S T A T E O F N E W Y O R K

6965

I N S E N A T E

March 1, 2010

Introduced by Sens. OPPENHEIMER, SAVINO -- (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 authorizing school districts to establish the position of deputy claims auditor, requiring notice of reserve funds, allowing certain school districts to audit sample of claims, the powers and duties of boards of cooperative educational services, and reserves funded by resolution; to amend the general municipal law, in relation to acquisition and use of credit cards by local governments, tax stabilization reserves, reserves for bonded indebtedness, employee benefit accrued liability reserves, 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; and to amend the local finance law, in relation to credit card agreements by municipalities and school districts

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

Section 1. Subdivision 35 of section 1604 of the education law, as added by chapter 263 of the laws of 2005, is amended to read as follows:

35. a. In their discretion, to adopt a resolution establishing the [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, and appoint a claims auditor AND DEPUTY CLAIMS AUDITOR, who shall hold [his or her position] THEIR POSITIONS subject to the pleasure of such trustees. Such claims auditor AND DEPUTY CLAIMS AUDITOR shall report directly to the trustees. THE DEPUTY CLAIMS AUDITOR SHALL SERVE IN THE ABSENCE OR INABILITY OF THE CLAIMS AUDITOR OR DURING SUCH TIME AS THERE IS A VACANCY IN THE OFFICE OF CLAIMS AUDITOR. No person shall be eligible for appointment to the office of claims auditor OR DEPUTY CLAIMS AUDITOR who shall also be:

(1) a trustee of the school district;

(2) the clerk or treasurer of the school district;

(3) the superintendent of schools or other official of the district responsible for business management;

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

LBD15769-03-0

(4) the person designated as purchasing agent; or
(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.
b. Such claims auditor AND DEPUTY CLAIMS AUDITOR shall not be required to be [a resident] RESIDENTS of the district, and the [position] POSITIONS of claims auditor AND DEPUTY CLAIMS AUDITOR shall be classified in the exempt class of the civil service. The trustees, at any time after the establishment of the [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, may adopt a resolution abolishing such [office] OFFICES, whereupon such [office] OFFICES shall be abolished. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the trustees with respect to claims auditing, and allowing or rejecting all accounts, charges, claims or demands against the school district, shall devolve upon and thereafter be exercised by such claims auditor during the continuance of such office. The trustees shall be permitted to delegate the claims audit function by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function. IF THE TRUSTEES SO DELEGATE THE CLAIMS AUDIT FUNCTION, ANY CLAIM SUBMITTED BY OR ON BEHALF OF THE ENTITY OR INDIVIDUAL TO WHOM OR WHICH THE CLAIMS AUDIT FUNCTION IS DELEGATED SHALL BE AUDITED BY THE TRUSTEES.

S 2. Subdivision 5 of section 1608 of the education law, as amended by section 5 of part A of chapter 436 of the laws of 1997, is amended to read as follows:

5. The trustee or board of trustees shall append to the statement of estimated expenditures a detailed statement of the total compensation to be paid to the superintendent of schools, and any assistant or associate superintendents of schools in the ensuing school year, including a delineation of the salary, annualized cost of benefits and any in-kind or other form of remuneration, AND A SCHEDULE OF RESERVE FUNDS, SETTING FORTH THE NAME OF EACH RESERVE FUND, A DESCRIPTION OF ITS PURPOSE, THE BALANCE AS OF THE CLOSE OF THIRD QUARTER OF THE CURRENT SCHOOL DISTRICT FISCAL YEAR AND A BRIEF STATEMENT EXPLAINING ANY PLANS FOR THE USE OF EACH SUCH RESERVE FUND FOR THE ENSUING FISCAL YEAR. The trustees shall also append a list of all other school administrators and supervisors, if any, whose annual salary will be eighty-five thousand dollars or more in the ensuing school year, with the title of their positions and annual salary identified; provided however, that the commissioner may adjust such salary level to reflect increases in administrative salaries after June thirtieth, nineteen hundred ninety-eight. The trustees shall submit a copy of such list and statement, in a form prescribed by the commissioner, of compensation to the commissioner within five days after their preparation. The commissioner shall compile such data, together with the data submitted pursuant to subdivision three of section seventeen hundred sixteen of this chapter, into a single statewide compilation, which shall be made available to the governor, the legislature, and other interested parties upon request.

