

# Reserve Funds



Office of the New York  
**STATE COMPTROLLER**  
Thomas P. DiNapoli

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Local Government and  
School Accountability

BUDGETING AND PLANNING SERIES



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# Reserve Funds

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Saving for future projects, acquisitions and other allowable purposes is an important planning consideration for local governments and school districts. Reserve funds provide a mechanism for legally saving money to finance all or part of future infrastructure, equipment and other requirements. Reserve funds can also provide a degree of financial stability by reducing reliance on indebtedness to finance capital projects and acquisitions. In uncertain economic times, reserve funds can also provide officials with a welcomed budgetary option that can help mitigate the need to cut services or to raise taxes. In good times, money not needed for current purposes can often be set aside in reserves for future use.

In addition to reserve funds, maintaining a reasonable amount of unassigned fund balance within operating funds is another important financial consideration for local governments and school districts. A reasonable level of unrestricted, unappropriated fund balance provides a cushion for unforeseen expenditures or revenue shortfalls and helps to ensure that adequate cash flow is available to meet the cost of operations.<sup>1</sup> Combining a reasonable level of unassigned fund balance with specific legally established reserve funds provides resources for both unanticipated events and other identified or planned needs. Although this guide is primarily focused on planning for specific needs through legal reserve funds, our companion guides [Financial Condition Analysis](#) and [Understanding the Budget Process](#) contain additional information on maintaining and utilizing unrestricted fund balances.

This guide describes the types of reserve funds that local governments and school districts can establish and maintain. In general, reserve funds have specific intended purposes and requirements as set forth in law. This guide contains a summary of the many different types of reserve funds authorized by New York State statutes. The descriptions included in this guide provide information on:

- General provisions for each type of reserve fund
- Purposes for which each reserve fund may be used
- Special provisions, if applicable, that pertain to certain reserve funds, such as:
  - Maximum total reserve balance permitted
  - Maximum annual contribution in any fiscal year
  - Referendum requirements for establishing or expending from reserve funds
- Permitted uses of any unobligated or excess reserve funds.

Because of the complexity of some of the legal requirements relating to the establishment, funding, expenditure and dissolution of reserve funds, we encourage local officials to consult with their municipal attorney and to exercise professional judgment in determining how best to include reserve funds in the overall financial management policies of their government or school district.

# Intended Use of Reserves

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Reserve funds, like other savings plans, are mechanisms for accumulating cash for future capital outlays and other allowable purposes. The practice of planning ahead and systematically saving for capital acquisitions and other contingencies is considered prudent management. Saving for future capital needs can reduce or eliminate interest and other costs associated with debt issuances. Similarly, certain reserve funds can be utilized to help protect the budget against known risks (a potential lawsuit) or unknown risks (a major ice storm).

Most reserve funds are established to provide resources for an intended future use. An important concept to remember is that a reserve fund should be established with a clear intent or plan in mind regarding the future purpose, use and, when appropriate, replenishment of funds from the reserve. Reserve funds should not be merely a “parking lot” for excess cash or fund balance. Local governments and school districts should balance the desirability of accumulating reserves for future needs with the obligation to make sure taxpayers are not overburdened by these practices. There should be a clear purpose or intent for reserve funds that aligns with statutory authorizations.

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Planning today and saving incrementally for expected future events can help mitigate the financial impact of major, nonrecurring or unforeseen expenditures on your annual operating budget.

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Each statute that authorizes a reserve fund sets forth a particular underlying purpose for the fund. For example, provisions of the General Municipal Law (the GML) and the Education Law allow local governments and school districts, respectively, to establish capital reserves for future equipment purchases and capital improvements. The GML also authorizes the establishment of an employee benefit accrued liability reserve for the payment of the monetary value of accumulated, unused leave time to employees upon separation from service.

Planning today and saving incrementally for expected future events can help mitigate the financial impact of major, nonrecurring or unforeseen expenditures on your annual operating budget. Establishing and funding allowable reserve funds for a clear purpose can help smooth out spikes in the annual budget and in the real property tax levy.

# Board Direction and Oversight

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Reserve funds can be excellent financial planning tools when combined with a realistic analysis of future financial needs and obligations. All too often, however, reserve funds are established and substantial cash is accumulated without due diligence in monitoring the reasonableness of reserve fund balances. To help ensure that reserve funds are being properly established for an authorized and needed purpose, and the balances in existing reserve funds are not accumulated excessively or unnecessarily, governing boards should answer the following questions:

- Has legal counsel provided guidance on the authority to establish new reserve funds? Has the financial need or purpose served by the reserve been identified? Does the reserve fit within or complement the long-range financial or capital plans of our locality?
- Has a written reserve fund plan or policy been developed? What events and obligations are the board planning for? Is cash being accumulated for the purchase of a major piece of equipment or to help finance other major capital outlays? Is cash being sequestered to help mitigate the impact of other large, nonrecurring expenditures? Are there risks that need to be protected against? Does the board's policy address replenishing depleted reserve balances, as appropriate?
- Is the board provided with periodic financial reports on reserve fund activity? Are reserve balances at an appropriate level?
- Has the board reviewed all reserve funds currently established and determined if the balances are necessary and reasonable? Is there a limit on the dollar amount to be accumulated? Is the reserve serving the purpose for which it was established? Are the best interests of the taxpayers being met?

Any governing board that is planning to establish and finance reserve funds on a regular basis should develop a written policy that communicates to taxpayers why the money is being set aside, the board's financial objectives for the reserves, optimal funding levels, and conditions under which the assets will be utilized. Boards should also periodically assess the reasonableness of the amounts accumulated in their reserves. When conditions warrant (subject to legal requirements), the board should reduce reserve funds to reasonable levels or liquidate and discontinue a reserve fund that is no longer needed or whose purpose has been achieved.

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# Visibility of Reserve Fund Transactions

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All reserve fund transactions should be transparent to the public. Reserve funds are typically funded from amounts raised through the annual budget process, transfers from unexpended balances of existing appropriations and surplus moneys. Ideally, amounts to be placed in reserve funds should be included in the annual budget. By making provisions to raise resources for reserve funds explicit in the proposed budget, the board gives voters and residents an opportunity to know the board's plan for funding its reserves. When appropriations for transfers to reserve funds are not anticipated in the annual budget, a governing board resolution is generally necessary to authorize the transfer of unexpended balances or surplus money into a reserve fund. The resolution should include specifics about the amount to be transferred and the reserve fund to be credited. These resolutions help promote visibility of the board's actions to taxpayers.

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The expenditure of reserve fund money is generally guided by the specific statute authorizing the reserve fund. Due care should be taken to adhere to all statutory requirements, as well as to make appropriate disclosure of such transactions in the budget, accounting records and financial reports.<sup>2</sup>

## Investment of Reserve Funds

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Generally, reserve funds must be invested under provisions of the GML.<sup>3</sup> Interest earned and capital gains realized on investments accrue to, and become part of, each reserve fund. In short, interest and gains on reserve fund balances “follow the principal.” If reserve fund cash is commingled with other moneys for investment purposes, each reserve fund must receive its prorated share of any interest or capital gains earned on the total investment. Reserve fund moneys are not required to be kept in separate bank accounts, but the law generally requires that separate accounting records be kept for each reserve fund.



# Reserve Fund Accounting Records and Reports

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The accounting records for each reserve fund generally must show:

- The date and amount of each sum paid into the fund
- Interest earned by the fund
- Capital gains or losses resulting from the sale of investments of the fund
- The amount and date of each withdrawal from the fund
- The total assets of the fund, showing cash balance and a schedule of investments.

This information may be used for the detailed report of the operation and condition of the fund that must be submitted to the governing board each year.

The Office of the State Comptroller will assist you with any questions you have regarding the information contained in this guide or any special circumstances with which you may need assistance. The addresses and telephone numbers for each of our regional offices, and our legal staff, are located at the end of this publication. Please contact the regional office for your locality or, for legal issues, our legal staff with any questions you may have.

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# Reserves Authorized by the General Municipal Law (GML)

## Capital Reserve Fund (GML Sections 6-c, 6-g)

### Purpose

To finance all or part of the cost of construction, reconstruction or acquisition of:

- A “specific” or “type” capital improvement
- A “specific” or a “type” item(s) of equipment.

The term “capital improvement” means any physical improvement and any related preliminary studies and surveys; lands or rights in land; and any furnishings, equipment, machinery, or apparatus for any physical improvement acquired at the time when such improvement is constructed, reconstructed or acquired.

