



FPP: Chart of Accounts Discussion Item: TABOR Reserve Questions

1. Question or Issue:

May the 3% TABOR Emergency Reserve be used during this COVID-19 pandemic?

2. Any Prior FPP Action:

3% TABOR Emergency Reserve discussed in statute and FPP Handbook, with specific coding required in the Chart of Accounts.

3. Discussion Points/Department Recommendation or Observations (if any)::

TABOR 3% Emergency Reserve:

Pursuant to TABOR: "To use for declared emergencies only, each district shall reserve... 3% or more of its fiscal year spending.... Unused reserves apply to the next year's reserve." Art. X, section 20 (5).

Authority to use the TABOR 3% Emergency Reserve in the current fiscal year (FY2019-2020):

Districts and other political subdivisions have the authority to declare an emergency for purposes of accessing TABOR reserves. The Governor has declared a state of emergency under section 24-33.5-704 (4), C.R.S., for responding to COVID-19, which is sufficient for the State to access its own emergency reserve under section 24-77-104, C.R.S. Whether it is sufficient for a district to access its TABOR reserve is a question of district fiscal policy.

If it is determined that the district may use some or all of its TABOR reserve, the district must ensure that it has the spending authority as well. If the district is already including the TABOR reserve within its appropriation resolution, they should be fine. If not, a supplemental budget to provide for such additional spending authority would need to be approved by its Board of Directors. A resolution on the use of beginning fund balance would likely also be needed.

Replenishment of the TABOR 3% Emergency Reserve:

Section 22-44-105(1)(c.6), C.R.S. states:

If at any time the board of education expends any moneys from the district emergency reserve created pursuant to paragraph (c.5) of this subsection (1), the board shall restore the reserve to three percent of the amount budgeted to the general fund as follows:

- (I) If the board of education expends moneys from the district emergency reserve in a single fiscal year, the board shall restore the reserve pursuant to this paragraph (c.6) within thirty-six months of the first draw of the money from the reserve; and
- (II) If the board of education expends moneys from the district emergency reserve in two consecutive fiscal years, the board shall restore the reserve pursuant to this paragraph (c.6) by the end of the fiscal year following the second fiscal year in which the board expended moneys from the reserve.



School districts and charter schools should seek their own legal counsel on the possible application of the provisions under section 22-44-105 (1)(c.6).

Additionally, districts and charter schools should evaluate any potential related accounting determinations, consistent with GASB guidance, including, but not limited to:

- Timing of expenditures from the emergency reserve if the declared emergency crosses into FY2020-21
- Replacement of liquid reserves with real assets
- Appropriate valuation of real assets, if used
- Timing of accounting transactions for replenishment of the reserves

4. FPP Action, Decision Made:

--

5. Further Action/Research Needed/Table for Future Meeting:

--

6. Effective Date:

Effective for FY2019-2020.

Effective for FY2019-2020.