S 3. Subdivision 20-a of section 1709 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

20-a. a. In its discretion to adopt a resolution establishing the [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, and appoint a claims auditor AND DEPUTY CLAIMS AUDITOR, who shall hold [his or her position] THEIR POSITIONS subject to the pleasure of such board of education. Such claims auditor AND DEPUTY CLAIMS AUDITOR shall report

directly to the board of education. THE DEPUTY CLAIMS AUDITOR SHALL SERVE IN THE ABSENCE OR INABILITY OF THE CLAIMS AUDITOR OR DURING SUCH TIME AS THERE IS A VACANCY IN THE OFFICE OF CLAIMS AUDITOR. No person shall be eligible for appointment to the office of claims auditor OR DEPUTY CLAIMS AUDITOR who shall also be:

(1) a member of the board of education;

(2) the clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. Such claims auditor AND DEPUTY CLAIMS AUDITOR shall not be required to be [a resident] RESIDENTS of the district, and such [position] POSITIONS shall be classified in the exempt class of the civil service. Such board of education, at any time after the establishment of the [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, may adopt a resolution abolishing such [office] OFFICES, whereupon such [office] OFFICES shall be abolished. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to claims auditing, allowing or rejecting all accounts, charges, claims or demands against the school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of such office. A board shall be permitted to delegate the claims audit function by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function. IF THE BOARD SO DELEGATES THE CLAIMS AUDIT FUNCTION, ANY CLAIM SUBMITTED BY OR ON BEHALF OF THE ENTITY OR INDIVIDUAL TO WHOM OR WHICH THE CLAIMS AUDIT FUNCTION IS DELEGATED SHALL BE AUDITED BY THE BOARD.

S 4. Paragraph e of subdivision 2 of section 1711 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

e. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and management of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to such board for its consideration and actions; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

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

5. The board of education shall append to the statement of estimated expenditures a detailed statement of the total compensation to be paid to the superintendent of schools, and any assistant or associate superintendents of schools in the ensuing school year, including a deline-

ation of the salary, annualized cost of benefits and any in-kind or other form of remuneration, AND A SCHEDULE OF RESERVE FUNDS, SETTING FORTH THE NAME OF EACH RESERVE FUND, A DESCRIPTION OF ITS PURPOSE, THE BALANCE AS OF THE CLOSE OF THIRD QUARTER OF THE CURRENT SCHOOL DISTRICT FISCAL YEAR AND A BRIEF STATEMENT EXPLAINING ANY PLANS FOR THE USE OF EACH SUCH RESERVE FUND FOR THE ENSUING FISCAL YEAR. The board shall also append a list of all other school administrators and supervisors, if any, whose annual salary will be eighty-five thousand dollars or more in the ensuing school year, with the title of their positions and annual salary identified; provided however, that the commissioner may adjust such salary level to reflect increases in administrative salaries after June thirtieth, nineteen hundred ninety-eight. The board of education shall submit a copy of such list and statement, in a form prescribed by the commissioner, of compensation to the commissioner within five days after their preparation. The commissioner shall compile such data, together with the data submitted pursuant to subdivision four of section sixteen hundred eight of this chapter, into a single statewide compilation, which shall be made available to the governor, the legislature, and other interested parties upon request.