The term “equipment” includes any equipment, machinery or apparatus not included in the definition of capital improvement and for which a period of probable usefulness has been provided by law.<sup>4</sup>

Some examples of specific and type capital reserves are as follows:

	Capital Improvements	Equipment
<b>Specific</b>	City Hall Town Garage County Jail Firehouse Sewage Disposal Plant Off-Street Parking Lot	Pumper Truck Sanitation Truck Bulldozer Snowplow Ambulance
<b>Type</b>	Land Buildings Building Alterations	Snow Removal Equipment Street Cleaning Equipment Highway Equipment Fire Apparatus

### Who May Create

Counties, cities, villages, towns, fire districts, and town or county sewer and water improvement districts may create both specific and type capital reserves.<sup>5</sup>

One exception is that capital reserve funds may not be established for capital improvements constructed, reconstructed, or acquired, or equipment acquired as follows:

- On behalf of an improvement district or other similar district (other than a sewer and/or water district) located within a municipality
- Where all or part of the costs are borne by assessments for benefit or ad valorem taxes upon real property within the area of benefit in a municipality (other than a sewer and/or water district).<sup>6</sup>

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## How to Create and Use

### Specific Capital Reserves

A governing board's authorization (resolution) establishing a specific improvement or equipment capital reserve must state the estimated maximum cost of the item(s) of equipment or improvement. A sample resolution for establishing a specific capital reserve is included in [Appendix C](#).

The action of a governing board establishing a specific capital reserve is subject to permissive referendum if an authorization to issue indebtedness for the same improvement or equipment is subject to either a permissive or mandatory referendum, except for fire districts. For fire districts, action of the board of fire commissioners establishing any capital reserve fund may not take effect until approved by a vote of qualified electors of the fire district (i.e., a mandatory referendum), effective January 1, 2007.

There are no referendum requirements for expenditures made from a specific capital reserve fund. However, expenditures from specific capital reserve funds can only be made upon authorization of the governing board.

### Type Capital Reserves

The governing board should authorize (by resolution) the establishment of a type improvement or equipment reserve, but there is no requirement to state an estimated maximum cost of the equipment or improvement in the resolution. A sample resolution for establishing a type capital reserve is included in [Appendix D](#).

A referendum is not required when establishing a type capital reserve fund, except in fire districts. For fire districts, action (resolution) of the board of fire commissioners establishing *any* capital reserve fund may not take effect until approved by a vote of qualified electors of the fire district (i.e., a mandatory referendum).

For certain municipalities, expenditures made from a type capital reserve are subject to permissive referendum. If an authorization to issue indebtedness for the purchase of such improvement or equipment is subject to either permissive or mandatory referendum, then the expenditure of type capital reserve funds for the same purpose is generally subject to permissive referendum.

### Permissive and Mandatory Referendum Requirements

There are two types of referendums that apply to the establishment of or the expenditure of capital reserve funds. In this guide, the terms permissive and mandatory referendums are defined as follows:

- Generally, an action subject to *permissive referendum* requires the municipality to publish and post a legal notice informing taxpayers of the board's planned action (e.g., the establishment of a specific capital reserve). The legal notice also informs eligible voters of their right to file a petition to require the matter to be subjected to voter approval.
- For a *mandatory referendum*, no petition is filed and in all cases eligible voters of the municipality must approve the proposed action or question before the action can take place.

Permissive and mandatory referendum requirements for capital reserves are associated with the referendum requirements for bond issues. Referendum requirements vary depending on the type of municipality involved.

The following chart summarizes the referendum requirements for the establishment and expenditure of specific and type capital reserve funds.

Type of Locality	Referendum Requirements for Bond Issues	Referendum Requirements for Capital Reserves	
		Specific Reserves	Type Reserves
<b>Fire Districts</b>	Bond resolutions must be approved by district voters at a regular or special election.	<i>Establishment</i> is subject to a mandatory referendum.  <i>Expenditures</i> can only be made following the adoption of a resolution by the board of fire commissioners. These resolutions are not subject to referendum.	<i>Establishment</i> is subject to a mandatory referendum.  <i>Expenditures</i> can only be made following the adoption of a resolution, subject to permissive referendum.
<b>Villages</b>	Bond resolutions are subject to permissive referendum unless the proposed maturity of the bonds is five years or less, or unless the bonds are issued to finance judgments and claims, sewers and capital improvements financed by benefit assessments, certain street and highway improvements, and incinerators and refuse disposal facilities. Bond resolutions may also be submitted to referendum by motion of the board.	With certain exceptions, a permissive referendum is required upon <i>establishment</i> , unless the period of probable usefulness of the specific capital improvement or equipment is less than five years.*  No referendum requirements for <i>expenditures</i> .	No referendum requirements for <i>establishment</i> .  With certain exceptions, a permissive referendum is required prior to <i>expenditure</i> , unless the period of probable usefulness of the type capital improvement or equipment is less than five years.
<b>Towns</b>	With certain exceptions, same as villages.	Same requirements as villages.**	Same requirements as villages.
<b>Cities</b>	Referendums are not required unless specified in the city charter or required by local law.	Generally not required.	Generally not required.
<b>Counties</b>	Bond resolutions are not subject to referendum requirements, except for bond resolutions for appraisals for equalization purposes, which are subject to permissive referendum.***	Generally not required.	Generally not required.

\* See Local Finance Law Section 36.00(a) (1).

\*\* See Local Finance Law Section 35.00 (b) (1).

\*\*\*Certain bond resolutions in excess of \$10,000,000 are subject to mandatory referendum in Westchester County (Local Finance Law Section 33.10).

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## Source of Funds

Capital reserve funds may generally be funded with:

- Budgetary appropriations<sup>7</sup>
- Revenues not required by law to be paid into any other fund or account (e.g., transfers from unexpended balances of existing appropriations and surplus moneys).

Highway fund moneys (in towns) may be used for the establishment of a capital reserve, so long as the moneys are expended for the purpose for which they were levied or received, and provided the town highway superintendent and town board consent and the county highway superintendent approves. Such moneys may be expended from the capital reserve only on order of the town highway superintendent, upon audit, and with the consent of the town board.

## Special Provisions

If a town is located wholly or partly in the Adirondack Park (see [Appendix B](#)) and has State lands subject to taxation assessed (at more than 30 percent of total taxable assessed valuation of the town), the State Comptroller must consent to the establishment of, and expenditures or transfers from, a capital reserve fund in the town, or in a fire district located wholly or partly within such a town.

## Use of Unexpended Balances

Generally, unexpended balances in a capital reserve fund may be transferred to another capital reserve having the same tax base.

- a) *Capital Reserve Balances Remaining After Completion or Acquisition* If there is an unexpended (residual) balance remaining in a specific or type capital reserve after the capital improvement or item of equipment has been completed or acquired, the governing board may appropriate all or any part of such remaining balance *to another capital reserve fund without referendum*. An amount sufficient to satisfy all outstanding claims arising from the construction, reconstruction, or acquisition of the improvement or the acquisition of the equipment should remain designated for such claims until they are satisfied.

Additionally, in a municipality, all or part of the unexpended balance of a capital reserve established for a *specific improvement or item of equipment* that has been completed or acquired (less amounts required to satisfy all outstanding claims related to such improvement or equipment) may be appropriated for:

- An object or purpose for which bonds may be issued
  - The payment of interest on and principal of indebtedness (except indebtedness for assessable improvements and certain indebtedness excludable from constitutional debt limits) (GML Section 6-c [9-a]).
- b) *Capital Reserve Balances Never Utilized* Where a specific capital reserve has been established, and the improvement or item of equipment *has not been acquired or completed*, any transfer is subject to permissive referendum if the authorization for the creation of the reserve was subject to *permissive referendum*.<sup>8</sup> While subject to a public hearing with 15 days' notice, unexpended balances may also be transferred to a Retirement Contribution Reserve Fund.<sup>9</sup>

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## Repair Reserve Fund (GML Section 6-d)

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### Purpose

To pay for certain repairs to capital improvements or equipment. The type of repairs must not recur annually or at shorter intervals.

### Who May Create

Municipal corporations (towns, villages, cities, counties), district corporations (e.g., fire districts), school districts, and town or county improvement districts.

