

4182

2013-2014 Regular Sessions

I N S E N A T E

March 13, 2013

Introduced by Sen. FLANAGAN -- (at request of the State Comptroller) --
read twice and ordered printed, and when printed to be committed to
the Committee on Education

AN ACT to amend the education law, in relation to requiring notice of
reserve funds, reserves funded by resolution and the internal audit of
certain school districts; and to amend the general municipal law, in
relation to tax stabilization reserves, reserves for bonded indebt-
edness, and authorizing school districts and boards of cooperative
educational services to establish retirement contribution reserve
funds for the purposes of the New York state teachers' retirement
system

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5 of section 1608 of the education law, as
2 amended by section 5 of part A of chapter 436 of the laws of 1997, is
3 amended to read as follows:
4 5. The trustee or board of trustees shall append to the statement of
5 estimated expenditures a detailed statement of the total compensation to
6 be paid to the superintendent of schools, and any assistant or associate
7 superintendents of schools in the ensuing school year, including a
8 delineation of the salary, annualized cost of benefits and any in-kind
9 or other form of remuneration, AND A SCHEDULE OF RESERVE FUNDS, SETTING
10 FORTH THE NAME OF EACH RESERVE FUND, A DESCRIPTION OF ITS PURPOSE, THE
11 BALANCE AS OF THE CLOSE OF THIRD QUARTER OF THE CURRENT SCHOOL DISTRICT
12 FISCAL YEAR AND A BRIEF STATEMENT EXPLAINING ANY PLANS FOR THE USE OF
13 EACH SUCH RESERVE FUND FOR THE ENSUING FISCAL YEAR. The trustees shall
14 also append a list of all other school administrators and supervisors,
15 if any, whose annual salary will be eighty-five thousand dollars or more
16 in the ensuing school year, with the title of their positions and annual
17 salary identified; provided however, that the commissioner may adjust
18 such salary level to reflect increases in administrative salaries after

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 June thirtieth, nineteen hundred ninety-eight. The trustees shall submit
2 a copy of such list and statement, in a form prescribed by the commis-
3 sioner, of compensation to the commissioner within five days after their
4 preparation. The commissioner shall compile such data, together with the
5 data submitted pursuant to subdivision three of section seventeen
6 hundred sixteen of this chapter, into a single statewide compilation,
7 which shall be made available to the governor, the legislature, and
8 other interested parties upon request.

9 S 2. Subdivision 5 of section 1716 of the education law, as amended by
10 section 7 of part A of chapter 436 of the laws of 1997, is amended to
11 read as follows:

12 5. The board of education shall append to the statement of estimated
13 expenditures a detailed statement of the total compensation to be paid
14 to the superintendent of schools, and any assistant or associate super-
15 intendants of schools in the ensuing school year, including a deline-
16 ation of the salary, annualized cost of benefits and any in-kind or
17 other form of remuneration, AND A SCHEDULE OF RESERVE FUNDS, SETTING
18 FORTH THE NAME OF EACH RESERVE FUND, A DESCRIPTION OF ITS PURPOSE, THE
19 BALANCE AS OF THE CLOSE OF THIRD QUARTER OF THE CURRENT SCHOOL DISTRICT
20 FISCAL YEAR AND A BRIEF STATEMENT EXPLAINING ANY PLANS FOR THE USE OF
21 EACH SUCH RESERVE FUND FOR THE ENSUING FISCAL YEAR. The board shall
22 also append a list of all other school administrators and supervisors,
23 if any, whose annual salary will be eighty-five thousand dollars or more
24 in the ensuing school year, with the title of their positions and annual
25 salary identified; provided however, that the commissioner may adjust
26 such salary level to reflect increases in administrative salaries after
27 June thirtieth, nineteen hundred ninety-eight. The board of education
28 shall submit a copy of such list and statement, in a form prescribed by
29 the commissioner, of compensation to the commissioner within five days
30 after their preparation. The commissioner shall compile such data,
31 together with the data submitted pursuant to subdivision four of section
32 sixteen hundred eight of this chapter, into a single statewide compila-
33 tion, which shall be made available to the governor, the legislature,
34 and other interested parties upon request.