S 6. Subdivision 1 of section 1724 of the education law, as amended by chapter 259 of the laws of 1975, is amended to read as follows:

1. No claim against a central school district or a union free school district, except for compensation for services of an officer or employee engaged at agreed wages by the hour, day, week, month or year or for the principal of or interest on indebtedness of the district, shall be paid unless an itemized voucher therefor approved by the officer whose action gave rise or origin to the claim, shall have been presented to the board of education of the district and shall have been audited and allowed. PROVIDED, HOWEVER, ANY SCHOOL DISTRICT WITH ACTUAL ENROLLMENT OF MORE THAN TEN THOUSAND STUDENTS IN THE PREVIOUS SCHOOL YEAR SHALL BE AUTHORIZED TO AUDIT A STATISTICALLY REPRESENTATIVE SAMPLE OF CLAIMS IN LIEU OF AUDITING INDIVIDUAL CLAIMS SEPARATELY SO LONG AS IT IS DETERMINED BY RESOLUTION OF THE BOARD OF EDUCATION THAT THE METHODOLOGY FOR CHOOSING THE SAMPLE PROVIDES REASONABLE ASSURANCE THAT ALL THE CLAIMS REPRESENTED IN THE SAMPLE ARE PROPER CHARGES AGAINST THE SCHOOL DISTRICT. The board of education shall be authorized, but not required, to prescribe the form of such voucher.

S 7. Paragraph k of subdivision 4 of section 1950 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

k. Designate a depositary within the territorial limits of any component district for the deposit of money in the manner provided by section ten of the general municipal law. The receipt, deposit, investment and disbursement of moneys, and all procedures relating thereto, including, but not limited to the requirements for signatures, the appointment of a claims auditor AND DEPUTY CLAIMS AUDITOR to approve claims for purchases, and the optional use of claim forms, and the establishment of an internal audit function, shall be subject to the laws relating to union free school districts.

S 8. Paragraph q of subdivision 4 of section 1950 of the education law, as separately amended by chapters 367 and 563 of the laws of 1979, is amended to read as follows:

q. To provide transportation SERVICES for pupils [to and from classes maintained by such board of cooperative educational services] at the request of one or more school districts. SUCH SERVICES MAY INCLUDE, BUT NEED NOT BE LIMITED TO, AUTHORIZED PUPIL TRANSPORTATION TO AND FROM

CLASSES MAINTAINED BY A BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND TO AND FROM SCHOOL, BOTH PUBLIC AND NONPUBLIC. School districts and boards of cooperative educational services are authorized to enter into contracts with one or more school districts, private contractors, and one or more boards of cooperative educational services and any municipal corporation and authority to provide such transportation. Boards of cooperative educational services may operate joint or regional transportation systems for the transportation authorized by articles seventy-three and eighty-nine of this chapter. Such [transporation] TRANSPORTATION, except when provided by a political subdivision or a board of cooperative educational services, shall be subject to the requirements of subdivision fourteen of section three hundred five of [the education law] THIS CHAPTER.

S 9. Subdivision 4 of section 1950 of the education law is amended by adding a new paragraph oo to read as follows:

OO. AT THE REQUEST OF ONE OR MORE SCHOOL DISTRICTS, CONTRACT FOR THE PROCUREMENT OF TELECOMMUNICATIONS EQUIPMENT ON BEHALF OF SUCH SCHOOL DISTRICTS, SUBJECT TO THE REQUIREMENTS OF SECTIONS ONE HUNDRED THREE AND ONE HUNDRED FOUR-B OF THE GENERAL MUNICIPAL LAW.

S 10. Subdivision 2 of section 2116-b of the education law, as added by chapter 263 of the laws of 2005, is amended to read as follows:

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

S 11. Subdivision 5 of section 2503 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

5. Shall create, abolish, maintain and consolidate such positions, divisions, boards or bureaus as, in its judgment, may be necessary for the proper and efficient administration of its work; shall appoint properly qualified persons to fill such positions, including a superintendent of schools, such associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, special instructors, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, secretaries, clerks, custodians, janitors and other employees and other persons or experts in educational, social or recreational work or in the business management or direction of its affairs as said board shall determine necessary for the efficient management of the schools and other educational, social, recreational and business activities; and shall determine their duties except as otherwise provided herein.