### How to Create and Use

There are no referendum requirements for the establishment of a repair reserve fund or for expenditures from the fund.<sup>10</sup> A resolution appropriating moneys from a repair reserve fund is subject to a public hearing and at least five days must elapse between the publication of the notice of hearing and the date specified for the hearing. In an emergency, moneys in a repair reserve fund may be expended without giving notice and without holding a public hearing. To make such an emergency expenditure, the governing board must pass a resolution approved by at least a two-thirds vote. In addition, at least one-half of the expenditure must be repaid in the next fiscal year and the balance repaid by the end of the fiscal year after that.

### Source of Funds

Budgetary appropriations and revenues that are not required by law to be paid into any other fund or account (e.g., transfers from unexpended balances of existing appropriations, surplus moneys).

### Special Provisions

If a town is located wholly or partly in the Adirondack Park (see [Appendix B](#)) and has State lands subject to taxation assessed at more than 30 percent of the total taxable assessed valuation in a town, the State Comptroller's Office must consent to the establishment of, and appropriations from, a repair reserve fund in the town or in any district corporation or improvement district situated wholly or partially in such a town.

### Use of Unexpended Balances

All or any part of a repair reserve fund may generally be transferred to a capital reserve fund or, in school districts, to a reserve fund established pursuant to Section 3651 of the Education Law, or to a contingency and tax stabilization reserve fund. Subject to a public hearing with 15 days' notice, unexpended balances may also be transferred to a Retirement Contribution Reserve Fund, established pursuant to GML Section 6-r.

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## Contingency and Tax Stabilization Reserve Fund (GML Section 6-e)

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### Purpose

To finance certain unanticipated revenue losses or unanticipated expenditures chargeable to the “eligible portion of the annual budget,” and to lessen or prevent projected increases in excess of 2½ percent of the amount of the real property tax levy needed to finance the eligible portion of the annual budget.

The law defines “unanticipated expenditure” as “an expenditure for a specific purpose for which there is no or insufficient appropriation or which will cause an appropriation to be insufficient that is necessitated by a change in federal or state laws, rules or regulations, a court order, judgment or decree, a public emergency, or an industry-wide price, rate or premium increase, which takes effect or occurs after final adoption of the annual budget and which could not have been reasonably anticipated prior to final adoption of the annual budget.”

An “unanticipated revenue loss” means “estimated revenue which is rendered unreceivable because of a change in federal or state laws, rules or regulations, a court order, judgment or decree, or other circumstance, which takes effect or occurs after final adoption of the annual budget and which could not have been reasonably anticipated prior to final adoption of the annual budget.”

The “eligible portion of the annual budget” means in the case of a contingency and tax stabilization reserve fund established for: (1) a county, city, village or fire district, the general fund portion of the annual budget; (2) a town, the town-wide general fund and highway fund portions of the annual budget; and (3) the part of a town outside any villages, the general fund and highway fund portions of the annual budget for such part of the town.

### Who May Create

Counties, cities, villages, fire districts and towns (for town-wide and part-town general funds and highway funds).

### How to Create and Use

Created by resolution of the governing board subject to permissive referendum. Generally, may be used only upon recommendation of the chief executive officer and resolution adopted by at least a two-thirds vote of the governing board.

### Source of Funds

Budgetary appropriations; unrestricted, unappropriated fund balance; and such revenues not required by law to be paid into any other fund or account. No amount may be appropriated for payment into a contingency and tax stabilization reserve fund that would cause the balance of the fund to exceed 10 percent of the eligible portion of the annual budget for the fiscal year for which the appropriation would be made.

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## Special Limitation on Maximum Amount in Fund

When preparing a tentative budget, if the current balance of the contingency and tax stabilization fund exceeds 10 percent of the eligible portion of the annual budget for the current fiscal year, any excess must be used to reduce the amount of real property taxes needed to finance the eligible portion of the annual budget for the next fiscal year.

There are three additional limitations on the use of moneys in the fund:

- The maximum that may be used to finance an unanticipated revenue loss shall equal either the amount of revenue actually received for the base year<sup>11</sup> or the amount of the estimated revenue for the current fiscal year, whichever is less, minus the amount of the revenue actually received for the current year. In addition, moneys in the fund may be used only to finance that portion of an unanticipated revenue loss which, as a matter of law, cannot be financed from moneys available in any other account or fund.
- The maximum that may be used to finance an unanticipated expenditure shall equal the sum of the amount of the unanticipated expenditure and the amount appropriated for that purpose for the current fiscal year minus either the amount appropriated for that purpose for the current fiscal year or the actual expenditure for the same purpose in the base year, whichever is greater. In addition, moneys in the fund may be used only to finance that portion of an unanticipated expenditure that, as a matter of law, cannot be financed from moneys available in any other account or fund.
- The maximum that may be used to lessen or prevent a projected increase in excess of 2½ percent of real property tax levy needed to finance the eligible portion of the annual budget shall equal the difference between the projected amount of the real property tax levy and 102½ percent of the amount of the real property tax levy needed to finance the eligible portion of the annual budget for the current fiscal year.

## Use of Unexpended Balances

Subject to a public hearing on 15 days' notice, unexpended balances may also be transferred to a Retirement Contribution Reserve Fund.



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## Snow and Ice Removal and Road Repair Reserve (GML Section 6-f)

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### Purpose

To pay for the cost of removal of snow and ice from public thoroughfares and public places of a municipal corporation, and the cost of repairing and maintaining roadways to the extent that such damage was caused by the removal of snow and ice, provided that such snow and ice removal or repairs and maintenance are of a type not likely to recur annually or at shorter intervals.

### Who May Create

Municipal corporations (counties, cities, villages and towns).

### How to Create and Use

A referendum is not required to establish this reserve. However, except with respect to emergencies as indicated below, a resolution appropriating moneys from this reserve fund is subject to a public hearing after prior public notice has been published. At least five days must elapse between the publication of the notice and the date specified for the hearing.

In an emergency, moneys in this reserve may be expended without a public hearing, by resolution approved by at least a two-thirds vote of the governing board. At least one-half of the moneys expended must be repaid in the next fiscal year and the balance repaid by the end of the fiscal year after that.

### Sources of Funds

Budgetary appropriation and revenues that are not required by law to be paid into any other fund or account (e.g., transfers from unexpended balances of existing appropriations, surplus moneys).

### Special Provisions

If a town is located wholly or partly within the Adirondack Park (see [Appendix B](#)) and has State lands subject to taxation assessed at more than 30 percent of the total taxable assessed valuation of the town, the establishment of, and appropriations from, the snow and ice removal and road repair reserve fund in the town is subject to the consent of the State Comptroller.

### Use of Unexpended Balances

In general, all or any part of a reserve fund for snow and ice removal and road repair may be transferred to a capital reserve fund, a repair reserve fund, or a tax stabilization reserve fund. In addition, subject to a public hearing on 15 days' notice, unexpended balances may also be transferred to a Retirement Contribution Reserve Fund.

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## Reserve Fund for Payment of Bonded Indebtedness (GML Section 6-h)

### Purpose

To pay or purchase one or more issues of certain bonds of a town, village, city, county or fire district; however, such a bonded indebtedness reserve fund may not be established for, or used to pay, obligations payable in the first instance from assessments or from taxes levied on an area smaller than the entire town, village, city, county or fire district.

Expenditures may be made only for the payment of the principal and interest on bonds issued by such municipality or fire district and forming a part of an issue having a maximum maturity of not less than five years or for the purchase of bonds issued by such municipality or fire district and forming a part of an issue having a maximum maturity of not less than five years, subject to certain additional restrictions as to purchase price and terms. If the current budget provides for payment of principal and interest on bonds or the purchase of them from sources other than a reserve fund, moneys of the bonded indebtedness reserve fund may not be used to pay debt service or purchase the bonds during the current fiscal year.

### Who May Create

Municipal corporations (counties, towns, cities, villages) and fire districts.

### How to Create and Use

Created by resolution of the governing board. Appropriation pursuant to resolution of the governing board to expend money on permitted uses. No referendum is required to establish or expend moneys from the bonded indebtedness reserve fund.

### Sources of Funds

Budgetary appropriations and revenues not otherwise appropriated or required by law to be paid into any other fund or account (e.g., transfers from unexpended balances of existing appropriations, surplus moneys).

### Special Provisions

In any town located wholly or partly within the Adirondack Park (see [Appendix B](#)) that has State lands subject to taxation assessed at more than 30 percent of the total taxable assessed valuation of the town, a bonded indebtedness reserve fund may not be established unless the State Comptroller consents, and no expenditure or transfer may be made unless the State Comptroller consents.

