§ 4706. Reserve and surplus requirements. (a) Notwithstanding any provision of law, the governing board of a municipal cooperative health benefit plan shall establish a reserve fund, and the plan's chief fiscal officer shall cause to be paid into the reserve fund the amounts necessary to satisfy all contractual obligations and liabilities of the plan, including:

(1) a reserve for payment of claims and expenses thereon reported but not yet paid, and claims and expenses thereon incurred but not yet reported which shall not be less than an amount equal to twenty-five percent of expected incurred claims and expenses thereon for the current plan year, unless a qualified actuary has demonstrated to the superintendent's satisfaction that a lesser amount will be adequate;

(2) a reserve for unearned premium equivalents;

(3) a claim stabilization reserve;

(4) a reserve for other obligations of the municipal cooperative health benefit plan; and

(5) a surplus account, established and maintained for the sole purpose of satisfying unexpected obligations of the municipal cooperative health benefit plan in the event of termination or abandonment of the plan, which shall not be less than:

(A) five percent of the annualized earned premium equivalents during the current fiscal year of a municipal cooperative health benefit plan which consists of five or more participating municipal corporations and covers two thousand or more employees and retirees; or

(B) seven percent of the annualized earned premium equivalents during the current fiscal year of the municipal cooperative health benefit plan which consists of four or fewer participating municipal corporations or covers fewer than two thousand employees and retirees.

(b) The moneys in the plan's reserve funds and surplus account shall be deposited in one or more banks or trust companies designated by the governing board in accordance with the municipal cooperation agreement, in one or more separate segregated accounts, subject to investment in obligations specified in the general municipal law or education law (as applicable) for investment of moneys in reserve funds or as otherwise expressly permitted by the superintendent. Any such bank or trust company shall be located in this state and shall be duly chartered pursuant to federal law or the laws of this state. Any interest earned

or capital gain realized on the money so deposited or invested shall accrue to and become part of the plan's reserve funds or surplus account, as applicable.

(c) The plan's chief fiscal officer shall account for the plan's reserve funds separate and apart from all other funds of the municipal cooperative health benefit plan, and such accounting shall show:

(1) the purpose, source, date and amount of each sum paid into the fund;

(2) the interest earned by such funds;

(3) capital gains or losses resulting from the sale of investments of the plan's reserve funds;

(4) the order, purpose, date and amount of each payment from the reserve fund; and

(5) the assets of the fund, indicating cash balance and schedule of investments.

(d) The plan's chief fiscal officer, within ninety days of the end of each fiscal year, shall furnish a detailed report of the operations and condition of the plan's reserve funds to the governing board.

(e) An expenditure from the plan's reserve funds shall be made only for the payment of benefits and other obligations of the municipal cooperative health benefit plan or expenses incurred in administering such plan.

(f) If the municipal cooperative health benefit plan ceases to provide plan benefits on a shared-funding basis, the moneys remaining in the plan's reserve funds not needed to satisfy plan liabilities incurred prior to such cessation shall be disposed of in the manner provided in the municipal cooperation agreement.

(g) If a municipal corporation withdraws from a municipal cooperative health benefit plan operating under a certificate of authority, the governing board shall, in accordance with the municipal cooperation agreement, determine the amount, if any, of the plan's reserve funds attributable to such municipal corporation, after considering all plan liabilities, and dispose of such amount in the manner provided in the municipal cooperation agreement.