S 12. Subdivision 5 of section 2508 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

5. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and manage-

ment of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to such board for its consideration and action; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

S 13. Subdivision 2 of section 2523 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2. Such moneys shall be disbursed only on the signature of such treasurer by checks payable to the person or persons entitled thereto. The board of education may in its discretion require that such checks-other than checks for salary, be countersigned by another officer of such district. When authorized by resolution of the board of education such checks may be signed with the facsimile signature of the treasurer and other district officer whose signature is required, as reproduced by a machine or device commonly known as a check-signer. Each check drawn by the treasurer shall state the fund against which it is drawn. No fund shall be overdrawn nor shall any check be drawn upon one fund to pay a claim chargeable to another. No money shall be paid out by the treasurer except upon the warrant of the clerk of the board of education after audit and allowance by such board, or if a claims auditor OR DEPUTY CLAIMS AUDITOR shall have been appointed, except upon the warrant of such claims auditor OR DEPUTY CLAIMS AUDITOR after audit and allowance thereof; provided, however, when provision for payment has been made in the annual budget the treasurer may pay, without such warrant or prior audit and allowance, (a) the principal of and interest on bonds, notes or other evidences of indebtedness of the district or for the payment of which the district shall be liable, and (b) compensation for services of officers or employees engaged at agreed wages by the hour, day, week, month or year upon presentation of a duly certified payroll. By resolution duly adopted, the board may determine to enter into a contract to provide for the deposit of the periodic payroll of the school district in a bank or trust company for disbursal by it in accordance with provisions of section ninety-six-b of the banking law.

S 14. Subdivision 1 of section 2524 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

1. No claim against a city school district, except for compensation for services of an officer or employee engaged at agreed wages by the hour, day, week, month or year or for the principal of or interest on indebtedness of the district, shall be paid unless an itemized voucher therefor approved by the officer whose action gave rise or origin to the claim, shall have been presented to the board of education or claims auditor of the city school district and shall have been audited and allowed. PROVIDED, HOWEVER, ANY SCHOOL DISTRICT WITH ACTUAL ENROLLMENT OF MORE THAN TEN THOUSAND STUDENTS IN THE PREVIOUS SCHOOL YEAR SHALL BE AUTHORIZED TO AUDIT A STATISTICALLY REPRESENTATIVE SAMPLE OF CLAIMS IN LIEU OF AUDITING INDIVIDUAL CLAIMS SEPARATELY SO LONG AS IT IS DETERMINED BY RESOLUTION OF THE BOARD OF EDUCATION THAT THE METHODOLOGY FOR CHOOSING THE SAMPLE PROVIDES REASONABLE ASSURANCE THAT ALL THE CLAIMS REPRESENTED IN THE SAMPLE ARE PROPER CHARGES AGAINST THE SCHOOL DISTRICT. The board of education shall be authorized, but not required, to prescribe the form of such voucher.

S 15. Subdivision 2 of section 2525 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2. In a city school district in which the office of claims auditor has been created, the claims auditor in considering a claim, may require any person presenting the same to be sworn before him or her and to give testimony relative to the justness and accuracy of such claim, and may take evidence and examine witnesses under oath in respect to the claim, and for that purpose may issue subpoenas for the attendance of witnesses. When a claim has been finally audited by the claims auditor OR DEPUTY CLAIMS AUDITOR he or she shall endorse thereon or attach thereto a certificate of such audit and file the same as a public record in his or her office. When any claim has been so audited and a certificate thereof so filed, the claims auditor OR DEPUTY CLAIMS AUDITOR shall draw a warrant specifying the number of the claim, the name of the claimant, the amount allowed and the fund, function and object chargeable therewith and such other information as may be deemed necessary or essential, directed to the treasurer of the district, authorizing and directing him or her to pay to the claimant the amount allowed upon his or her claim. A copy of such warrant shall be filed in the office of the clerk.