### Use of Unexpended Funds

The governing board of a municipal corporation may, subject to a permissive referendum, authorize the transfer of all or a portion of a bonded indebtedness reserve fund to a capital reserve fund. In a fire district, subject to voter approval at a regular or special election, the board of fire commissioners may authorize a transfer of all or a portion of the fund to a capital reserve fund.

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## Airport Amortization Fund (GML Section 6-i)

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### **Purpose**

To pay the cost of interest on and retirement of any outstanding indebtedness incurred for the acquisition and construction of an airport by a municipal corporation (county, city, town, village).

### **Who Creates**

Municipal corporations that acquire or construct an airport after April 5, 1944, are required to establish such a reserve fund.

### **Sources of Funds**

All revenues derived from such airport operations, except parking fees, sightseeing fees and rentals derived from leases of airport real property not used exclusively for air transportation operations, must be paid into the fund.

### **Use of Unneeded Balances**

Any balance remaining beyond the amount required for the above purpose shall be paid into the general fund to be used for general municipal purposes.

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## Airport Development Fund (GML Section 6-i)

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### **Purpose**

To pay the cost of acquisition, construction or physical development of an airport acquired, constructed or maintained by a municipal corporation (county, city, town, village).

### **Who Creates**

Municipal corporations that acquire, construct or maintain an airport and receive certain payments prior to construction or commencement of operation are required to establish such a reserve fund.

### **Sources of Funds**

All payments for leases, permits, or other airport privileges received prior to the construction or the commencement of airport operations must be paid into the fund.

### **Use of Unexpended Balances**

Must be used solely for the above-mentioned purposes.

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## Workers' Compensation Reserve Fund (GML Section 6-j)

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### Purpose

To pay compensation and benefits, and medical, hospital or other expenses authorized by Article 2 of the Workers' Compensation Law and by the Volunteer Firefighters' Benefit Law and to pay the expenses of administering a self-insurance program.

### Who May Create

Municipal corporations (counties, cities, towns, villages), school districts or fire districts that are self-insurers under Section 50(4) of the Workers' Compensation Law or Section 30 of the Volunteer Firefighters' Benefit Law.

### How to Create and Use

Created by resolution of the governing board. A referendum is not required either to create or expend moneys from the reserve.

### Sources of Funds

Budgetary appropriations and other sums as may be legally appropriated (e.g., surplus moneys).

### Use of Unexpended Balances

If at the end of any fiscal year, moneys in the fund exceed the amounts required to be paid for compensation, benefits and expenses, plus any additional amount required to pay all pending claims, the governing board, within 60 days of the close of such fiscal year, may elect to transfer all or part of the excess amount to certain other reserve funds, and/or may apply all or part of the excess to the budget appropriation of the next succeeding fiscal year. If the local government ceases to be a self-insurer, moneys remaining in the fund may be transferred to certain other reserve funds, but only to the extent moneys in the fund exceed an amount sufficient to pay all authorized expenditures, both accrued and contingent.

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## Electric Utility Depreciation Reserve Fund (GML Section 6-k)

### Purpose

To be used for the improvement, extension or replacement of an electric public utility service or the payment of indebtedness related to the construction, improvement, extension or replacement of such service, with certain exceptions.

### Who May Create

Municipal corporations (counties, cities, towns, villages) operating an electric public utility service are required to establish such a reserve fund.

### How to Create and Use

Created by resolution of the governing board and used only as stated above.

### Sources of Funds

Funded solely by appropriations from revenues of the electric utility service. The governing board must require that, out of the revenues of the electric utility service, there will be deposited in the reserve fund, annually, quarterly, or monthly at its discretion, the amounts entered in the depreciation reserve account of the utility service as the depreciation accruals for such period. A depreciation reserve account is an account in which the original cost of the service is distributed to expenses in substantially equal annual, quarterly, or monthly amounts during the expected service life of the component parts of the service, by direction of the Public Service Commission.

### Use of Unexpended Balances

Must be used solely for the established purpose.

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## Mandatory Reserve Fund (GML Section 6-I)

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### Purpose

To generally restrict the use of (1) the proceeds of the cash sale of a capital improvement and (2) State and federal aid received for a capital improvement to the retirement of outstanding obligations issued to finance such improvement.

### Who Creates

Required generally for municipal corporations (counties, cities, towns, villages), town and county improvement districts, fire districts and school districts, upon the cash sale of a capital improvement, financed by obligations that remain outstanding at the time of the sale.<sup>12</sup> Also required when municipal corporations (counties, cities, towns, villages), town and county improvement districts, fire districts and school districts have outstanding indebtedness incurred to finance a capital improvement and federal or State aid is received for this improvement, to the extent the aid is not applied directly to the payment of a part of the cost of the improvement or to retire indebtedness issued in anticipation of such aid (i.e., revenue anticipation notes).

### How to Create and Use

Creation is mandatory as outlined above. A referendum is not required either to authorize or expend moneys from the fund. Moneys in the fund may be used only to retire the obligations issued to finance the capital improvement sold or for which federal or State aid is received or other obligations of at least equal weighted average life.

### Sources of Funds

Proceeds from the cash sale of a capital improvement that was financed by obligations that remain outstanding at the time of the sale and State and federal aid received for a capital improvement financed by obligations that are outstanding at the time the aid is received.

### Use of Unexpended Balances

If the aggregate amount exceeds the principal of the outstanding indebtedness due, or to become due, any excess may be used for any lawful municipal or district purpose. Also, if there are any remaining unexpended moneys in the fund when all of the outstanding obligations have been retired, the excess may be used for any lawful municipal or district purpose.

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## Unemployment Insurance Payment Reserve Fund (GML Section 6-m)

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### Purpose

To reimburse the State Unemployment Insurance Fund for payments made to claimants where the municipality has elected to use the “benefit reimbursement” method.

### Who May Create

Municipal corporations (counties, cities, towns, villages), school districts, fire districts and boards of cooperative educational services (BOCES) that have elected to become liable for payments in lieu of contributions under Article 18 of the Labor Law.

### How to Create and Use

Created by resolution of the governing board. A referendum is not required either to create or expend the reserve. Expenditures may be made only as required by law to pay into the Unemployment Insurance Fund an amount equivalent to the amount of benefits paid to claimants and charged to the account of the municipal corporation, school district, fire district or BOCES in accordance with Labor Law Section 581(1)(e).

### Source of Funds

Budgetary appropriations, amounts from certain other reserve funds subject to permissive referendum, and other funds that may be legally appropriated.

### Use of Unexpended Balances

If at the end of any fiscal year, the moneys in the fund exceed amounts required to be paid into the Unemployment Insurance Fund as described above, plus any additional amounts required to pay all pending claims, the governing board, within 60 days of the close of the fiscal year, may elect to transfer all or part of the excess amounts to certain other reserve funds, and/or apply all or part of the excess to the budget appropriation of the next succeeding fiscal year. If the local government terminates its election to become liable for payments in lieu of contributions (i.e., elects to convert to “tax contribution” basis), moneys remaining in the fund may be transferred to certain other reserve funds, to the extent moneys in the fund exceed amounts sufficient to pay all pending claims.

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## Insurance Reserve Fund (GML Section 6-n)

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### Purpose

To fund certain uninsured losses, claims, actions or judgments for which the local government is authorized or required to purchase or maintain insurance, with a number of exceptions. An insurance reserve fund may also be used to pay for expert or professional services in connection with the investigation, adjustment or settlement of claims, actions or judgments.

An insurance reserve may not be used to pay for uninsured losses, claims, actions or judgments for which the following types of insurance are authorized:

- Life insurance
- Annuities
- Accident and health insurance
- Workers' compensation and employers' liability insurance (including volunteer firefighters' benefit insurance and volunteer ambulance workers' benefit insurance; but see earlier discussion of Workers' Compensation Reserve Fund )
- Fidelity and surety insurance
- Credit insurance
- Title insurance
- Residual value insurance
- Mortgage guarantee insurance.

In addition, an insurance reserve may not be used for payments in lieu of unemployment insurance contributions under Article 18 of the Labor Law (but see earlier discussion of Unemployment Insurance Payment Reserve Fund).

Also, a municipality may not pay from an insurance reserve for any loss, claim, action or judgment for which it has established a reserve fund under any other provision of law. However, if a local government has previously established a reserve fund under another provision of law for a type of risk for which expenditures may be made under Section 6-n, it may discontinue the other reserve and transfer any unexpended balance to a Section 6-n reserve, subject to certain limitations.

