



**Town of Londonderry, New Hampshire**  
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**Town Council Meeting – Agenda Item Coversheet**

**Meeting Date:** 10/20/2025  
**Submitted By:** TM Shaun Mulholland  
**Department:** Town Manager

**Contact Information:** Email or Telephone  
**Estimated Discussion Time:** 10 Minutes  
**Agenda Item Number:** TC OFFICE USE

**Agenda Item Title:** Discuss a warrant article to develop a Transportation Capital Reserve Fund for the purposes the study and development of transportation infrastructure.

**Background and Purpose:** NH RSA 35:1 and related statutes authorize a Town to create capital reserve funds for the purposes of “... *Municipal and regional transportation improvement projects including engineering, right-of-way acquisition and construction costs of transportation facilities, and for operating and capital costs for public transportation.*”. The creation of trust funds requires the approval of the legislative body in this case, the Town Meeting.

The Town of Londonderry is growing in population along with all of the municipalities in southern New Hampshire. This growth within the Town and the region impacts the volume of traffic on the Town’s roadway infrastructure. The Town needs to plan for this growth and address the impacts on its roadway infrastructure. Failure to do so results in traffic congestion and traffic safety issues. Navigation systems such as Google maps directs motorists to utilize routes that are the most efficient to get motorists from point A to point B. This results in more pass-through traffic on Town roads that may not have existed 20 years ago.

The Town Manager is proposing the creation of the Transportation Capital Reserve Fund. This would be a non-lapsing fund to which appropriations would be made by approval of the voters at Town Meeting for the purposes of making transportation infrastructure improvements. The objective would be to reduce traffic congestion and improve traffic safety. More specifically the fund would be used for the following purposes,

1. Traffic and engineering studies to improve intersections and sections of roadways including drainage, guardrails, reconfiguration of intersections of roadways, signing, traffic signals, pedestrian/bicycle infrastructure, etc...
2. Funds for the construction of improvements to roadways, intersections, guardrails, signs, traffic signals, pedestrian/bicycle infrastructure, right of way acquisition, traffic counting and speed measurement devices. Said funds could be used to construct these improvements solely with funds provided by the Town or with matching funds from other governmental entities or private entities.

**Action:** Provide direction to the Town Manager to develop a warrant article for the Transportation Capital Reserve Fund or some other appropriate action.

**Proposed Motion:** *No motion required.*

**Attachments:** [Chapter 35 CAPITAL RESERVE FUNDS OF COUNTIES, TOWNS, DISTRICTS, AND WATER DEPARTMENTS](#)

# TITLE III

## TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

### Chapter 35

#### CAPITAL RESERVE FUNDS OF COUNTIES, TOWNS, DISTRICTS, AND WATER DEPARTMENTS

##### Section 35:1

###### **35:1 Establishment of Reserves Authorized. –**

Any town, school district, village district, or county, as provided by RSA 35:3 may raise and appropriate money for the establishment of a capital reserve fund for the financing of all or part of the cost of:

- I. The construction, reconstruction or acquisition of a specific capital improvement, or the acquisition of a specific item or specific items of equipment; or
- II. The construction, reconstruction, or acquisition of a type of capital improvement or the acquisition of a type of equipment; or
- III. A reappraisal by appraisers of the department of revenue administration or such other appraisers, appraisal firms or corporations approved by the commissioner of revenue administration, of the real estate in such town for tax assessment purposes; or
- III-a. The acquisition of land; or
- IV. The acquisition of a tax map of said town; or
- V. Extraordinary legal fees and expenses related to present or foreseeable litigation involving the town or its officers and employees; or
- VI. Municipal and regional transportation improvement projects including engineering, right-of-way acquisition and construction costs of transportation facilities, and for operating and capital costs for public transportation.

**Source.** 1943, 160:1. RSA 35:1. 1973, 51:2. 1983, 42:2. 1985, 285:2, eff. Aug. 10, 1985. 1998, 4:3, eff. May 17, 1998.

##### Section 35:1-a

**35:1-a Reserve Fund in Anticipation of New Fiscal Year. –** Any county, city or town may establish a reserve fund in anticipation of the optional fiscal year pursuant to RSA 31:94-a through 94-d.