35 S 3. Subdivision 2 of section 2116-b of the education law, as added by
36 chapter 263 of the laws of 2005, is amended to read as follows:

37 2. School districts of less than eight teachers, school districts with
38 actual general fund expenditures totaling less than five million dollars
39 in the previous school year, or school districts with actual enrollment
40 of less than [three hundred] ONE THOUSAND students in the previous
41 school year shall be exempt from this requirement. Any school district
42 claiming such exemption shall annually certify to the commissioner that
43 such school district meets the requirements set forth in this subdivi-
44 sion. ANY SCHOOL DISTRICT WITH ACTUAL ENROLLMENT OF LESS THAN ONE THOU-
45 SAND STUDENTS IN THE PREVIOUS SCHOOL YEAR THAT HAS ESTABLISHED AN INTER-
46 NAL AUDIT FUNCTION MAY DISCONTINUE SUCH FUNCTION, UPON NOTICE TO THE
47 STATE COMPTROLLER AND THE COMMISSIONER.

48 S 4. The education law is amended by adding a new section 3653 to read
49 as follows:

50 S 3653. RESERVES FUNDED BY RESOLUTION. IN ADDITION TO ANY OTHER
51 REQUIREMENTS, NO MONIES SHALL BE PAID OR TRANSFERRED INTO ANY RESERVE
52 FUND, ESTABLISHED PURSUANT TO THIS CHAPTER OR ANY OTHER CHAPTER OF LAW,
53 FOR THE PURPOSE OF INCREASING THE FUNDING OF SUCH RESERVE FUND, UNLESS
54 EXPRESSLY AUTHORIZED BY A RESOLUTION OF THE BOARD OF EDUCATION OR TRUS-
55 TEES OF A SCHOOL DISTRICT.

1 S 5. Section 6-e of the general municipal law, as added by chapter 655
2 of the laws of 1992, paragraph m of subdivision 1 as added, paragraph n
3 of subdivision 1 as relettered, subdivision 3 and paragraph d of subdivi-
4 sion 4 as amended by chapter 528 of the laws of 2000, and subdivision
5 5 as amended by chapter 140 of the laws of 1996, is amended to read as
6 follows:

7 S 6-e. Contingency and tax stabilization reserve fund for municipal
8 corporations. 1. As used in this section:

9 a. "Annual budget" means the annual budget or estimate, as finally
10 adopted, of a municipal corporation which is required by law to adopt an
11 annual budget or estimate of the expenditures to be made for a fiscal
12 year for the general support or for the expenses of the government of
13 such municipal corporation during such fiscal year.

14 b. "Base year" means the most recent fiscal year for which an annual
15 report has been filed with the state comptroller pursuant to section
16 thirty of this chapter.

17 c. "Chief executive officer" means a chief executive officer as
18 defined in paragraph five-a of section 2.00 of the local finance law.

19 d. "Chief fiscal officer" means a chief fiscal officer as defined in
20 paragraph five of section 2.00 of the local finance law.

21 e. "Eligible portion of the annual budget" means:

22 (1) in the case of a contingency and tax stabilization reserve fund
23 established for a county, city, village, SCHOOL DISTRICT or fire
24 district, the general fund portion of the annual budget;

25 (2) in the case of a contingency and tax stabilization reserve fund
26 established for a town, the town-wide general fund and highway fund
27 portions of the annual budget; and

28 (3) in the case of a contingency and tax stabilization reserve fund
29 established for the part of a town outside any villages, the general
30 fund and highway fund portions of the annual budget for such part of the
31 town.

32 f. "Estimated revenue" means revenue from a specific source which is
33 expected to be received during a fiscal year and which is included in
34 the annual budget as finally adopted for that fiscal year.