### Who May Create

Municipal corporations (counties, cities, towns, villages), fire districts and other district corporations, special improvement districts governed by a separate board of commissioners, boards of cooperative educational services and school districts (except a school district in a city with a population of 125,000 or more).



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## How to Create and Use

Created by resolution of the governing board. A referendum is not required either to create or expend moneys from the reserve.

## Sources of Funds

Budgetary appropriations, amounts from any other fund authorized by the General Municipal Law subject to permissive referendum, and such other funds as may be legally appropriated.

## Special Provisions

The amount paid into this reserve fund during any fiscal year may not exceed the greater of \$33,000 or 5 percent of the total budget of the fiscal year. There is no limit on the cash balance.

Moneys in the fund may be used to fund the payment of actions or claims that have been compromised or settled with judicial approval, where the amount of the settlement or compromise does not exceed \$25,000.

In maintaining accounting records for this fund, the chief fiscal officers must keep a separate account for each kind of risk funded in the Insurance Reserve Fund.

## Use of Unexpended Balances

If it is determined that the fund is no longer needed, the moneys remaining in the fund may be transferred to another reserve fund authorized by the General Municipal Law (supported by the same tax base) or, in the case of a school district, a reserve fund established under Education Law Section 3651 (see discussion on the School District Capital and Tax Certiorari Reserve Funds), but only to the extent that the moneys in the fund exceed a sum sufficient to pay all liabilities incurred or accrued against the funds, as certified to the governing board by the fiscal and legal officers of the local government prior to the discontinuance of the fund.

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## Solid Waste Management Facility Reserve (GML Section 6-o)

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### **Purpose**

To pay for the design, construction and operation of solid waste management facilities owned or operated by a municipality, and for closure or post-closure care, including operation and maintenance expenses of solid waste management facilities owned or operated by or on behalf of such municipality.

### **Who May Create**

A municipal corporation (county, town, village, city) or its designated agency, a solid waste management district, and a public authority or public benefit corporation having power to construct, operate and maintain a solid waste management facility.

### **How to Create and Use**

Created by resolution of the governing board. A referendum is not required either to create or expend moneys from the reserve.

### **Sources of Funds**

Amounts as the governing board may, from time to time, deem appropriate, including but not limited to a percentage of fees received by the municipality from operation of the solid waste management facilities.

### **Use of Unexpended Balances**

The governing board may authorize the transfer of any unexpended balance from the solid waste management facility reserve fund to the credit of a capital reserve fund, if the unexpended balance remaining in the fund “established for a specific capital improvement” has been completed, after deducting from such unexpended balance a sum sufficient to satisfy all outstanding claims arising from the construction, reconstruction or acquisition of such capital improvement.

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## Employee Benefit Accrued Liability Reserve Fund (GML Section 6-p)

### Purpose

To pay for any accrued “employee benefit” due an employee on termination of the employee’s service.<sup>13</sup>

Expenditures may be made from an employee benefit accrued liability reserve fund for the payment of all or part of the cost, including interest, of:

- The cash payment of the monetary value of accumulated or accrued and unused sick leave, holiday leave, vacation leave, time allowance granted in lieu of overtime compensation and other forms of payment for accrued leave time and benefits due to a municipal employee upon termination of municipal employment and separation from service as required by ordinance, local law, collective bargaining agreement or Section 6 of the Civil Service Law
- The reasonable costs of the administration of the reserve fund
- Expert or professional services rendered in connection with the investigation, adjustment or settlement of claims, actions or judgments relating to claims for accrued employee benefits.

### Who May Create

Municipal corporations (counties, cities, towns, villages), fire districts and other district corporations, school districts (except a school district in a city with a population of 125,000 or more), boards of cooperative educational services and special improvement districts governed by a separate board of commissioners.

### How to Create and Use

Created by resolution of the governing board. A referendum is not required either to create or expend moneys from the reserve.

### Sources of Revenue

Budgetary appropriations, amounts from certain other reserve funds subject to permissive referendum and other funds that may be legally appropriated.

### Special Provisions

No expenditure shall be made from an employee benefit accrued liability reserve fund for any employee benefit for which a reserve fund has already been established under any other provision of law. However, if a municipal corporation has previously established a reserve fund for a type of accrued employee benefits for which expenditures may be made from the employee benefit accrued liability reserve fund, the municipal corporation may, by resolution, discontinue such other reserve fund and transfer any unexpended balance to the employee benefit accrued liability reserve fund, subject to certain limitations.

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## Use of Unexpended Balances

If the governing body determines that such fund is no longer needed, any remaining moneys may be transferred to any other reserve fund authorized by the General Municipal Law (supported by the same tax base) or, in the case of school districts, a reserve fund established under Education Law Section 3651, but only to the extent that the moneys in the employee benefit accrued liability reserve fund exceed a sum sufficient to pay all liabilities incurred or accrued against the employee benefit accrued liability fund, as certified to the governing board by the fiscal and legal officers of the local government prior to the discontinuance of the fund.

## Retirement Contribution Reserve Fund (GML Section 6-r)

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### Purpose

For the payment of “retirement contributions,” which are defined as all or any portion of the amount payable to either the New York State and Local Employees’ Retirement System or the New York State and Local Police and Fire Retirement System pursuant to Sections 17 or 317 of the Retirement and Social Security Law, or the New York State Teachers’ Retirement System pursuant to Section 521 of the Education Law.

### Who May Create

Municipal corporations (counties, cities, towns, villages), school districts (except a school district in a city with a population of 125,000 or more), boards of cooperative educational services, fire districts and other district corporations, police districts, and special improvement districts governed by a separate board of commissioners, which are “participating employers” as defined in Retirement and Social Security Law Sections 2(20) or 302(20) or Education Law Section 501(3).

### How to Create and Use

Created, and expenditures authorized, by resolution of the governing board of a municipality which is a participating employer to finance retirement contributions or for financing appropriations authorized by law in order to offset all or a portion of the amount deducted from the moneys apportioned to the municipal corporation from the State for the support of common schools. A referendum is not required either to create or expend moneys from the reserve. However, if a municipal corporation elects to participate in the New York State Teachers’ Retirement System or to offset the moneys apportioned for support of common schools, then the municipal corporation is required to establish a sub-fund within the retirement contribution reserve fund, which shall be separately administered.<sup>14</sup>

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## Sources of Funds

- Budgetary appropriations or taxes raised for the reserve
- Revenues that are not required by law to be paid into any other fund or account
- Amounts from reserve funds established pursuant to Sections 6-c, 6-d, 6-e, 6-f or 6-g of the General Municipal Law (supported by the same tax base), or pursuant to Education Law Section 3651 subject to public hearing requirements
- Other funds that may be legally appropriated.

## Use of Unexpended Balances

The board may authorize the transfer of a portion of the moneys in the retirement contribution reserve to a reserve fund established pursuant to Sections 6-c, 6-d, 6-e, 6-f or 6-g of the General Municipal Law (supported by the same tax base), or in the case of a school district, a reserve fund established pursuant to Section 3651 of the Education Law. Such a transfer is subject to a public hearing. If the board determines that the retirement contribution reserve is no longer needed, the board may terminate the fund by resolution. The resolution must transfer any moneys remaining in the retirement contribution reserve to one or more reserve funds established pursuant to Sections 6-c, 6-d, 6-e, 6-f or 6-g of the General Municipal Law (supported by the same tax base), or in the case of a school district, one or more reserve funds established pursuant to Section 3651 of Education Law. The governing board of a municipal corporation which is a participating employer as defined pursuant to Education Law 501(3) may authorize by resolution (a) the transfer of all or a portion of the monies in the separately administered sub-fund as to the retirement contribution reserve fund, and/or (b) the transfer of all or a portion of the monies in the retirement contribution reserve fund to the separately administered sub-fund, subject to the limits on annual payments into the sub-fund and the balance of the sub-fund.

