



CITY OF MELROSE
LEGAL & LEGISLATIVE COMMITTEE
AGENDA • JUNE 21, 2022

Council Chamber, First Floor, Melrose City Hall Committee Meeting
562 Main Street, Melrose, MA 02176

7:30 PM

The public should take notice that the Melrose City Council may, on certain occasions, have a quorum in attendance due to standing committees of the City Council consisting of both voting and non-voting members. Members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the standing committee.

I. CALL TO ORDER

Leila Migliorelli	Chair
Maya Jamaledine	Vice Chair
Jen Grigoraitis	
Robb Stewart	
Manjula Karamcheti	
Christopher Cinella	President, ex officio

II. PUBLIC COMMENT

Remote Link for Public Comment:

<https://cityofmelrose.webex.com/cityofmelrose/onstage/g.php?MTID=e2af2b456afec87724afeab00eb8b1bb>

III. ORDERS

1. **ORDER-2022-148** : Reauthorize the previously adopted Order to Create an Education, Public Safety & Substance Abuse Prevention Stabilization Fund.

Offered by: Mayor Paul Brodeur

From: City Council

ASSIGNED TO COMMITTEE

IV. ADJOURNMENT



Informational Guideline Release

Bureau of Municipal Finance Law
Informational Guideline Release (IGR) No. 17-20
July 2017

Supersedes IGR 04-201 and Inconsistent Prior Written Statements

STABILIZATION FUNDS

([G.L. c. 40, § 5B](#) and [G.L. c. 59, § 21C\(g\)](#))

This Informational Guideline Release (IGR) informs local officials about changes made by the Municipal Modernization Act that eliminate caps on stabilization fund balances and annual appropriations, change the quantum of vote for appropriations into stabilization funds, allow the dedication of certain revenue streams into stabilization funds and expand the depositories and investment options for stabilization fund reserves.

Topical Index Key:

Accounting Policies and Procedures
Appropriations
Proposition 2½
Special Funds

Distribution:

Accountants/Auditors
Mayors/Selectmen
City/Town Managers/Exec. Secys.
Finance Directors
Finance Committees
City/Town Councils
City Solicitors/Town Counsels

Informational Guideline Release (IGR) No. 17-20
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STABILIZATION FUNDS

([G.L. c. 40, § 5B](#) and [G.L. c. 59, § 21C\(g\)](#))

SUMMARY:

These guidelines inform local officials about amendments made to [G.L. c. 40, § 5B](#), which establishes city, town and district stabilization funds, by the Municipal Modernization Act statute that took effect on November 7, 2016. [St. 2016, c. 218, § 22](#).

Under [G.L. c. 40, § 5B](#), municipalities and districts may create one or more stabilization funds, which are special reserves into which monies may be appropriated and reserved for later appropriation for any lawful municipal purpose. Voters may also approve a Proposition 2½ override in order to fund appropriations for a particular stabilization fund. Monies accumulated in a stabilization fund carry over from one fiscal year to another, and interest remains with that fund.

The Municipal Modernization Act made four significant changes to [G.L. c. 40, § 5B](#). First, it eliminated caps on the amount that could be appropriated into the fund in any year and the aggregate balances of all stabilization funds. Previously, municipalities and districts could not appropriate into a stabilization fund in any year an amount exceeding 10 percent of the prior year's tax levy, or a larger amount, without the approval of the Director of Accounts, and the total reserved in all funds could not exceed 10 percent of the equalized valuation of the municipality or district. Second, appropriations made into the fund may now be approved by a majority vote, instead of a two-thirds vote. Appropriations from a stabilization fund must still be approved by a two-thirds vote. Likewise, a two-thirds vote is still needed to create a stabilization fund and to change its purpose. Third, the local treasurer has a broader range of investment options consistent with the 2014 amendments to municipal and district trust fund investments under [G.L. c. 44, § 54](#) and banking laws governing the Commissioner of Bank's authority to establish a list of sound investments for banking institutions. [St. 2014, c. 343](#). Finally, a new local acceptance provision was added as the fourth paragraph of [G.L. c. 40, § 5B](#). If accepted, the local legislative body, by a two-thirds vote, may dedicate to a stabilization fund certain revenue streams, including revenue from fees and charges, except revenues already reserved by law for particular purposes and locally assessed taxes and excises.