**Source.** 1973, 96:1, eff. June 23, 1973.

##### Section 35:1-b

**35:1-b Reserve Fund for Education of Persons with Disabilities. –** Any school district may establish a reserve fund under RSA 35:1 to meet the expenses of educating children with disabilities.

**Source.** 1983, 106:1. 1990, 140:2, III, X, eff. June 18, 1990. 2008, 274:31, eff. July 1, 2008.

##### Section 35:1-c

**35:1-c Non-Capital Reserve Funds Authorized. –** Any town, school district, county, or village district may establish a reserve fund for the maintenance and operation of a specific public facility or type of facility, a

specific item or type of equipment, or for any other distinctly-stated, specific public purpose that is not foreign to its institution or incompatible with the objects of its organization. Such funds shall be subject to all provisions and limitations of this chapter as are applicable to capital reserve funds. The legal validity of such a fund properly established shall not be affected by its designation as a "trust," "reserve," "capital reserve," or any other designation.

**Source.** 1995, 20:6, eff. June 11, 1995.

## **Section 35:2**

**35:2 Custody of School District Reserves.** – Whenever any capital reserve of a school district is established the same shall be held in custody by the trustees of trust funds of the town wherein the school district lies or, in case of school district embracing 2 or more towns, by the trustees of trust funds of that town which the voters of the school district may elect.

**Source.** 1947, 8:2, eff. Feb. 26, 1947.

## **Section 35:3**

**35:3 Meetings.** – Except as provided in RSA 35:7, the authority granted by RSA 35:1 shall be exercised only by a majority vote of the legal voters present and voting at an annual or special meeting in the case of a town, school district, or village district. The warrant for a town, school district, or village district meeting, to consider the establishment or discontinuance of such a reserve, shall include an article distinctly stating the purposes for which such reserve is to be established or was established as appropriate. In the case of a county, the authority granted in RSA 35:1 shall be exercised by a majority vote of the county delegation after a public hearing on the budget as required by RSA 24:23, RSA 24:13-c, IV, or RSA 24:14-a. The public notice of such hearing shall include a statement distinctly stating the purpose for which such reserve is to be established.

**Source.** 1943, 160:2. RSA 35:3. 1977, 287:2. 1991, 167:1, eff. July 26, 1991.

## **Section 35:4**

**35:4 Exception.** – The authority hereby granted shall not be exercised by any city, except as may be necessary in connection with the authority granted by RSA 35:7.

**Source.** 1943, 160:3, eff. May 5, 1943.

## **Section 35:5**

**35:5 Payments Into Fund.** – There may be paid into any such capital reserve fund, except as provided in RSA 35:7, such amounts as may from time to time be raised and appropriated therefor under a special warrant article, from any source other than money given to the town, district, or county for charitable purposes. Such amounts shall be within the limits as provided in RSA 35:8, and any such town, district, or county may also vote to transfer to said fund, under a special warrant article in the case of a town or district, any of its unencumbered surplus funds remaining on hand at the end of any fiscal year.

**Source.** 1943, 160:4, eff. May 5, 1943. 2000, 224:4, eff. July 31, 2000. 2017, 127:1, eff. Aug. 15, 2017.

## **Section 35:6**

**35:6 Funds Received in Eminent Domain Proceedings.** – Any town, school district, village district or county which may receive funds from the United States or any agency thereof in eminent domain proceedings for the taking of its property or other public facilities or in settlement for such taking or of claims for damages to

its property or other public facilities, may vote to use said funds, under a proper article in the warrant in the case of a town, school district or village district or by vote of the county delegation in the case of a county, to establish a capital reserve fund under this chapter. Funds so received shall not be subject to restriction as to investments prescribed in RSA 35:9 and may be invested in the same manner as trust funds under RSA 31:25. Funds so received may, if so voted, be used to retire existing indebtedness as well as for the purposes specified in RSA 35:1. In cases in which the United States or any agency thereof shall acquire a flowage easement in highways or bridges under the jurisdiction of a town, the town, if it votes to establish a capital reserve fund out of the funds received therefor from the United States or any agency thereof, may use such fund not only for capital improvements and capital expenditures as provided in RSA 35:1, but also for the maintenance, repair and reconstruction of the particular highways and bridges in which easements have been acquired or of such highways and bridges as may be provided in substitution therefor.