# Reserves Authorized by Other Statutes

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## Education Law – School Districts/BOCES

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- Property Loss and Liability Claims - Sections 1709 [8-c] (school districts), 1950[4] [cc] (BOCES)
- Reserve (Capital Purposes/Tax Certiorari) - Section 3651 (school districts)
- Tax Reduction (sale of real property) - Sections 1604[36], 1709[37] (school districts)
- Career Education Instructional Equipment - Section 1950 [4] [ee] (BOCES)

## Town Law – Suburban Towns Only

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- General Reserve - For Capital Purposes - Section 55
- Reserve for Improvement Districts - For Capital Purposes - Section 55-a
- Judgments and Claims - Section 55-b

## County Law – Counties Only

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- Tax and Revenue Anticipation Fund – Section 372

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## Property Loss Reserve and Liability Claims Reserve Fund (Education Law Sections 1709[8-c], 1950[4][cc])

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### Purpose

To establish and maintain a program of reserves to cover property loss and liability claims.

### Who May Create

Most school districts and BOCES.

### How to Create and Use

Created by resolution of the governing board and used to pay for property loss and liability claims. Separate funds must be established for property loss and for liability claims, and the separate identity of each fund must be maintained. There are no referendum requirements to create the funds or expend money from the funds for property loss and liability claims.

### Source of Funds

Budgetary appropriations.

### Special Provisions

For school districts, the total amount of reserves cannot exceed 3 percent of the annual budget (exclusive of any planned balance presently authorized) or \$15,000, whichever is larger. For BOCES, the total amount of reserves cannot exceed 3 percent of the annual budget. Neither a school district nor a BOCES reserve may be reduced below total amounts estimated to be necessary to cover incurred but unsettled claims or suits, including related expenses, other than by payment of losses for which such amounts were established.

### Use of Unexpended Balances

For school districts, payments may not be made for purposes other than those for which the funds were established unless authorized by public vote, except that the school board may authorize use of the reserve funds (other than amounts allocated for unsettled claims or suits including related expenses) to pay premiums for insurance policies purchased to insure subsequent losses in areas previously self-insured, in the event of dissolution of the self-insurance plan. For BOCES, the board may authorize use of the reserve funds (other than amounts allocated for unsettled claims or suits including expenses in connection therewith) to pay premiums for insurance policies purchased to insure subsequent losses in areas previously self-insured, in the event of dissolution of the self-insurance plan.

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## School District Capital and Tax Certiorari Reserve Funds (Education Law Section 3651)

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### Purpose

Education Law Section 3651(1) reserves:

To pay the cost of any object or purpose for which bonds may be issued by, or for the objects or purposes of, a school district pursuant to the Local Finance Law.

Education Law Section 3651(1-a) reserves:

To pay judgments and claims in tax certiorari proceedings in accordance with Article 7 of the Real Property Tax Law.<sup>15</sup>

### Who May Create

School districts only.

### How to Create and Use

Establishment of a Section 3651(1) reserve requires voter approval by a majority of qualified voters. (Exception: city school districts in a city having a population of 125,000 or more. Note, however, when school taxes must be included in the computation of a city's constitutional tax limit, the establishment of a reserve fund by the school authorities of such city is subject to the consent of the city legislative body.)

The notice for the voter approval must state that a proposition to establish a reserve fund will be submitted, the purpose of the fund, the ultimate amount thereof, its probable term and the source from which the funds would be obtained. The proposition that is voted upon must specify the purpose for which the fund would be established, the ultimate amount, the probable term and the source from which the funds are to be obtained. An expenditure from the reserve fund (except for school districts in a city having a population of 125,000 or more) must be authorized by district voters and for the specific purpose specified in the proposition.

Establishment of, and expenditures from, a Section 3651(1-a) reserve to pay judgments and claims in tax certiorari proceedings do not require voter approval.

### Source of Funds

Generally, an annual amount necessary to meet the requirements of the proposition under Section 3651(1); also, the voters may from time-to-time direct school authorities to pay moneys derived from any other source into a Section 3651(1) reserve. (No voter approval provision in the case of a school district in a city with population of 125,000 or more.) For a reserve under Section 3651(1-a), generally budgetary appropriations.



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## Special Provisions

- If a school district is located wholly or partly within the Adirondack Park (see [Appendix B](#)) and has State lands subject to taxation assessed at more than 30 percent of aggregate taxable assessed valuation in the district, the establishment of a reserve fund is subject to consent of the State Comptroller, on recommendation of the Commissioner of Education.
- The total amount in a Section 3651(1-a) reserve fund may not exceed the amount that might reasonably be deemed necessary to meet anticipated tax certiorari judgments and claims.
- The school authorities must annually render a detailed report of the operation and condition of each reserve fund under Section 3651, with a copy of the report filed with the Commissioner of Education.

## Use of Unexpended Balances

### Education Law Section 3651(1) Reserves

All or any part of the reserve established pursuant to Education Law Section 3651(1) may be transferred to another reserve fund established pursuant to that section with voter approval. Also, when voters determine that the original purpose of the reserve fund is no longer desirable, the reserve fund may be liquidated by applying the balance first to any outstanding bonded indebtedness and then, subject to certain limitations, to the annual tax levy. Voter approval is not required on transfers from or liquidation of reserve funds in a school district in a city having a population of 125,000 or more.

### Education Law Section 3651(1-a) Reserves

Funds reserved for tax certiorari judgments and claims pursuant to Education Law, Section 3651[1-a] that are not expended for the payment of judgments or claims arising out of tax certiorari proceedings for the tax roll in the year the moneys are deposited to the fund and/or that will not be “reasonably required to pay any such judgment or claim,”<sup>16</sup> must be returned to the general fund on or before the first day of the fourth fiscal year following the deposit of such moneys to the reserve fund.

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## **Tax Reduction Reserve Funds for School Districts (Education Law Sections 1604[36], 1709[37])**

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### **Purpose**

To reduce real property taxes over a period of time.

### **Who May Create**

School districts only.

### **How to Create and Use**

Created by resolution of the board of education and used to reduce school district real property taxes for a period not to exceed 10 years.

### **Source of Funds**

Proceeds from the sale or appropriation of real property, after being used for any other legally required purpose (e.g., General Municipal Law Section 6-I, discussed above).

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## Career Education Instructional Equipment Reserve Fund – BOCES (Education Law Section 1950[4][ee])

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### **Purpose**

To finance all or part of the cost of the replacement and purchase of advanced technology equipment used in instructional programs conducted by a BOCES.

### **Who May Create**

BOCES.

### **How to Create and Use**

Created by resolution of the BOCES governing board and approved by the boards of education of a majority of the school districts participating in the instructional program of a BOCES.

### **Sources of Funds**

Proceeds from the sale of career education instructional equipment used in the instructional programs of the BOCES and, subject to limitation imposed by regulations of the Commissioner of Education, by including depreciation expenses for the career education instructional equipment used in providing instructional services on a cooperative basis in computation of the cost of such services pursuant to Education Law Section 1950(4)(d), concerning “aidable shared services.”

### **Special Provisions**

The Commissioner of Education has promulgated regulations pertaining to this reserve (Regulations of the Commissioner of Education, Section 170.3[k]).

### **Use of Unexpended Balances**

In the event this reserve is liquidated, the moneys must be allocated to the school districts participating in the instructional programs of the BOCES in proportion to the value of their contributions to the fund. This must be done no later than 90 days after the liquidation is approved (pursuant to the Commissioner’s Regulations).

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## **General Reserve Fund – Suburban Towns (Town Law Section 55)**

### **Purpose**

To finance all, or part of, the cost of suburban<sup>17</sup> town objects or purposes which have periods of probable usefulness of at least five years (other than objects or purposes for which reserve funds may be established under Town Law Sections 55-a and 55-b; see below).

### **Who May Create**

Suburban towns only.

### **How to Create and Use**

Created by resolution of the town board. Expenditures may only be made for a specific object or purpose having a period of probable usefulness (see Local Finance Law Section 11.00) of at least five years and are subject to permissive referendum.

### **Source of Funds**

Budgetary appropriations, including transfers and amounts raised by tax and revenues not required by law to be paid into any other fund or account.

### **Special Provisions**

Expenditures from this fund may not be made for that part of the cost of an object or purpose which is to be borne by:

- assessments for benefit
- ad valorem taxes levied upon real property within the area benefited within the town
- ad valorem taxes levied upon real property within less than the entire area of the town.

### **Use of Unexpended Balances**

General Reserve Fund moneys may be temporarily advanced pursuant to Local Finance Law, Section 165.10.

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## Reserve Fund for Improvement District – Suburban Towns (Town Law Section 55-a)

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### **Purpose**

To finance all or part of the cost of a “specific object or purpose” or a “class of objects or purposes” (as defined in Local Finance Law, Sections 2.00; see also Local Finance Law, Section 11.00) that may be constructed, reconstructed, acquired, or provided by or on behalf of an improvement district located wholly within a suburban town.

