OFFICE OF THE NEW YORK STATE COMPTROLLER

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To: **Chief Executive Officers and Chief Financial Officers**

From: **Division of Local Government and School Accountability**

Subject: **New Legislation Providing Financial and Budgetary Flexibility to Local Governments and School Districts**

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Background

On August 24, 2020, the Governor signed into law the State Comptroller's program legislation[1] (Legislation). The purpose of this Legislation is to relieve some of the financial stress experienced by local governments and school districts[2] as a result of the State Disaster Emergency declared pursuant to Executive Order 202 of 2020 (State Disaster Emergency).[3] It accomplishes this by changing statutory requirements relating to: the renewal period for bond anticipation notes (BANs); the use of reserve funds for operating, capital and other costs attributable to the State Disaster Emergency; and the time period in which interfund advances attributable to the State Disaster Emergency must be repaid.

Extended BAN Renewal Period

BANs are generally[4] authorized to be renewed or "rolled over" for up to **five** years after the original date of issuance. The Legislation allows renewals of BANs originally issued during calendar years 2015 through 2021 to extend up to **seven** years after the original date of issuance. This gives local governments and school districts the option to renew these qualifying BANs for an additional two years. Local governments and school districts should consult with their bond counsel to renew a BAN in accordance with this authorization.

Use of Reserve Funds for Costs Attributable to the Pandemic

Capital Reserves: Local government and school district governing boards may, by resolution (which **will not be subject** to referendum requirements), authorize expenditures from capital reserve funds for capital costs attributable to the State Disaster Emergency.

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[1] Laws of 2020, chapter 157; see also Laws of 2020, chapter 126 which made technical changes to the Legislation.
[2] For the purposes of this document, local governments and school districts include towns, villages, counties, cities, water improvement districts, sewer improvement districts, fire districts and school districts.
[3] The State Disaster Emergency is in response to the COVID-19 pandemic and is currently in effect until September 7, 2020.
[4] The only exception being BANs issued for "assessable improvements" (e.g., town water or sewer projects).

Some examples of capital costs attributable to the State Disaster Emergency include, but are not limited to:

- Building and workspace modifications to mitigate the spread of COVID-19.
- Building expansions of public hospitals and public health departments in response to increased demand due to the State Disaster Emergency

All Reserves: Local government and school district governing boards may, by resolution (which **will not be subject** to referendum requirements, if applicable), authorize the temporary transfer of moneys from any reserve fund to pay for operating costs and other costs attributable to the State Disaster Emergency. These moneys must be paid back to the originating reserve fund within five fiscal years, starting with the fiscal year after the transfer. Additionally, at least 20 percent of the amount transferred must be paid back to the originating reserve fund in each fiscal year. The reimbursement must also include the estimated amount of interest the moneys would have earned had they been retained in the reserve fund.

Extended Interfund Advances Repayment Period

Typically, interfund advances are required to be repaid as soon as available and no later than the close of the fiscal year in which the advance was made. The Legislation allows interfund advances made for costs attributable to the State Disaster Emergency to be repaid no later than the close of the fiscal year **after** the advance was made. If money is advanced between two funds with different tax bases, then the repayment must include the estimated amount of interest the moneys would have earned had they been retained in the original fund.

Local governments and school districts should account for interfund advances made for costs attributable to the State Disaster Emergency the same as they would typically account for interfund advances. The balance of the interfund advance after the first fiscal year will be shown in liability account 630 Due to Other Funds for the borrowing fund, and in asset account 391 Due from Other Funds for the loaning fund.

Documentation

Local government and school district officials should establish procedures to internally account for funds that are used for costs attributable to the State Disaster Emergency and, where required, ensure they are repaid in accordance with the Legislation. Officials should also maintain sufficient documentation of their rationale for using funds and how they were attributable to the State Disaster Emergency, if it is not explicitly clear.

Additional Information

For guidance on accounting for BANs, reserves and interfund advances, see the sample journal entries in our Accounting and Reporting Manuals, as well as the Bond Anticipation Notes section in our Capital Projects Fund Local Government Management Guide. These documents can be found on our Publications and Research Reports website.

You can also access past accounting webinars on our Academy for New York State's Local Officials website.

If you have questions pertaining to the information in this document, please contact the State Comptroller's regional office that serves your local government or school district.