These guidelines are in effect and supersede Informational Guideline Release No. 04-201, *Creation of Multiple Stabilization Funds and Proposition 2½ Overrides for Stabilization Funds*, and any inconsistent prior written statements or documents.

MUNICIPAL FINANCE LAW BUREAU

KATHLEEN COLLEARY, CHIEF

GUIDELINES:**I. MULTIPLE STABILIZATION FUNDS****A. Creation of Funds**

Stabilization funds may be created for one or more different purposes. [G.L. c. 40, § 5B](#). A fund may be created for a broad category of spending purposes, such as any lawful purpose, capital budget purposes or purposes for which the community may borrow money. Stabilization funds may also be created for a specific purpose or project, for example, to acquire a new fire truck or undertake a particular school construction project.

Creation of a fund requires a two-thirds vote of the legislative body of the city, town or district. The vote must clearly define the purpose(s) of the fund.

B. Changing Fund Purpose

The purpose of a stabilization fund may be changed at any later time by a two-thirds vote of the legislative body. For example, if a community had established a fund in order to reserve monies to acquire a new fire truck and a balance remains after the purchase, the legislative body could vote to change the purpose to meet some new savings objective.

If the legislative body votes to change the purpose of a stabilization fund for which revenue has been dedicated, the vote should also state whether the dedication continues after the purpose changes. See Section II-C-1 below regarding the minimum period a dedication is effective.

If a Proposition 2½ levy limit override was approved for the purpose of funding the particular stabilization fund, however, the city or town must also follow the election procedure explained in Section III-C below to be able to change the fund purpose and then continue using the additional levy capacity resulting from that override in future years.

C. Appropriations and Transfers

Appropriations into any stabilization fund require a majority vote of the legislative body. Appropriations from a stabilization fund require a two-thirds vote of the legislative body.

Monies may also be transferred from one stabilization fund to another by two-thirds vote. When monies in the fund from which the transfer is made cannot be appropriated directly for the purpose of the fund receiving the transfer, for example, a transfer of \$50,000 from a fund for a particular school construction project to a fund to construct a new senior center, the vote also serves as a change in purpose to the extent of the amount appropriated.

D. Investment and Interest

The treasurer may deposit stabilization funds in (1) a trust company, co-operative bank, or savings bank, if the trust company or bank is organized or exists under either the laws of the Commonwealth of Massachusetts, or of any other state, or may transact business in the Commonwealth, and has its main office or a branch office in the Commonwealth; and (2) a national bank, federal savings bank or federal savings and loan association, if the bank or association may transact business and has its main office or a branch office in the Commonwealth. Any state-chartered or federally-chartered bank used to deposit stabilization funds must be insured by the Federal Deposit Insurance Corporation (or its successor).

The treasurer may also invest stabilization funds in (1) participation units under [G.L. c. 29, § 38A](#) (Massachusetts Municipal Depository Trust established by the State Treasurer); or (2) securities that are legal investments for savings banks under Massachusetts law. Savings banks may legally invest in securities included in the annual legal list of investments established by the Commissioner of Banks under [G.L. c. 167, §§ 15A-15K](#), and permitted by [G.L. c. 167F, § 3](#). All investments in securities that are legal investments for savings banks must still meet the investment standard in [G.L. c. 44, § 55B](#) governing a treasurer's investment of public funds generally, which means those investments must be prudent.

All interest earned on the deposit and investment of stabilization funds belongs to the funds. The treasurer may pool monies from all stabilization funds for investment purposes, but the accounting officer must account for them separately in the general ledger and allocate interest earned on the pooled monies proportionately to each stabilization fund.

II. DEDICATION OF REVENUES TO STABILIZATION FUND**A. Purpose**

Cities, towns and districts that accept the fourth paragraph of [G.L. c. 40, § 5B](#) may dedicate, without further appropriation, all, or a percentage of not less than 25 percent, of a particular fee, charge or other receipt to any stabilization fund established under [G.L. c. 40, § 5B](#).