### **Who May Create**

Suburban towns only.

### **How to Create and Use**

Authorization for the establishment of the fund is subject to a permissive referendum in the affected district; no referendum required on expenditure.

### **Sources of Funds**

Budgetary appropriations and district revenues not required by law to be paid into any other fund or account.

### **Special Provisions**

Authorization to establish fund must set forth estimated maximum cost of the specific object or purpose or class of them.

### **Use of Unexpended Balances**

All or part of an unexpended balance may be transferred to another reserve fund created for the district affected; however, if the object or purpose (or class thereof) for which the fund was established has been completed, acquired or provided, a sum sufficient to satisfy all outstanding claims arising from the completion, acquisition or provision must be retained in the fund and not transferred.

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## Reserve Fund for Judgments and Claims – Suburban Towns (Town Law Section 55-b)

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### Purpose

To pay all or part of the cost of judgments or compromised or settled claims against the town, and awards or sums payable pursuant to a determination by a court, or an officer, body or agency acting in an administrative or quasi-judicial capacity.

### Who May Create

Suburban towns only.

### How to Create and Use

Created and expended by resolution of the town board; no referendum for establishment or expenditure.

### Sources of Funds

Budgetary appropriations, including transfers and amounts raised by tax, and revenues not required by law to be paid into any other fund or account.

### Special Provisions

May not exceed the greater of \$33,000 or 5 percent of the total budget for the fiscal year at any time, exclusive of interest earned or capital gains realized from investment of moneys in such fund. When an expenditure is made from the fund, however, additional money may be appropriated or transferred into the fund in an amount that, together with all moneys remaining in the fund (including interest or capital gains realized from investments), does not exceed the greater of \$33,000 or 5 percent of the total budget for the fiscal year.

Also, this fund may be used to pay all or part of the cost of judgments, claims, awards or determinations arising out of the management, improvement, operation or maintenance of any improvement district within the town. However, the amounts paid must be charged back against the district and must be included in determining the maximum amount of such fund exclusive of investment earnings.

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## Tax and Revenue Anticipation Fund for Counties (County Law Section 372)

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### **Purpose**

Created as a revolving fund for the investment in non-interest bearing tax anticipation or revenue anticipation notes of the county, or renewals of them so long as they are paid on or before the end of the fiscal year in which purchased.

### **Who May Create**

Counties only.

### **How to Create and Use**

Resolution of the county governing board; no referendum requirements for establishment or expenditure.

### **Source of Funds**

Budgetary appropriations and moneys not required by law to be paid into another fund or account.

### **Special Provisions**

The reserve cannot exceed 30 percent of the total estimated expenditures as contained in the budget for the fiscal year established. In subsequent years, additional amounts may be paid into the fund, provided that the payments do not increase the total amount of the fund to an amount greater than 30 percent of the total estimated expenditures as contained in the budget for the fiscal year in which the payment is made. Interest earned is general county revenue.

### **Use of Unexpended Balances**

All or part of moneys in the fund may be transferred by governing board resolution to a reserve fund established pursuant to Article 2 (Section 6-c and following) of the General Municipal Law.

# Appendix A

## A Summary of Reserves Authorized by Sections of Article 2 of the General Municipal Law (GML)

	6-c	6-d	6-e	6-f	6-g	6-h	6-i	6-j	6-k	6-l	6-m	6-n	6-o*	6-p	6-r
<b>County</b>	x	x	x	x		x	x	x	x	x	x	x	x	x	x
<b>City</b>	x	x	x	x		x	x	x	x	x	x	x	x	x	x
<b>Village</b>	x	x	x	x		x	x	x	x	x	x	x	x	x	x
<b>Town</b>	x	x	x	x		x	x	x	x	x	x	x	x	x	x
<b>Fire District</b>		x	x		x	x		x		x	x	x		x	x
<b>School District</b>		x						x		x	x	x**		x**	x**
<b>BOCES</b>											x	x		x	x
<b>District Corporation</b> (other than a fire district)		x										x		x	x
<b>Town or County Improvement District</b>	x***	x													
<b>Special Improvement District</b> (governed by a separate board)												x		x	x

\* May also be created by certain solid waste management districts, public authorities and public benefit corporations.  
 \*\* Except a district in a city with a population of 125,000 or more  
 \*\*\* Water and sewer districts only

<u>Name of Reserve</u>	<u>GML Section</u>
Capital	6-c
Repair	6-d
Contingency and Tax Stabilization	6-e
Snow and Ice Removal and Road Repair	6-f
Capital (fire districts)	6-g
Reserve Fund for Payment of Bonded Indebtedness	6-h
Airport Amortization	6-i
Airport Development	6-i
Workers' Compensation	6-j
Electric Utility Depreciation	6-k
Mandatory	6-l
Unemployment Insurance Payment	6-m
Insurance	6-n
Solid Waste Management Facility	6-o
Employee Benefit Accrued Liability	6-p
Retirement Contribution	6-r



# Appendix B

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## Towns Located Wholly or Partially in the Adirondack Park That Have State Lands

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<b>Clinton County</b>	Altona, Ausable, Black Brook, Dannemora, Ellenburg, Peru, Plattsburgh and Saranac
<b>Essex County</b>	All but Willsboro and Essex
<b>Franklin County</b>	Altamont, Belmont, Duane, Brighton, Franklin, Harrietstown, Santa Clara and Waverly
<b>Fulton County</b>	All but Perth and Johnstown
<b>Hamilton County</b>	All
<b>Herkimer County</b>	Ohio, Russia, Salisbury and Webb
<b>Lewis County</b>	Croghan, Lyonsdale, Diana, Greig and Watson
<b>Oneida County</b>	Forestport and Remsen
<b>St. Lawrence County</b>	Clare, Clifton, Hopkinton, Parishville, Colton, Fine, Piercefield and Pitcairn
<b>Saratoga County</b>	Corinth, Edinburg, Hadley, Greenfield, Providence and Day
<b>Warren County</b>	All
<b>Washington County</b>	Dresden and Fort Ann

# Appendix C

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## Sample Resolution Establishing a Capital Reserve Fund to Finance a Specific Capital Improvement or Item(s) of Equipment

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RESOLVED, that pursuant to Section 6-c [6-g for fire districts] of the General Municipal Law, as amended, there is hereby established a capital reserve fund to be known as the “\_\_\_\_\_ Reserve Fund” (hereinafter “Reserve Fund”). The purpose of this Reserve Fund is to accumulate moneys to finance the cost of a specific [capital improvement] [item(s) of equipment]. The specific [capital improvement] [item(s) of equipment] to be financed from the Reserve Fund [is] [are] the [construction] [reconstruction] [acquisition] of \_\_\_\_\_. The estimated maximum cost of such [capital improvement] [item(s) of equipment] is \_\_\_\_\_.

The chief fiscal officer is hereby directed to deposit and secure the moneys of this Reserve Fund in the manner provided by Section 10 of the General Municipal Law. [The governing board] [The chief fiscal officer] may invest the moneys in the Reserve Fund in the manner provided by Section 11 of the General Municipal Law, and consistent with the investment policy of the [local government]. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of the Reserve Fund. The chief fiscal officer shall account for the Reserve Fund in a manner which maintains the separate identity of the Reserve Fund and shows the date and amount of each sum paid into the fund, interest earned by the fund, capital gains or losses resulting from the sale of investments of the fund, the amount and date of each withdrawal from the fund and the total assets of the fund, showing cash balance and a schedule of investments, and shall, at the end of each fiscal year, render to the Board a detailed report of the operation and condition of the Reserve Fund.

Except as otherwise provided by law, expenditures from this Reserve Fund shall be made only for the purpose for which the Reserve Fund is established. No expenditure shall be made from this Reserve Fund without the approval of this governing board and such additional actions or proceedings as may be required by Section 6-c [6-g] of the General Municipal Law and any other law.

This resolution is subject to permissive [mandatory] referendum pursuant to subdivision 4 of Section 6-c [6-g] of the General Municipal Law.