**Source.** 1947, 91:1. 1951, 106:1, eff. May 11, 1951.

### **Section 35:7**

**35:7 Water Departments.** – Any water works or sewer department of a city or town, organized by general law or special act of the legislature and financed principally by water or sewer rentals, may, by unanimous vote of the body charged with the administration thereof, whether the local governing body, water board, or a board of water or sewer commissioners, establish a capital reserve fund for said department for the purposes as provided in RSA 35:1. Such reserve shall be established only from surplus from water or sewer rentals and no part thereof shall be made from appropriations by said city or town.

**Source.** 1943, 160:5. 1994, 95:1, eff. July 8, 1994.

### **Section 35:8**

**35:8 Limitations on Appropriations.** – No town, school district, or village district shall raise and appropriate in any one year for such reserve an amount in excess of 1/2 of one percent of the last base valuation for debt limit computed pursuant to RSA 33:4-b of said town or district; no county shall raise and appropriate for such reserve an amount in excess of 1/50 of one percent of the last base valuation for debt limit computed pursuant to RSA 33:4.

**Source.** 1943, 160:6. 1945, 35:2. RSA 35:8. 1993, 176:6, eff. Aug. 8, 1993. 2016, 114:1, eff. July 19, 2016.

### **Section 35:9**

**35:9 Investment.** – Each capital reserve fund shall be maintained separately on the books of the town. The assets of such funds may be pooled in order to invest in a broader range of investments to maximize growth and mitigate risk. Said capital reserve funds shall be invested only in deposits in any federally insured bank authorized to accept deposits under RSA 6:8, I and I-a, or in bonds or notes of this state, in such stocks and bonds as are legal for investment by banks chartered by this state to engage in a banking business, or in participation units in the public deposit investment pool established pursuant to RSA 6:45, or in obligations with principal and interest fully guaranteed by the United States government. The obligations may be held directly or in the form of securities of or other interests in any open-end or closed-end management-type investment company or investment trust registered under 15 U.S.C. section 80a-1 et seq., if the portfolio of the investment company or investment trust is limited to such obligations and repurchase agreements fully collateralized by such obligations. When so invested the trustees hereinafter named shall not be liable for the loss thereof. Any interest earned or capital gains realized on the moneys so invested shall accrue to and become a part of the individual funds on a pro rata basis. Deposits in federally or state-chartered banks shall be made in the name of the town, district, or county which holds the same as a reserve, and it shall appear upon the books thereof that the same is a capital reserve fund. Any person who directly or indirectly receives any such capital reserve funds for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at

the time of such deposit or investment an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the town, school district, village district, or county depositing or investing such funds. Only securities defined by the bank commissioner as provided by rules adopted pursuant to RSA 383-B:3-301(e) shall be eligible to be pledged as collateral. The trustees shall formally adopt an investment policy for all investments made by them or by their agents for any trust funds in their custody in conformance with the provisions of applicable statutes. The trustees shall review and confirm the investment policy at least annually. A copy of the investment policy shall be filed with the attorney general.

**Source.** 1943, 160:7. RSA 35:9. 1961, 136:8. 1991, 268:7; 383:4. 1995, 20:7, eff. June 11, 1995. 1996, 209:9, eff. Aug. 9, 1996. 2001, 54:6, eff. Jan. 1, 2002. 2007, 164:3, eff. Aug. 17, 2007. 2010, 52:1, eff. July 17, 2010. 2015, 272:42, eff. Oct. 1, 2015. 2021, 65:13, eff. Aug. 3, 2021. 2023, 36:2, eff. July 16, 2023.

## **Section 35:9-a**

### **35:9-a Professional Banking or Brokerage Assistance. –**

I. Any trustee or trustees of trust funds having custody of capital reserve funds authorized by this chapter may contract with the trust department or departments of a bank, a brokerage firm, a portfolio management department, or investment advisor in the same manner and for the same purposes as described in RSA 31:38-a, III. They may also place securities in the nominee name of a trust department of a bank, or departments, a brokerage firm, a portfolio management department, or investment advisor, to facilitate transfers for such securities. Capital reserve fund records maintained by any bank, brokerage firm, portfolio management department, or investment advisor shall be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments of banks, brokerage firms, portfolio management departments, or investment advisor, the trustees may enter into contracts or agreements delegating the management of such capital reserve funds to those departments or brokerage firms subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees. For purposes of this section, the terms "bank," "brokerage firm," "portfolio management department" and "investment advisor" shall have the definitions set forth in RSA 31:38-a.