S 16. Section 2526 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

S 2526. Claims auditor. 1. The board of education of a city school district may adopt a resolution establishing the [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, and appoint a claims auditor AND DEPUTY CLAIMS AUDITOR, who shall hold [his or her position] THEIR POSITIONS subject to the pleasure of such board of education. Such claims auditor AND DEPUTY CLAIMS AUDITOR shall report directly to the board of education. THE DEPUTY CLAIMS AUDITOR SHALL SERVE IN THE ABSENCE OR INABILITY OF THE CLAIMS AUDITOR OR DURING SUCH TIME AS THERE IS A VACANCY IN THE OFFICE OF CLAIMS AUDITOR. No person shall be eligible for appointment to the office of claims auditor OR DEPUTY CLAIMS AUDITOR who shall be:

(1) a member of the board of education;

(2) the clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

1-a. The [position] POSITIONS of claims auditor AND DEPUTY CLAIMS AUDITOR shall be classified in the exempt class of civil service. Such board of education, at any time after the establishment of the [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, may adopt a resolution abolishing such [office] OFFICES, whereupon such [office] OFFICES shall be abolished.

2. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to claims auditing, allowing or rejecting all accounts, charges, claims or demands against the city school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of such office. The board of education shall be permitted to delegate the claims audit function by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function. IF THE BOARD SO DELEGATES THE CLAIMS AUDIT FUNCTION, ANY CLAIM SUBMITTED

BY OR ON BEHALF OF THE ENTITY OR INDIVIDUAL TO WHOM OR WHICH THE CLAIMS AUDIT FUNCTION IS DELEGATED SHALL BE AUDITED BY THE BOARD.

S 17. Section 2527 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

S 2527. Official undertakings. The clerk of the board of education or, where the office of claims auditor has been created, the claims auditor, THE DEPUTY CLAIMS AUDITOR, and the treasurer, collector and such other officers and employees as the board of education shall designate, shall, before they enter upon the duties of their respective offices or positions, each execute to the school district and file with the school district clerk an official undertaking in such sum and with such corporate surety as the board of education shall direct and approve. The board of education may, at any time, require any such officer or employee to file a new official undertaking for such sum and with such corporate surety as the board shall approve. Such undertakings as shall have been approved by the board of education shall forthwith be filed with the school district clerk. The expense of any undertaking executed pursuant to this section shall be a school district charge.

S 18. Subdivision 2-a of section 2554 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2-a. a. In its discretion to adopt a resolution establishing the [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR and appoint a claims auditor AND DEPUTY CLAIMS AUDITOR who shall hold [his or her position] THEIR POSITIONS subject to the pleasure of the board. Such claims auditor AND DEPUTY CLAIMS AUDITOR shall report directly to the board of education. THE DEPUTY CLAIMS AUDITOR SHALL SERVE IN THE ABSENCE OR INABILITY OF THE CLAIMS AUDITOR OR DURING SUCH TIME AS THERE IS A VACANCY IN THE OFFICE OF CLAIMS AUDITOR. No person shall be eligible for appointment to the office of claims auditor who shall be

(1) a member of the board of education;

(2) a clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. The [position] POSITIONS of claims auditor AND DEPUTY CLAIMS AUDITOR shall be classified in the exempt class of civil service. The board of education, at any time after the establishment of the [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, may adopt a resolution abolishing the [office] OFFICES. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to auditing accounts, charges, claims or demands against the city school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of the office. The board of education shall be permitted to delegate the claims audit function by using (1) inter-municipal cooperative agreements, or (2) independent contractors, to fulfill this function. IF THE BOARD OF EDUCATION DELEGATES THE CLAIMS AUDIT FUNCTION, THE ENTITY TO WHICH THE CLAIMS AUDIT FUNCTION IS DELEGATED SHALL NOT AUDIT ITS OWN CLAIMS. THE BOARD OF EDUCATION SHALL AUDIT ANY SUCH CLAIMS.