**Note:** *If the moneys in the Reserve Fund will consist of town highway moneys, the establishment of the Reserve Fund is also subject to the consent of the town superintendent of highways and the approval of the county superintendent of highways. Expenditures would be made on order of the town superintendent of highways upon audit and with the consent of the town board.*

# Appendix D

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## Sample Resolution Establishing a Capital Reserve Fund to Finance a Type of Capital Improvement or Equipment

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RESOLVED, that pursuant to Section 6-c [6-g for fire districts] of the General Municipal Law, as amended, there is hereby established a capital reserve fund to be known as the “\_\_\_\_\_ Reserve Fund” (hereinafter “Reserve Fund”). The purpose of this Reserve Fund is to accumulate moneys to finance the cost of a type of [capital improvement] [equipment]. The type of [capital improvement] [equipment] to be financed from the Reserve Fund is the [construction] [reconstruction] [acquisition] of \_\_\_\_\_.

The chief fiscal officer is hereby directed to deposit and secure the moneys of this Reserve Fund in the manner provided by Section 10 of the General Municipal Law. [The governing board] [the chief fiscal officer] may invest the moneys in the Reserve Fund in the manner provided by Section 11 of the General Municipal Law, and consistent with the investment policy of [local government]. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of the Reserve Fund. The chief fiscal officer shall account for the Reserve Fund in a manner which maintains the separate identity of the Reserve Fund and shows the date and amount of each sum paid into the fund, interest earned by the fund, capital gains or losses resulting from the sale of investments of the fund, the amount and date of each withdrawal from the fund and the total assets of the fund, showing cash balance and a schedule of investments, and shall, at the end of each fiscal year, render to the Board a detailed report of the operation and condition of the Reserve Fund.

Except as otherwise provided by law, expenditures from this Reserve Fund shall be made only for the purpose for which the Reserve Fund is established. No expenditure shall be made from this Reserve Fund without the approval of this governing board and such additional actions or proceedings as may be required by Section 6-c [6-g] of the General Municipal Law or any other law, including a permissive referendum if required by subdivision 4 of Section 6-c [subdivision 7 of Section 6-g].

**[For fire districts only, add:** This resolution is subject to mandatory referendum pursuant to subdivision 4 of Section 6-g of the General Municipal Law.]

**Note:** *If the moneys in the Reserve Fund will consist of town highway moneys, the establishment of the Reserve Fund is also subject to the consent of the town superintendent of highways and the approval of the county superintendent of highways. Expenditures would be made on order of the town superintendent of highways upon audit and with the consent of the town board.*

# Notes

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- <sup>1</sup> Towns, villages, and counties are permitted by law to retain a “reasonable amount” of any remaining estimated unrestricted, unappropriated fund balance for each fund, consistent with prudent budgeting practices, necessary to ensure the orderly operation of their government. School districts, however, are limited to retaining 4 percent of the current school budget in unrestricted fund balance.
- <sup>2</sup> Note that most reserve fund statutes expressly declare that the members of the governing board are trustees of the reserve fund and are subject to all of the duties and responsibilities imposed by law on trustees. Most reserve fund statutes also provide a misdemeanor sanction for governing board members if they authorize a withdrawal from the fund for any purpose other than that authorized under the statute or expend any money withdrawn from the fund for an unauthorized purpose.
- <sup>3</sup> GML Section 11.
- <sup>4</sup> For periods of probable usefulness, see Local Finance Law, Section 11.00.
- <sup>5</sup> School districts may create capital reserves as authorized by Education Law, Section 3651[1]. See [page 26](#) of this publication for additional information on school district capital reserves.
- <sup>6</sup> However, if a capital reserve fund is established for a specific improvement and it is later determined that part of the cost of the capital improvement is to be borne by assessments or ad valorem taxes on real property within the area benefited, then moneys in the fund may be used to pay all or part of the share of the costs to be borne by the municipality at large.
- <sup>7</sup> In the case of a fire district, the board of fire commissioners may not add or increase an appropriation to a capital reserve fund after the public hearing of the fire district budget (Town Law Section 181[3][b]).
- <sup>8</sup> GML Section 6-g(8)(b) contains the provisions relating to transfers of the unexpended balances of fire district capital reserve funds that are established for specific improvements that have not been completed or acquired, or specific item(s) of equipment that have not been acquired. It provides that such transfers are subject to permissive referendum requirements if the establishment of the fund was subject to permissive referendum. As noted, however, effective January 1, 2007, the establishment of all capital reserve funds in a fire district are subject to mandatory referendum. Legal counsel should be consulted regarding the application of these two statutes to unexpended specific capital reserve balances.
- <sup>9</sup> See GML Section 6-r(3)(d).
- <sup>10</sup> Note, however, that in the case of school districts, an appropriation to a repair reserve fund is not an “ordinary contingent expenses” and, therefore, voter approval is required to fund a repair reserve fund (New York State Education Department, Ed Management Services, Budgeting Handbook, School Business Management, Handbook No. 3, Revised and Reprinted February 1998 (Updated July 2013), VII, “Reserves”, 1981 Op St Comp No. 81-401, at 442).
- <sup>11</sup> Base year for this purpose means the most recent fiscal year for which an annual report has been filed with the State Comptroller pursuant to GML Section 30.

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- <sup>12</sup> The requirement to establish a mandatory reserve does not apply when any other law requires the proceeds of the sale of a capital improvement to be deposited in a reserve fund established for the purpose of retiring outstanding obligations (see, e.g., County Law Section 275, General City Law Section 20[7-a], Village Law Section 11-1128, relating to the sale of water systems; see also Town Law Section 198[12]). In addition, the fund need not be established if, subject to a statutory cap, the proceeds of the cash sale are used or set aside to be used (i) to pay or provide for the construction, reconstruction, acquisition or installation of certain capital improvements or equipment (a report must be filed by the State Comptroller) or (ii) for the payment of principal of, or redemption premiums in connection with, any outstanding obligations issued to finance such capital improvements or equipment, in an amount not less than the lesser of the proceeds or the principal amount of the indebtedness outstanding on the capital improvement sold.
- <sup>13</sup> “Employee benefits” for this purpose means the authorized “cash payment of the monetary value of accrued and accumulated but unused and unpaid sick leave, personal leave, holiday leave, vacation time, time allowances granted in lieu of overtime compensation and any other forms of payment for accrued but unliquidated time earned by municipal employees and payable to municipal employees upon termination of service, whether by retirement or otherwise ...” (GML Section 6-p[1][b]). Note that lump sum payments upon separation from service that are calculated in a manner unrelated to accrued, unliquidated leave time credits are not payable from the employee benefit accrued liability reserve fund (2006 Op St Comp No. 2006-8, at 19). The fund also may not be used to pay a local government’s cost for health insurance for retirees (see 2004 Op St Comp No. 2004-8, at 23).
- <sup>14</sup> A municipal corporation may pay into such sub-fund during any particular fiscal year an amount not to exceed two percent of the total compensation or salaries of all teachers employed by the municipal corporation who are members of the New York State Teachers’ Retirement System paid during the immediately preceding fiscal year. The balance of such sub-fund may not exceed 10 percent of the total compensation or salaries of all teachers employed by the municipal corporation who are members of the New York State Teachers’ Retirement System paid during the immediately preceding fiscal year (GML Section 6-r[2-a]).
- <sup>15</sup> Note that certain city school districts may and, in some cases must, establish a reserve fund to cover uncollected taxes (Education Law Section 3651[1-b]).
- <sup>16</sup> For this purpose, moneys are deemed “reasonably required to pay any such judgment or claim” if the proceeding or claim has not been finally determined or otherwise terminated or disposed of after the exhaustion of all appeals.
- <sup>17</sup> A town may become a suburban town if it has a population of 25,000 or more, or in certain cases, has a population of 7,500 or more and is located not more than 15 miles of a city with a population of at least 100,000. A suburban town has certain additional powers that are designed to help it provide services needed by its population.

# Contacts



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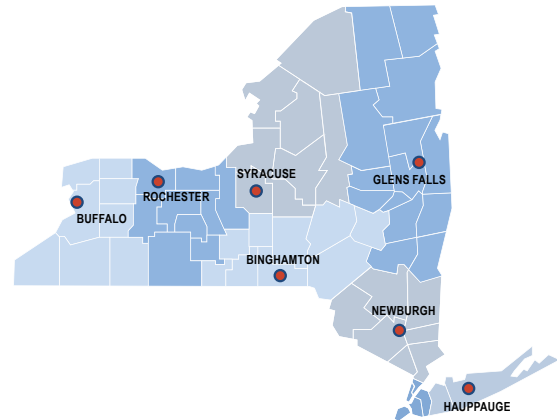
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