II. The town meeting may adopt an article authorizing the trustees of trust funds, without further action of the town meeting, to charge any expenses incurred pursuant to paragraph I against the capital reserve funds involved. Such authority shall remain in effect until rescinded by a vote of the town meeting. No vote by the town to rescind such authority shall occur within 5 years of the original adoption of such article. In a town that has a town council, such authority may be granted by the town council and shall remain in effect until rescinded by the town council. No vote by the town council to rescind such authority shall occur within 5 years of the original adoption of such article. Any professional banking and brokerage fees incurred shall be reported in the annual report of the trustees of trust funds as expenditures out of capital reserve funds.

III. The school district meeting may adopt an article authorizing the trustees of trust funds, without further action of the school district meeting, to charge any expenses incurred pursuant to paragraph I against the capital reserve funds involved. Such authority shall remain in effect until rescinded by a vote of the school district meeting. No vote by the school district meeting to rescind such authority shall occur within 5 years of the original adoption of such article. Any professional banking and brokerage fees incurred shall be reported in the annual report of the trustees of trust funds as expenditures out of capital reserve funds.

**Source.** 2014, 32:5, eff. July 26, 2014. 2018, 191:1, eff. Aug. 7, 2018.

## **Section 35:10**

**35:10 Trustees of Funds. –** The trustees of trust funds of a town or city shall have custody of any capital reserve of a town, district or water departments therein, the trustees of trust funds as provided in RSA 35:2 shall have custody of such capital reserve of a school district, and the county treasurer of a county shall have custody of any capital reserve of his county. Said trustees or treasurer shall give bond in such amount and in such form as

the commissioner of revenue administration shall prescribe, and any such trustee or treasurer who shall make any payment of income or principal from any such capital reserve fund before the approval of his bond in writing by the commissioner of revenue administration shall be personally liable to the town, district, department or county for any loss resulting from such payment, to be recovered for the town, district, department or county at the suit of any citizen. The expenses of said trustees or treasurer in said capacity and the expense of their bonds shall be charged as incidental town, district, department or county charges.

**Source.** 1943, 160:8. RSA 35:10. 1973, 544:8, eff. Sept. 1, 1973.

### **Section 35:11**

**35:11 Payments from Surplus.** – Whenever any town shall have voted to transfer any accumulated surplus to the capital reserve fund, the town clerk shall forward to the board of selectmen and to the town treasurer, within 10 days of the adoption of such vote, a certified copy of the same. The selectmen shall then draw an order on the town treasurer for the amount of surplus set forth in said vote. The town treasurer shall on receipt of the order immediately transfer to the trustees of trust funds of the town the amount specified in the order, or in the case of an optional fiscal year town, within 10 days of the determination of surplus following the close of the fiscal year.

**Source.** 1947, 91:2, par. 8a. RSA 35:11. 1993, 176:7, eff. Aug. 8, 1993.

### **Section 35:12**

**35:12 Appropriation.** – Whenever the vote of the town is to appropriate any sum for the capital reserve fund pursuant to RSA 35:5, the same duties shall devolve upon the town clerk, selectmen, and town treasurer, as specified in RSA 35:11, except that the order must be drawn, and the sum transferred on or before December 15 following the vote, or, in the case of an optional fiscal year town, after July 1, but no later than June 15, of the fiscal year for which the sum was appropriated.

**Source.** 1947, 91:2, par. 8b. RSA 35:12. 1993, 176:8, eff. Aug. 8, 1993. 2000, 224:5, eff. July 31, 2000. 2014, 32:3, eff. July 26, 2014. 2017, 127:2, eff. Aug. 15, 2017.

### **Section 35:13**

**35:13 School or Village District.** – When a capital reserve fund is established by a school or village district, the same duties shall devolve upon the clerk of the school or village district, the members of the school board or the commissioners of the village district, the treasurer of the school district or the treasurer of the village district, as are prescribed in RSA 35:11 and 35:12 for the corresponding town officers.