35 g. "Governing board" means a governing board as defined in section two
36 of this chapter and, in the case of a fire district, shall mean the
37 board of fire commissioners AND IN THE CASE OF A SCHOOL DISTRICT, SHALL
38 MEAN THE BOARD OF EDUCATION OR BOARD OF TRUSTEES, OR FOR A COMMON SCHOOL
39 DISTRICT HAVING ONE TRUSTEE, SUCH TRUSTEE.

40 h. "Municipal corporation" means a municipal corporation as defined in
41 section two of this chapter and shall also include a fire district AND
42 SCHOOL DISTRICT.

43 i. "Public emergency" means an epidemic, conflagration, riot, storm,
44 flood or other sudden, unforeseen or unexpected occurrence or condition
45 which requires the immediate expenditure of moneys to protect the public
46 health, safety or welfare of the inhabitants of the municipal corpo-
47 ration.

48 j. "Tentative budget" means the tentative budget prepared pursuant to
49 section three hundred fifty-four of the county law, section one hundred
50 six of the town law or section 5-504 of the village law, the [statement
51 of expenditures] PROPOSED BUDGET prepared pursuant to section one
52 hundred eighty-one of the town law, THE STATEMENT OF ESTIMATED EXPENDI-
53 TURES PREPARED PURSUANT TO SECTION SIXTEEN HUNDRED EIGHT OR SEVENTEEN
54 HUNDRED SIXTEEN OF THE EDUCATION LAW or similar document prepared pursu-
55 ant to general, special or local law.

1 k. "Unanticipated expenditure" means an expenditure for a specific
2 purpose for which there is no or insufficient appropriation or which
3 will cause an appropriation to be insufficient that is necessitated by a
4 change in federal or state laws, rules or regulations, a court order,
5 judgement or decree, a public emergency, or an industry-wide price, rate
6 or premium increase, which takes effect or occurs after final adoption
7 of the annual budget and which could not have been reasonably antic-
8 ipated prior to final adoption of the annual budget.

9 l. "Unanticipated revenue loss" means estimated revenue which is
10 rendered unreceivable because of a change in federal or state laws,
11 rules or regulations, a court order, judgement or decree, or other
12 circumstance, which takes effect or occurs after final adoption of the
13 annual budget and which could not have been reasonably anticipated prior
14 to final adoption of the annual budget.

15 m. "Unappropriated unreserved fund balance" means the difference
16 between the total assets for a fund and the total liabilities, deferred
17 revenues, encumbered appropriations, amounts appropriated for the ensu-
18 ing fiscal year's budget, and amounts reserved for stated purposes
19 pursuant to law, including reserve funds established pursuant to [the
20 general municipal law] THIS CHAPTER OR THE EDUCATION LAW for the fund,
21 as determined through application of the system of accounts prescribed
22 by the state comptroller pursuant to section thirty-six of this chapter.

23 n. "Voting strength" means the aggregate number of votes which all the
24 members of the governing board are entitled to cast.

25 2. The governing board of any municipal corporation OTHER THAN A
26 SCHOOL DISTRICT, by resolution subject to a permissive referendum, may
27 establish a contingency and tax stabilization reserve fund for the
28 municipal corporation and, in the case of a town, also for the part of
29 the town outside any villages. Such permissive referendum shall be
30 governed by:

31 a. in the case of a county, sections one hundred one through one
32 hundred three of the county law;

33 b. in the case of a city, sections twenty-four through twenty-six of
34 the municipal home rule law;

35 c. in the case of a town or the part of a town outside any villages,
36 article seven of the town law;

37 d. in the case of a village, article nine of the village law; and

38 e. in the case of a fire district, subdivision four of section six-g
39 of this article.

40 2-A. A SCHOOL DISTRICT MAY ESTABLISH A CONTINGENCY AND TAX STABILIZA-
41 TION RESERVE FUND BY A RESOLUTION OF ITS GOVERNING BOARD.