B. Acceptance Procedure

Acceptance of the fourth paragraph of [G.L. c. 40, § 5B](#) is by majority vote of the legislative body of the city, town or district, subject to charter. [G.L. c. 4, § 4](#). (See attached sample acceptance vote.)

C. Dedication of Revenue Stream to a Stabilization Fund

1. Dedication Vote

After a city, town or district has accepted the fourth paragraph of [G.L. c. 40, § 5B](#), its legislative body may vote to dedicate a revenue source to a stabilization fund by a two-thirds vote. The vote must include the (1) specific revenue source being dedicated; (2) the percentage of that revenue source being dedicated, which must be at least 25 percent of the source; and (3) the fund into which the revenue source is being dedicated. A separate vote should be taken for each dedication. (See attached sample dedication vote.)

The vote must take place before July 1 of the fiscal year in which the dedication is to begin. A dedication may be terminated in the same manner, i.e., by a two-thirds vote of the legislative body, but cannot terminate unless it has been in effect for at least three fiscal years.

2. Dedicated Revenue Streams

Any fee, charge or other receipt may be dedicated to a stabilization fund, except:

a. Locally Assessed Taxes, Excises and Property Tax Surcharges

Real and personal property taxes, motor vehicle excises, boat excises, farm animal and machinery excises, classified forest, farm and recreational land and penalty taxes, community preservation surcharges and municipal water infrastructure surcharges cannot be dedicated to a stabilization fund.

b. Revenues Reserved by Law for Particular Purposes

Fees, charges or other receipts already reserved by law for expenditure for a particular purpose cannot be dedicated to a stabilization fund. This includes revenues dedicated by general laws or special acts and revenues dedicated because the city, town or district accepted a statute or otherwise acted under a statute to dedicate them.

For example, the legislative body could not dedicate those betterments and special assessment revenues reserved for debt service under [G.L. c. 44, § 53J](#), parking meter receipts reserved for certain parking related purposes if the city or town had accepted [G.L. c. 40, § 22A](#) or ambulance receipts if the city or town was reserving them for appropriation under [G.L. c. 40, § 5F](#).

This exception means that the fees, charges or other receipts that may be dedicated are revenues that would belong to the general fund. [G.L. c. 44, § 53](#).

3. Dedicated Revenue Accounting

Upon receipt of dedicated revenue, the accounting officer must credit the voted percentage to the designated stabilization fund and the remaining percentage, if any, to the general fund. No appropriation or other action is required.

4. Balance Available for Appropriation

The stabilization fund balance available for appropriation includes only the amount of the dedicated revenue actually received and credited to the fund.

D. Revocation of Acceptance

Acceptance may be revoked, but the city, town or district must wait until at least three years after acceptance. [G.L. c. 4, § 4B](#). Revocation is also by vote of the legislative body of the city, town or district, subject to charter.

Revocation terminates all dedications at the end of the fiscal year in which the revocation takes effect. See II-E below.

E. Effective Date of Acceptance or Revocation

Acceptance or revocation of the fourth paragraph of [G.L. c. 40, § 5B](#) is effective for the fiscal year that begins the next July 1, unless a later fiscal year is designated in the acceptance or revocation vote.

F. Notification of Acceptance or Revocation/Revenue Dedication or Termination

The city, town or district clerk must notify the Municipal Databank if the fourth paragraph of [G.L. c. 40, § 5B](#) is accepted or revoked, and if a revenue source is dedicated to a stabilization fund. (See “[Notification of Acceptance or Revocation/Revenue Dedication or Termination](#).”) The notification should be made **as soon as possible** after the vote.

III. STABILIZATION FUND OVERRIDES

A. Presentation and Approval of Override Ballot Question

Cities and towns may ask voters to approve a Proposition 2½ levy limit override ballot question for the purpose of funding any of the stabilization funds it establishes.

If approved, the additional levy capacity is earmarked for the same stabilization fund in the fiscal year the override is effective and subsequent years. [G.L. c. 59, § 21C\(g\)](#).

