDIVIDUALS**

Absent adequate federal support, the best option for Colorado to close our shortfall is to temporarily raise taxes on wealthy individuals. We support the Colorado Fiscal Institute's proposal to raise income taxes for individuals earning more than \$250,000, while reducing taxes slightly for those earning less. This would raise approximately \$2 billion per year, according to the Institute. Under TABOR, this proposal could be adopted with a Legislative declaration of emergency and a 2/3 vote, without being submitted to the voters.

If the Legislature is unable to agree on taxing wealthy Coloradans, the Legislature should first deploy reserves and then make any cuts effective no sooner than October 1, 2020 if the Federal government fails to provide further help. The Legislature would make such cuts while planning to cancel them before October 1 if anticipated Federal aid comes through.

The following is COWINS' recommended road map for applying approximately \$1.5 billion in reserves, savings and revenue enhancements to help fill our budget shortfall.

### **SUMMARY**

Item	Savings (\$M)
Suspend FY21 contribution to reserves	884.5
Use of TABOR reserves or General Fund reserves	268.1
Tax Expenditure Proposals Identified by CFI	99.0
Renewal of certain FY10-12 sales tax exemption suspensions	44.6
Renewal of FY 10-12 income tax exemption suspensions	9.6
Repeal or suspend Enterprise Zone tax credits	71.4
Cigarette/tobacco tax revenue transfers	121.9
Cancellation of planned 3% raise for state employees	40.9
<b>TOTAL</b>	<b>\$1.54 Billion</b>

## RESERVES

Suspend reserve contributions: The current state General Fund budget reserve is \$814M for the current year and \$448M from the prior year for a total of \$1.3 B (Source: [Colorado Sun, 4/27/20](#)).

Colorado law requires that 7.25% of General Fund appropriations be set aside each year to fund reserves. In past recessions, the Legislature has reduced or suspended this requirement. (Source: [Legislative Council Memo, 3/7/2019](#).) For FY20, General Fund operating appropriations were \$12.2B. Suspending the 7.25% contribution would thus save **\$884.5M** (Source: [Joint Budget Committee Appropriations Report, FY2019-20, p.12](#)).

Use a Portion of TABOR Emergency Reserves: TABOR reserves can also be used in fiscal emergencies. The Governor has already set aside \$68M from these reserves. The reserve held \$271 M in cash as of 7/1/2019. (Source: [Colorado Sun, 4/27/20](#)).

In conjunction with the other measures, we recommend drawing on an additional \$268.1 M from either General Fund reserves or a combination of General Fund reserves and TABOR cash reserves.

## TAX POLICY CHANGES

The courts have ruled that TABOR allows the Legislature to eliminate or suspend tax exemptions and incentives without approval of the voters. We recommend that the Legislature consider the following actions to help balance the FY21 budget:

### **Colorado Fiscal Institute Recommendations:**

The Colorado Fiscal Institute has identified the following tax expenditure changes that would raise a total of **\$99 million**. We support consideration of these changes:

- Liquor export sales deduction: \$25m
- Dyed diesel fuel exemption: \$50.7m
- Colorado capital gains deduction: \$16.17m
- Tax exempt coal tonnage: \$3.63m
- Underground coal production credit: \$1.82m
- Sales tax exemption on energy use in manufacturing: \$1.72m

### **Renewal of Temporary Measures from Great Recession:**

In FY 2010-2012 the Legislature suspended several tax exemptions and incentives. Some of these changes could be renewed for FY21.<sup>1</sup>

<u>Sales Tax</u>	<u>Annual Revenue Generated (millions)</u>
Repeal Exemption for Industrial Energy Use	\$37.6
Adjusted for inflation	<b>\$44.6 million</b>

#### Income Tax:

Modify Deduction for Net Operating Loss	\$8.3
Adjusted for inflation (effective 1/1/21)	<b>\$9.6 million</b>

Enterprise Zone Tax Credits: Eliminating Enterprise Zone Tax Credits to corporations such as Amazon and XCel would save an estimated **\$71.4M** based on FY19 figures. (Source: [State of Colorado, Comprehensive Annual Fiscal Report](#), June 30, 2019.)

### **FUND TRANSFERS/SHIFTS**

A declaration of emergency allows for diversion of cigarette/tobacco tax revenue to pay for a broader set of health care expenditures. In FY10, such transfers generated \$102.4M. (Source: [3/7/2019 memo from Legislative Council Staff](#).) Adjusted for inflation, such transfers would generate **\$121.9 M** in FY21.

### **CANCELLATION OF 3% SALARY INCREASE**

The Legislature had planned to increase state employee salaries to make it easier to fill the one in five state jobs that are vacant and reduce the rapid turnover that hurts our ability to serve Coloradans effectively. In this time of crisis we are willing to defer this important goal in order to prevent cuts to services that Coloradans rely on. Cancellation of the 3% salary increase would save **\$40.9M** (Source: Joint Budget Committee, [State Budget Balancing, FY20-21](#), Statewide Compensation Policies, 4/16/20, p. 4).

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<sup>1</sup> Figures for sales tax revenue generated listed below are for FY11. Figures for income tax revenue generated listed below are for FY12. Income tax figures reflect 1/1/21 effective date due to TABOR restrictions. See 3/7/2019 [memo from Legislative Council Staff](#).

## FEDERAL DECOUPLING

**Opt out of federal tax breaks for the wealthy:** In addition to these measures, Colorado can avoid the trap of further reducing tax revenues by opting out of the huge tax breaks for the wealthy included in the CARES Act. The CARES Act cuts taxes for wealthy individuals and corporations by an estimated \$135 billion, (Source: [Law360, May1, 2020](#)) and if the Legislature does not decouple its tax code from federal tax law, Colorado will lose additional millions in revenue at a time when we absolutely cannot afford it.