42 3. There may be paid into the contingency and tax stabilization
43 reserve fund such amounts as may be provided therefor by budgetary
44 appropriation, unappropriated unreserved fund balance in the eligible
45 portion of the annual budget, and such revenues as are not required by
46 law to be paid into any other fund or account; provided, however, that
47 no amount may be appropriated for payment into a contingency and tax
48 stabilization reserve fund which would cause the balance of the fund to
49 exceed ten percent of the eligible portion of the annual budget for the
50 fiscal year for which the appropriation would be made.

51 4. a. The moneys in a contingency and tax stabilization reserve fund
52 may be expended only pursuant to an appropriation for a purpose author-
53 ized by this subdivision. Except as provided in paragraph e of this
54 subdivision, such an appropriation shall be made only upon the recommen-
55 dation of the chief executive officer and the adoption of a resolution

1 appropriating the recommended amount by at least two-thirds of the
2 voting strength of the governing board.

3 b. The moneys in a contingency and tax stabilization reserve fund
4 ESTABLISHED BY A MUNICIPAL CORPORATION OTHER THAN A SCHOOL DISTRICT may
5 be used to finance an unanticipated revenue loss chargeable to the
6 eligible portion of the annual budget, subject to the following limita-
7 tions:

8 (1) the maximum amount of moneys in the fund that may be used to
9 finance an unanticipated revenue loss shall equal either the amount of
10 the revenue actually received for the base year or the amount of the
11 estimated revenue for the current fiscal year, whichever is less, minus
12 the amount of the revenue actually received for the current fiscal year;
13 and

14 (2) the moneys in the fund may be used only to finance that portion of
15 the unanticipated revenue loss which, as a matter of law, cannot be
16 financed with amounts available in any other account or fund.

17 c. The moneys in a contingency and tax stabilization reserve fund
18 ESTABLISHED BY A MUNICIPAL CORPORATION OTHER THAN A SCHOOL DISTRICT may
19 be used to finance an unanticipated expenditure chargeable to the eligi-
20 ble portion of the annual budget, subject to the following limitations:

21 (1) the maximum amount of moneys in the fund that may be used to
22 finance an unanticipated expenditure shall equal the sum of the amount
23 of the unanticipated expenditure and the amount appropriated for that
24 purpose for the current fiscal year minus either the amount appropriated
25 for that purpose for the current fiscal year or the actual expenditure
26 for the same purpose in the base year, whichever is greater; and

27 (2) the moneys in the fund may be used only to finance that portion of
28 an unanticipated expenditure which, as a matter of law, cannot be
29 financed with amounts available in any other account or fund.

30 d. The moneys in the contingency and tax stabilization reserve fund
31 may be used to lessen or prevent any projected increase in excess of two
32 and one-half percent in the amount of the real property tax levy needed
33 to finance the eligible portion of the annual budget for the next
34 succeeding fiscal year. The maximum amount of moneys in the fund that
35 may be used for this purpose shall equal the difference between the
36 projected amount of such real property tax levy and one hundred two and
37 one-half percent of the amount of the real property tax levy needed to
38 finance the eligible portion of the annual budget for the current fiscal
39 year.

40 e. When preparing the tentative budget of a municipal corporation, if
41 the current balance of a contingency and tax stabilization reserve fund,
42 as shown by the statement of the chief fiscal officer required by subdi-
43 vision six of this section, exceeds ten percent of the eligible portion
44 of the annual budget for the current fiscal year, such excess shall be
45 used to reduce the amount of real property taxes needed to finance the
46 eligible portion of the annual budget for the next succeeding fiscal
47 year. IN ADDITION, IN THE CASE OF A SCHOOL DISTRICT, ANY MONIES DEPOSIT-
48 ED TO SUCH RESERVE FUND WHICH ARE NOT EXPENDED TO LESSEN OR PREVENT ANY
49 PROJECTED INCREASE IN EXCESS OF TWO AND ONE-HALF PERCENT IN THE AMOUNT
50 OF THE REAL PROPERTY TAX LEVY NEEDED TO FINANCE THE ELIGIBLE PORTION OF
51 THE ANNUAL BUDGET FOR ANY OF THE THREE FISCAL YEARS SUCCEEDING THE
52 FISCAL YEAR IN WHICH THE MONIES ARE SO DEPOSITED SHALL BE RETURNED TO
53 THE GENERAL FUND ON OR BEFORE THE FIRST DAY OF THE FOURTH FISCAL YEAR
54 FOLLOWING THE DEPOSIT OF SUCH MONIES TO SUCH RESERVE FUND.