Therefore, the amount of any override for a stabilization fund must be clearly identified, preferably by presenting a separate override question for each stabilization fund being funded. For example:

Shall the city/town of _____ be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of funding the municipal capital stabilization fund for the fiscal year beginning July 1, ____?

Shall the city/town of _____ be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of funding the school capital stabilization fund for the fiscal year beginning July 1, ____?

If the amount is included in an override for multiple purposes, however, the exact amount allocated to the particular stabilization fund must be stated. For example:

Shall the city/town of _____ be allowed to assess an additional \$1,000,000 in real estate and personal property taxes for the purposes of funding the town and school operating budgets, the municipal capital stabilization fund (\$100,000) and the school capital stabilization fund (\$100,000) for the fiscal year beginning July 1, ____?

B. Appropriation of Override in Future Years

1. Annual Appropriation Procedure

In the fiscal year the override is effective, the appropriation of the funds generated by the override into the particular stabilization fund is made by the usual appropriation procedure for stabilization funds under [G.L. c. 40, § 5B](#), i.e., a majority vote of the legislative body.

Each year thereafter, however, the selectboard, town council or city council, with the mayor's approval if required by law, must decide whether to "appropriate" any of the additional capacity resulting from the override for the same stabilization fund purpose. A two-thirds vote is required to make any subsequent fiscal year "appropriation" into a stabilization fund. [G.L. c. 59, § 21C\(g\)](#),

2. Appropriation Amount

All or some of the additional levy capacity may be "appropriated." In the first year after the override is effective, the additional levy capacity that may be appropriated is 102.5 percent of the override amount. In subsequent years, it is 102.5 percent of the amount of additional levy capacity appropriated in the last year it was appropriated.

Example

A \$100,000 override is approved for a school capital project stabilization fund for fiscal year 2017 and the legislative body appropriates the same amount from that year's tax levy for that purpose.

In FY2018, \$102,500 is available for "appropriation" by the selectmen, town council or city council, with the mayor's approval if required by law. That entire amount is "appropriated."

In FY2019, \$105,062 (1.025 x FY2018 appropriation of \$102,500) is available, but only \$80,000 is "appropriated."

The amount available in FY2020 now becomes \$82,000 (1.025 x FY2019 appropriation of \$80,000). However, no appropriation is made in FY2020.

The amount available in FY2021 is \$82,000 (1.025 x last appropriation made, i.e., FY2019 appropriation of \$80,000).

3. Tax Rate

The assessors must raise the amount "appropriated" in the tax rate. This "appropriation" is reported on page two of the tax rate recapitulation under "Other Amounts to Be Raised" and documented by a certified copy of the "appropriation" vote, as explained in the annual tax rate recapitulation instructions issued by the Bureau of Accounts.

4. Levy Limit Calculation

The municipality's levy limit for any year is increased by the amount of additional levy capacity that is appropriated for the stabilization fund purpose. The new limit must still be within overall levy ceiling of 2½ percent of the full and fair cash value of taxable property.

C. Change in Override Purpose

1. Presenting Ballot Question

The selectboard, town council or city council, with the mayor's approval if required by law, may ask the voters to approve a change in the purpose of the override. This change can result in the additional levy capacity being allocated to another stabilization fund or to any other municipal purpose. A two-thirds vote is required to place the ballot question before the voters.

2. Question Form

The following question form should be used to ask voters to change the override purpose:

Shall the city/town of _____ be allowed to change the purpose of a Proposition 2½ override question approved at an election held on _____, ____ for the (capital stabilization fund) to the following new purpose(s): _____ for the fiscal year beginning July 1, ____?

3. Question Approval

The question is approved if a majority of those voting on the question vote “yes.”

4. Appropriation in Future Years

If the purpose of the override is changed to another stabilization fund, or other purpose, the additional levy capacity would have to be “appropriated” to the new purpose each year or the levy limit would not be increased. See Section III-B above.

SAMPLES

(Samples should not be used without the advice of municipal or district counsel.)

DEDICATION OF REVENUES TO A STABILIZATION FUND**ACCEPTANCE****Legislative Body Vote**

ARTICLE/ORDER. To see if the city/town/district will vote to accept the fourth paragraph of [Massachusetts General Laws Chapter 40, Section 5B](#), which allows the dedication, without further appropriation, of all, or a percentage not less than 25 percent, of particular fees, charges or receipts to a stabilization fund established under Massachusetts General Laws Chapter 40, Section 5B, to be effective for the fiscal year beginning on July 1, _____, or take any other action relative thereto.