**Source.** 1947, 91:2, par. 8c, eff. April 15, 1947.

### **Section 35:14**

**35:14 Penalty.** – Any of the above officers failing to perform the duties above set forth, shall be guilty of a violation for every week said failure shall continue.

**Source.** 1947, 91:2, par. 8d. RSA 35:14. 1973, 531:9, eff. Oct. 31, 1973, at 11:59 p.m.

### **Section 35:15**

**35:15 Expenditures.** –

I. Persons holding said capital reserve funds in trust, as provided in this chapter, shall hold the same until such time as the town, district or county shall have voted to withdraw funds from such capital reserve fund or shall have named agents of the town, district or county to carry out the objects designated by the town, district or

county, in the manner prescribed by RSA 35:3.

II. Expenditures from any fund established for the acquisition of land pursuant to RSA 35:1 shall be made only as authorized:

- (a) By a majority vote of the legal voters present and voting at an annual or special meeting, in the case of a town, school district or village district, or by majority vote of the county delegation, in the case of a county, or
- (b) By the selectmen, appointed as agents pursuant to RSA 41:14-a, provided that the selectmen shall not have authority to expend any sum in excess of the amount contained in any capital reserve account created for the purchase of land other than any grant moneys which may be received.

III. (a) Notwithstanding the prohibition of debt retirement fund establishment in RSA 33:2, capital reserve funds may be used for multiple payments under a financing agreement for the purpose for which the capital reserve was established, including a lease/purchase agreement.

(b) If agents have been named according to RSA 35:15, then no further vote is required to disburse funds following the initial vote which ratified the financing agreement.

IV. In the case of a water works or sewer department, as provided in RSA 35:7, the governing body, water board, or the water or sewer commissioners if any, shall determine when expenditures from said reserve shall be made.

V. In all cases, expenditures from a capital reserve fund shall be made only for or in connection with the purposes for which said fund was established or as amended as provided in RSA 35:16.

**Source.** 1943, 160:9. RSA 35:15. 1985, 285:3. 1991, 167:2. 1994, 95:2, eff. July 8, 1994. 1998, 43:1, eff. July 4, 1998. 2001, 187:1, eff. Sept. 3, 2001. 2007, 178:3, eff. Aug. 17, 2007. 2021, 105:2, Pt. III, Sec. 1, eff. Aug. 30, 2021.

## Section 35:16

**35:16 Change of Purpose.** – After the purpose for which a capital reserve fund is established has been determined, no change shall be made in the purpose for which said fund may be expended unless and until such change has been authorized by a vote of 2/3 of all the voters present and voting at an annual town or district meeting, in the case of a town or district, or by vote of 2/3 of the entire membership of a county delegation, in case of a county, or by unanimous vote of the water board or commissioners of the water department, in the case of a water works department, as provided in RSA 35:7.

**Source.** 1943, 160:10, eff. May 5, 1943.

## Section 35:16-a

**35:16-a Discontinuing Fund.** – Any town, school district, village district or county which has established a capital reserve fund pursuant to the provisions of this chapter may, as provided by RSA 35:3, vote to discontinue such capital reserve fund. If such fund is discontinued, the trustees of the trust fund holding the account for said fund shall pay all the monies in such fund to the town, district or county treasury as applicable.

**Source.** 1977, 287:1, eff. Aug. 26, 1977.

## Section 35:17

**35:17 Audit; Records.** – The accounts of the persons holding capital reserve funds shall be audited annually by the auditor of the town, in the case of a town, district, or water works department, or by the commissioner of revenue administration, in the case of a county, the securities shall be exhibited to said auditor or commissioner, and said auditor or commissioner shall certify the facts found by the audit and the list of all securities held. Said persons holding said funds shall keep a record of all such capital reserve funds in a record book, which shall be open to the inspection of all persons of their town, district, or county respectively.

**Source.** 1943, 160:11. RSA 35:17. 1973, 544:8, eff. Sept. 1, 1973.

## Section 35:18

**35:18 Disbursements.** – No person holding in custody such capital reserve fund shall make any payment of income or principal or authorize the same to be done except in accordance with the provisions hereof. Whoever violates the provisions of this section shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

**Source.** 1943, 160:12. RSA 35:18. 1973, 529:5, eff. at 11:59 P.M., Oct. 31, 1973.