55 5. The moneys in the contingency and tax stabilization reserve fund
56 shall be deposited in one or more of the banks or trust companies desig-

1 nated, in the manner provided by law, as depositories of the funds of
2 such municipal corporation. The governing board, or the chief fiscal
3 officer having custody of such money of such municipal corporation, if
4 the governing board shall delegate such duty to him, may invest the
5 moneys in such fund in obligations specified in section eleven of this
6 article. Any interest earned or capital gain realized on the money so
7 deposited or invested shall accrue to and become part of such fund.

8 6. The chief fiscal officer shall account for the contingency and tax
9 stabilization reserve fund separate and apart from all other funds of
10 the municipal corporation. Such accounting shall show: the source, date
11 and amount of each sum paid into the fund; the interest earned by such
12 fund; capital gains or losses resulting from the sale of investments of
13 the fund; the order, source thereof, date and amount of each appropri-
14 ation from this fund; the assets of the fund, indicating cash balance
15 and a schedule of investments. Not later than sixty days after the start
16 of each fiscal year and at such times as may be required by the govern-
17 ing board, the chief fiscal officer shall furnish to the governing board
18 a detailed report of the operation and condition of the fund during the
19 preceding fiscal year which shall include a statement of receipts and
20 disbursements, and a statement of the balance of the fund as of the last
21 day of such preceding fiscal year and such other dates as may be speci-
22 fied by the governing board. Not later than thirty days prior to the
23 last date provided by law for the filing of the tentative budget, the
24 chief fiscal officer shall furnish to the officer or body responsible
25 for preparing the tentative budget a statement of the current balance of
26 the fund.

27 7. The members of the governing board are hereby declared trustees of
28 the moneys in the contingency and tax stabilization reserve fund and
29 shall be subject to all duties and responsibilities imposed by law on
30 trustees, and such duties and responsibilities may be enforced by the
31 municipal corporation or by any board, commission, agency, officer or
32 taxpayer thereof.

33 8. Any officer of a municipal corporation shall be guilty of a misde-
34 meanor if he or she willfully and knowingly causes the municipal corpo-
35 ration to:

36 a. Appropriate moneys from the contingency and tax stabilization
37 reserve fund for any purpose not authorized by this section.

38 b. Expend any money from the contingency and tax stabilization reserve
39 fund for a purpose other than that for which it was appropriated.

40 The provisions of this subdivision shall be considered to be in addition
41 to any other penalties provided by law.

42 S 6. Section 6-h of the general municipal law, as added by chapter 742
43 of the laws of 1945, the section heading and subdivisions 2, 5, 6 and 8
44 as amended by chapter 592 of the laws of 1957, subdivision 1 as amended
45 by chapter 755 of the laws of 1965, subdivision 9 as amended by chapter
46 140 of the laws of 1996 and subdivision 11 as amended by chapter 424 of
47 the laws of 2001, is amended to read as follows:

48 S 6-h. Reserve fund for payment of bonded indebtedness in counties,
49 cities, villages, towns, SCHOOL DISTRICTS and fire districts. 1. As used
50 in this section, the term "governing board," in so far as it is used in
51 reference to a county, shall mean the board of supervisors thereof; in
52 so far as it is used in reference to a city, shall mean the "local
53 legislative body" thereof, as that term is defined in subdivision seven
54 of section two of the municipal home rule law, as amended from time to
55 time; in so far as it is used in reference to a village, shall mean the
56 board of trustees thereof; in so far as it is used in reference to a

1 town, shall mean the town board thereof; in so far as it is used in
2 reference to a fire district, shall mean the board of fire
3 commissioners; IN SO FAR AS IT IS USED IN REFERENCE TO A SCHOOL
4 DISTRICT, SHALL MEAN THE BOARD OF EDUCATION OR BOARD OF TRUSTEES, OR FOR
5 A COMMON SCHOOL DISTRICT HAVING ONE TRUSTEE, SUCH TRUSTEE.