MOTION. Moved/ordered that the city/town/district accept the fourth paragraph of [Massachusetts General Laws Chapter 40, Section 5B](#), which provides for the dedication, without further appropriation, of all, or a percentage not less than 25 percent, of particular fees, charges or receipts to a stabilization fund established under Massachusetts General Laws Chapter 40, Section 5B, to be effective for the fiscal year beginning on July 1, _____.

REVOCATION**Legislative Body Vote**

ARTICLE/ORDER: To see if the city/town/district will vote to revoke its acceptance of the fourth paragraph of [Massachusetts General Laws Chapter 40, Section 5B](#), which allows the dedication, without further appropriation, of all, or a percentage not less than 25 percent, of particular fees, charges or receipts to a stabilization fund established under Massachusetts General Laws Chapter 40, Section 5B, to be effective for the fiscal year beginning on July 1, _____, or take any other action relative thereto.

MOTION: Moved/ordered that the city/town/district revoke its acceptance of the fourth paragraph of [Massachusetts General Laws Chapter 40, Section 5B](#), which provides for the dedication, without further appropriation, of all, or a percentage not less than 25 percent, of particular fees, charges or receipts to a stabilization fund established under Massachusetts General Laws Chapter 40, Section 5B, to be effective for the fiscal year beginning on July 1, _____.

REVENUE DEDICATION

Legislative Body Vote

ARTICLE/ORDER: To see if the city/town/district will dedicate all or a percentage, which may not be less than 25 percent, of the _____ to the _____ Stabilization Fund established under [Massachusetts General Laws Chapter 40, Section 5B](#), effective for fiscal year _____ beginning on July 1, _____ or take any other action relative thereto.

MOTION: Moved/ordered that the city/town/district dedicate ____% of the _____ to the _____ Stabilization Fund established under [Massachusetts General Laws Chapter 40, Section 5B](#), effective for the fiscal year _____ beginning on July 1, _____.

Example

ARTICLE/ORDER: To see if the city/town will dedicate all or a percentage, which may not be less than 25 percent, of the meals excise revenues collected under [Massachusetts General Laws Chapter 64L](#) to the Capital Purposes Stabilization Fund established under [Massachusetts General Laws Chapter 40, Section 5B](#), effective for fiscal year 2019 beginning on July 1, 2018, or take any other action relative thereto.

MOTION: Moved/ordered that the city/town dedicate 50% of the meals excise revenues collected under [Massachusetts General Laws Chapter 64L](#) to the Capital Purposes Stabilization Fund established under [Massachusetts General Laws Chapter 40, Section 5B](#), effective for fiscal year 2019 beginning on July 1, 2018.



Local Finance Opinion

LFO-2018-3
September 24, 2018

TOPIC: Money from Marijuana Establishments and Medical Marijuana Treatment Centers

ISSUE: Accounting treatment of local option excises on retail sales of marijuana for adult use and impact fees and any other payments required or received from marijuana establishments and medical marijuana treatment centers in connection with their operation

This LFO addresses questions and provides guidance regarding the municipal finance law and accounting treatment of money from marijuana establishments and medical marijuana treatment centers. It does not address how payments by those establishments or treatment centers are treated for purposes of host community agreements.

1. What is the general rule about accounting for money received by a city, town or district officer or department?

All money received or collected by a city, town or district from any source is credited to its general fund and can only be spent after appropriation unless a general or special law provides for an exception and different treatment, *i.e.*, a general or special law expressly reserves the revenue stream for expenditure for a particular purpose or allows expenditure by a municipal or district department or officer without appropriation. [G.L. c. 44 § 53](#).

2. What money could a marijuana establishment or a medical marijuana treatment center generate for a municipality?

Municipalities may (1) impose a local excise on the retail sales of marijuana for adult use and (2) negotiate impact fees or other payments under a community host or other agreement with a marijuana establishment or medical marijuana treatment center in connection with its siting and operation in the municipality.

3. How does a municipality impose a local excise on retail sales of marijuana for adult use?

A city or town may impose a local excise on the retail sale of marijuana for adult use by accepting [G.L. c. 64N, § 3](#). Acceptance is by majority vote of the community's legislative body, subject to charter. The maximum excise rate communities may impose is 3%. If a city or town in which a marijuana retailer is located accepts G.L. c. 64N, § 3, all sales by the marijuana retailer that are subject to the state excise on marijuana retail sales will also be subject to the host community's local excise. The excise does not apply to the sale of marijuana or marijuana products by a medical marijuana treatment center. [G.L. c. 64N, § 4](#). See [Bulletin 2018-3, Local Excise on Retail Sales of Marijuana for Adult Use](#).

4. How does a municipality obtain impact fees or other payments from a marijuana establishment or medical marijuana treatment center?

A marijuana establishment or a medical marijuana treatment center that wants to operate or continue to operate in a municipality must execute a community host agreement with the municipality. [G.L. c. 94G, § 3\(d\)](#). The community host agreement must include, but is not limited to, all responsibilities of both parties with respect to the operation of the establishment or center within the municipality. The agreement may include payment of a community impact fee by the marijuana establishment or medical marijuana treatment center in order to mitigate the costs imposed upon the municipality by the operation of the establishment or treatment center within its borders. [G.L. c. 94G, § 3\(d\)](#).

5. Is there an exception to the general rule for money related to the operation of a marijuana establishment or medical marijuana treatment center?

No. There is no general law that establishes a different accounting treatment for (1) revenues generated by the local sales excise on retail sales of marijuana for adult use or (2) payments made under community host or other agreements with marijuana establishments or medical marijuana treatment centers. Therefore, the money belongs to the general fund and can only be spent by appropriation. [G.L. c. 44 § 53](#).

6. How do accounting officers treat money related to the operation of a marijuana establishment or medical marijuana treatment center?

Accounting officers must credit all of the following to the general fund:

1. Collections from local option excises on retail sales of marijuana for adult use and
2. Payments made by a marijuana establishment or medical marijuana treatment center regardless of the characterization of the payments by the parties.

State law governs the municipal finance and accounting treatment of payments made by a marijuana establishment or medical marijuana treatment center, not a host community or other agreement between the municipality and the establishment or treatment center. It is not within our regulatory purview to determine the nature of those payments for purposes of [G.L. c. 94G, § 3\(d\)](#). For municipal finance law purposes, however, payments made by an establishment or treatment center under a host community or other agreement in connection with, or to mitigate the costs imposed by, the location and operation of the establishment or treatment center within the municipality are in the nature of exactions or mitigation payments that belong to the general fund. They cannot be reserved in or credited to a separate gift or grant account, trust fund, revolving fund or other special revenue fund and cannot be spent without appropriation or appropriated as an available fund. They belong to the general fund because no general law establishes a different accounting treatment for money related to the operation of these establishments or treatment centers specifically or from exactions or mitigation payments generally.

We understand that some of these agreements have characterized all or some of the payments as gifts or gifts in the nature of trusts. However, a payment made by a private party to a municipality in connection with a regulated activity, contract or other municipal action is not a gift, donation or grant within the meaning of and for the purposes of [G.L. c. 44, § 53A](#). Therefore, it may not be accounted for in a separate account and spent without appropriation. These payments lack the donative intent that is an essential characteristic of the genuine gift required by that statute. A gift is ordinarily defined as a

voluntary payment of money or transfer of property made without consideration. Although a private party's decision to engage in a regulated activity or contract with a municipality may be one of choice, it is doing so with the expectation of receiving valuable consideration in return, *i.e.*, a privilege or benefit, or some municipal action or authorization. In this case, the execution of a host agreement is a condition precedent to being able to operate or continue to operate as a licensed marijuana establishment or registered medical marijuana treatment center. It is doubtful that any payments the establishment or treatment center agree to make are for a purpose other than to obtain the necessary host agreement. "[T]he nature of a monetary exaction must be determined by its operation rather than its specially descriptive phrase." [Emerson College v. Boston](#), 391 Mass. 415, at 424 (1984), quoting [Thomson Electric Welding Company v. Commonwealth](#), 275 Mass. 426, at 429 (1931).