6 2. The governing board of any county, city, village, town, SCHOOL
7 DISTRICT or fire district may by resolution adopted by a majority vote
8 of its governing body establish a reserve fund for the payment of its
9 bonded indebtedness as herein described, provided, however, that such
10 debt reserve fund shall not be established for, or moneys therein used
11 to pay, any obligations payable in the first instance from assessments,
12 or from taxes levied upon an area in such county, city, village, town,
13 SCHOOL DISTRICT or fire district smaller than the area of such county,
14 city, village, town, SCHOOL DISTRICT or fire district.

15 3. Such fund may be established for the payment of one or of several
16 issues of bonds of such [municipality] MUNICIPAL CORPORATION, SCHOOL
17 DISTRICT OR FIRE DISTRICT or the purchase of the same.

18 4. There may be paid into such fund:

19 a. Such an amount as may be provided therefor by budgetary appropri-
20 ation.

21 b. Such revenues as are not otherwise appropriated or required by law
22 to be paid into any other fund or account.

23 5. An expenditure from such a reserve fund may only be made by appro-
24 priation pursuant to a resolution of the governing board of the municipi-
25 pal corporation, SCHOOL DISTRICT or fire district establishing the same
26 and only for the payment of the principal and interest on bonds issued
27 by such municipal corporation, SCHOOL DISTRICT or fire district and
28 forming a part of an issue having a maximum maturity of not less than
29 five years; or for the purchase of bonds of such municipal corporation,
30 SCHOOL DISTRICT or fire district forming a part of an issue having a
31 maximum maturity of not less than five years at a price not to exceed
32 the par value thereof and accrued interest to the date of delivery of
33 such bonds to such municipal corporation, SCHOOL DISTRICT or fire
34 district, provided, however, that if any such bonds were issued subject
35 to the right of such municipal corporation, SCHOOL DISTRICT or fire
36 district to redeem the same prior to the maturity date thereof then such
37 purchase may be made for the redemption of such bonds at the price and
38 on the terms stated in such bonds or in the proceeding authorizing the
39 same as the case may be.

40 Where provision has been made in the current budget from funds other
41 than a reserve fund for the payment of the principal and interest on
42 bonds or the purchase thereof, no expenditure may be made for the
43 purchase or payment of the same from such a reserve fund during the
44 current fiscal year for which such budget was adopted.

45 All expenditures from such fund as provided in this subdivision may
46 only be made by the chief fiscal officer of the municipal corporation,
47 SCHOOL DISTRICT or fire district establishing the same.

48 Any such bonds so paid, purchased or redeemed and any interest coupons
49 representing unmatured interest attached thereto shall be cancelled and
50 destroyed by the chief fiscal officer of such municipal corporation,
51 SCHOOL DISTRICT or fire district establishing such fund who shall make a
52 notation of such cancellation and destruction in the bond register of
53 such municipal corporation, SCHOOL DISTRICT or fire district. Such nota-
54 tion shall describe each such bond by title, date of issue, number,
55 denomination and date of maturity, and if coupons are attached thereto
56 by number, face value and date of maturity.

1 6. The governing board of a municipal corporation may, subject to a
2 permissive referendum, authorize the transfer of a portion or all of
3 such reserve to a capital reserve fund established pursuant to section
4 six-c of [the general municipal law] THIS ARTICLE.

5 The board of fire commissioners of a fire district may, subject to the
6 approval of the voters at a regular or special election in such
7 district, in the manner provided in section one hundred seventy-nine of
8 the town law, authorize the transfer of a portion or all of such reserve
9 to a capital reserve fund established pursuant to section six-g [hereof]
10 OF THIS ARTICLE.