7. Is there a way under state law that a municipality may dedicate payments made by a marijuana establishment or medical marijuana treatment center for later appropriation for particular purposes?

Yes. A municipality may use a local acceptance option to dedicate all, or a portion of at least 25%, of the collections of the excise on retail sales of marijuana or payments from a community host and other agreement payments to a general or special purpose stabilization fund established under [G.L. c. 40 § 5B](#). For the procedure that must be followed to accept and use this local option, see Section II of [Informational Guideline Release \(IGR\) No. 17-20, Stabilization Funds](#). Under this option, these collections and payments may be dedicated to stabilization funds because they are not earmarked for a particular purpose under current state law. In addition, the excise on marijuana retail sales is not a locally assessed tax or excise specifically excluded from dedication.

8. How will the Bureau of Accounts treat balance sheet reservations of payments from a marijuana establishment or medical marijuana treatment center when certifying free cash?

The Bureau of Accounts will close balance sheet reservations of payments from marijuana establishments or medical marijuana treatment centers when calculating the available funds of a municipality (free cash). [G.L. c. 59, § 23](#). This is consistent with its policy with respect to similar payments made under host, development or other agreements with other private parties that also belong to the general fund.

9. What agency has regulatory jurisdiction over issues related to the operation of marijuana establishments or medical marijuana treatment centers?

The state's [Cannabis Control Commission](#) determines whether marijuana establishments or medical marijuana treatment centers meet licensing or registration standards required to operate. Questions regarding the interpretation of the statute, regulations and other guidance related to the implementation of marijuana for adult use or medical purposes should be directed to the Commission.



Kathleen Colleary, Chief
 Bureau of Municipal Finance Law

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter** POWERS AND DUTIES OF CITIES AND TOWNS
40**Section 5B** STABILIZATION FUNDS; ESTABLISHMENT

[Text of section effective until November 7, 2016. For text effective November 7, 2016, see below.]

Section 5B. For the purpose of creating 1 or more stabilization funds, cities, towns and districts may appropriate in any year an amount not exceeding, in the aggregate, 10 per cent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property or such larger amount as may be approved by the director of accounts. The aggregate amount in such funds at any time shall not exceed 10 per cent of the equalized valuation of the city or town as defined in section 1 of chapter 44. Any interest shall be added to and become part of the fund.

The treasurer shall be the custodian of all such funds and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are

legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loans associations situated in the commonwealth.

At the time of creating any such fund the city, town or district shall specify, and at any later time may alter, the purpose of the fund, which may be for any lawful purpose, including without limitation an approved school project under chapter 70B or any other purpose for which the city, town or district may lawfully borrow money. Such specification and any such alteration of purpose, and any appropriation of funds into or out of any such fund, shall be approved by two-thirds vote, except as provided in paragraph (g) of section 21C of chapter 59 for a majority referendum vote. Subject to said section 21C, in a town or district any such vote shall be taken at an annual or special town meeting, and in a city any such vote shall be taken by city council.

Chapter 40: Section 5B. Stabilization funds; establishment

[Text of section as amended by 2016, 218, Sec. 22 effective November 7, 2016. For text effective until November 7, 2016, see above.]

Section 5B. Cities, towns and districts may create 1 or more stabilization funds and appropriate any amount into the funds. Any interest shall be added to and become part of the fund.

The treasurer shall be the custodian of all stabilization funds and may deposit the proceeds in a trust company, co-operative bank or savings bank, if the trust company or bank is organized or exists pursuant to the laws of the commonwealth or any other state or may transact business in the commonwealth and has its main office or a branch office in the commonwealth; a national bank, federal savings bank or federal savings and loan association, if the bank or association may transact business and

has its main office or a branch office in the commonwealth; provided, however, that a state-chartered or federally-chartered bank shall be insured by the Federal Deposit Insurance Corporation or its successor; or may invest the funds in participation units in a combined investment fund pursuant to section 38A of chapter 29 or in securities that are legal investments for savings banks.

At the time of creating any stabilization fund the city, town or district shall specify, and at any later time may alter, the purpose of the fund, which may be for any lawful purpose, including without limitation, an approved school project pursuant to chapter 70B or any other purpose for which the city, town or district may lawfully borrow money. The specification and any alteration of purpose, and any appropriation of funds from any such fund, shall be approved by a two-thirds vote, except as provided in paragraph (g) of section 21C of chapter 59 for a majority referendum vote. Subject to said section 21C of said chapter 59, any such vote shall be of the legislative body of the city, town or district, subject to charter.

Notwithstanding section 53 of chapter 44 or any other general or special law to the contrary, a city, town or district that accepts this paragraph may dedicate, without further appropriation, all, or a percentage not less than 25 per cent, of a particular fee, charge or other receipt to any stabilization fund established pursuant to this section; provided, however, that the receipt is not reserved by law for expenditure for a particular purpose. For purposes of this paragraph, a receipt shall not include taxes or excises assessed pursuant to chapter 59, 60A, 60B, 61, 61A or 61B or surcharges assessed pursuant to section 39M or chapter 44B. A dedication shall be approved by a two-thirds vote of the legislative body of the city, town or district, subject to charter, and may be terminated in the same manner. A

vote to dedicate or terminate a dedication shall be made before the fiscal year in which the dedication or termination is to commence and shall be effective at least for 3 fiscal years.

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 44** MUNICIPAL FINANCE**Section 53** CITY, TOWN OR DISTRICT FUNDS; USE AND DISPOSITION

[Text of section effective until November 7, 2016. For text effective November 7, 2016, see below.]

Section 53. All moneys received by any city, town or district officer or department, except as otherwise provided by special acts and except fees provided for by statute, shall be paid by such officers or department upon their receipt into the city, town or district treasury. Any sums so paid into the city, town or district treasury shall not later be used by such officer or department without specific appropriation thereof; provided, however, that (1) sums allotted by the commonwealth or a county to cities or towns for highway purposes and sums allotted by the commonwealth to cities, towns or districts for water pollution control purposes shall be available therefor without specific appropriation, but shall be used only for the purposes for which the allotment is made or to meet temporary loans issued in anticipation of such allotment as provided in section six or six A, (2) sums not in excess of twenty thousand dollars recovered under the terms of fire or physical damage insurance policy and sums not in excess of twenty thousand dollars received in restitution for damage done to

such city, town or district property may be used by the officer or department having control of the city, town or district property for the restoration or replacement of such property without specific appropriation and (3) sums recovered from pupils in the public schools for loss of school books or paid by pupils for materials used in the industrial arts projects may be used by the school committee for the replacement of such books or materials without specific appropriation.

Chapter 44: Section 53. City, town or district funds; use and disposition

[Text of section as amended by 2016, 218, Sec. 84 effective November 7, 2016. For text effective until November 7, 2016, see above.]

Section 53. All moneys received by any city, town or district officer or department, except as otherwise provided by special acts and except fees provided for by statute, shall be paid by such officers or department upon their receipt into the city, town or district treasury. Any sums so paid into the city, town or district treasury shall not later be used by such officer or department without specific appropriation thereof; provided, however, that (1) sums allotted by the commonwealth or a county to cities or towns for highway purposes and sums allotted by the commonwealth to cities, towns or districts for water pollution control purposes shall be available therefor without specific appropriation, but shall be used only for the purposes for which the allotment is made or to meet temporary loans issued in anticipation of such allotment as provided in section six or six A, (2) sums not in excess of \$150,000 recovered under the terms of a fire or physical damage insurance policy or received in restitution for damage done to such city, town or district property may, with the approval of the chief executive officer, be used by the officer or department having

control of the city, town or district property for the restoration or replacement of such property without specific appropriation during the fiscal year in which they are received or 120 days after receipt, whichever is later, and (3) sums recovered from pupils in the public schools for loss of or damage to school books, materials, electronic devices or other learning aids provided by the school committee, or paid by pupils for materials used in the industrial arts projects, may be used by the school committee for the restoration or replacement of such books or materials without specific appropriation.