11 THE GOVERNING BOARD OF A SCHOOL DISTRICT MAY AUTHORIZE THE TRANSFER OF
12 A PORTION OR ALL OF SUCH RESERVE TO A CAPITAL RESERVE FUND ESTABLISHED
13 PURSUANT TO SECTION THIRTY-SIX HUNDRED FIFTY-ONE OF THE EDUCATION LAW.

14 7. The chief fiscal officer shall keep a separate account for each
15 fund established. Such account shall show:

16 a. The date and amount of each sum paid into the fund.

17 b. The interest earned by such fund.

18 c. The capital gains or losses resulting from the sale of investments
19 of the fund.

20 d. The interest or capital gains which have accrued to the fund.

21 e. The amount and date of each withdrawal from the fund.

22 f. The assets of the fund, indicating the cash balance therein and a
23 schedule of the amounts invested. The chief fiscal officer at the termi-
24 nation of each fiscal year shall render a detailed report of the opera-
25 tion and condition of each of such funds to the governing board.

26 8. The members of the governing board are hereby declared trustees of
27 such funds and shall be subject to all the duties and responsibilities
28 imposed by law on trustees, and such duties and responsibilities may be
29 enforced by the county, city, village, town, SCHOOL DISTRICT or fire
30 district, as the case may be, or by any board, commission, agency, offi-
31 cer or taxpayer thereof.

32 9. The moneys in each such fund shall be deposited and secured in the
33 manner provided by section ten of this article. The governing board or
34 the chief fiscal officer of such municipal corporation, SCHOOL DISTRICT
35 or fire district, if the governing board shall delegate such duty to
36 him, may invest the moneys in each such fund in the manner provided in
37 section eleven of this article. Any interest earned or capital gains
38 realized on the moneys so deposited or invested shall accrue to and
39 become a part of each such fund. The separate identity of each such fund
40 shall be maintained whether its assets consist of cash, investments, or
41 both.

42 10. The members of the governing board shall be guilty of a misdemea-
43 nor if they:

44 a. Authorize a withdrawal from a fund for any other purpose except as
45 provided in this section.

46 b. Expend any money withdrawn from a fund for a purpose other than
47 that as provided in this section.

48 11. Notwithstanding the foregoing provisions of this section, in any
49 town which is located wholly or partly within the Adirondack park and
50 has within its boundaries state lands subject to taxation assessed at
51 more than thirty [percentum] PER CENTUM of the total taxable assessed
52 valuation of the town as determined from the assessment rolls of the
53 town, as completed from time to time, a reserve fund for the payment of
54 bonded indebtedness shall not be established on and after May first,
55 nineteen hundred forty-eight, unless the state comptroller, on behalf of
56 the state, shall consent thereto, and, on and after May first, nineteen

1 hundred forty-eight, in any such town no expenditure or transfer from
2 any such fund heretofore or hereafter established shall be made unless
3 the state comptroller, on behalf of the state, shall consent thereto.

4 S 7. Paragraphs b and c of subdivision 1 of section 6-r of the general
5 municipal law, as added by chapter 260 of the laws of 2004, are amended
6 to read as follows:

7 b. "Participating employer" means: (I) a participating employer as
8 defined in subdivision twenty of section two of the retirement and
9 social security law or in subdivision twenty of section three hundred
10 two of such law, OR (II) AN EMPLOYER AS DEFINED IN SUBDIVISION THREE OF
11 SECTION FIVE HUNDRED ONE OF THE EDUCATION LAW.

12 c. "Retirement contribution" shall mean all or any portion of the
13 amount payable by a municipal corporation to: (I) either the New York
14 state and local employees' retirement system or the New York state and
15 local police and fire retirement system pursuant to section seventeen or
16 three hundred seventeen of the retirement and social security law; OR
17 (II) THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM PURSUANT TO SECTION
18 FIVE HUNDRED TWENTY-ONE OF THE EDUCATION LAW.

19 S 8. This act shall take effect on the first of July next succeeding
20 the date on which it shall have become a law.