S 19. Subdivision 2 of section 2562 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2. [The said] SUCH board of education may require any person presenting for settlement an account or claim for any cause whatever against it

to be sworn before it or a committee thereof, or before the claims auditor, DEPUTY CLAIMS AUDITOR, or before any person designated by said board, touching such account or claim, and when so sworn, to answer orally as to any facts relative to the justness of such account or claim. A member of the board, the claims auditor, DEPUTY CLAIMS AUDITOR, or any other person designated as hereinbefore stated, shall have the power to administer an oath to any person who shall give testimony to the justness of such account or claim, and for the purpose of securing such testimony may issue subpoenas for the attendance of witnesses. Wilful false swearing before [the said] SUCH board of education, a committee thereof, the claims auditor, DEPUTY CLAIMS AUDITOR, or before any person designated as hereinbefore stated, is perjury and punishable as such.

S 20. Subdivision 6 of section 2566 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

6. To have supervision and direction of associate, assistant, district and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the city authorized by this chapter and under the direction and management of the board of education, except that in the city school districts of the cities of Buffalo and Rochester to also appoint, within the amounts budgeted therefor, such associate, assistant and district superintendents and all other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to said board for its consideration and action; to report to said board of education violations of regulations and cases of insubordination, and to suspend an associate, assistant, district or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of the board, when all facts relating to the case shall be submitted to the board for its consideration and action.

S 21. Paragraph a of subdivision 1 of section 2576 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

a. The salary of the superintendent of schools, associate, district or assistant or other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, claims auditors, DEPUTY CLAIMS AUDITORS, medical inspectors, nurses, attendance officers, clerks, custodians and janitors and the salary, fees or compensation of all other employees appointed or employed by said board of education. In addition, the expenses of personnel utilized to fulfill the internal audit function pursuant to section twenty-one hundred sixteen-b of this chapter.

S 22. Subdivisions 2 and 4 of section 2580 of the education law, subdivision 2 as amended by chapter 263 of the laws of 2005 and subdivision 4 as amended by chapter 452 of the laws of 1964, are amended to read as follows:

2. Such funds shall be disbursed by authority of the board of education upon written orders drawn on the city treasurer or other fiscal officer of the city. Such orders shall be signed by the superintendent of schools and the secretary of the board of education or such other officers as the board may authorize. If a claims auditor AND DEPUTY

CLAIMS AUDITOR shall have been appointed, orders shall be signed by the claims auditor OR DEPUTY CLAIMS AUDITOR; provided, however, that the board may require, in addition, the signature of such other officer or officers as it may by resolution direct. Orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person or corporation to whom they are payable.

4. It shall be unlawful for a city treasurer or other officer having the custody of such city funds to permit their use for any purpose other than that for which they are lawfully authorized; they shall be paid out only on audit of the board of education or as otherwise provided herein. PROVIDED, HOWEVER, ANY SCHOOL DISTRICT WITH ACTUAL ENROLLMENT OF MORE THAN TEN THOUSAND STUDENTS IN THE PREVIOUS SCHOOL YEAR SHALL BE AUTHORIZED TO AUDIT A STATISTICALLY REPRESENTATIVE SAMPLE OF CLAIMS IN LIEU OF AUDITING INDIVIDUAL CLAIMS SEPARATELY SO LONG AS IT IS DETERMINED BY RESOLUTION OF THE BOARD OF EDUCATION THAT THE METHODOLOGY FOR CHOOSING THE SAMPLE PROVIDES REASONABLE ASSURANCE THAT ALL THE CLAIMS REPRESENTED IN THE SAMPLE ARE PROPER CHARGES AGAINST THE SCHOOL DISTRICT. Payments from such funds shall be made only by checks signed by the treasurer or other custodian of such moneys and payable to the person or persons entitled thereto and countersigned either by the comptroller, or in a city having no comptroller, by an officer designated by the officer or body having the general control of the financial affairs of such city. The board of education of such city shall make, in addition to such classification of its funds and accounts as it desires for its own use and information, such further classification of the funds under its management and control and of the disbursements thereof as the comptroller of the city, or the officer or body having the general control of the financial affairs of such city, shall require, and such board shall furnish such data in relation to such funds and their disbursements as the comptroller or such other financial officer or body of the city shall require.

S 23. The education law is amended by adding a new section 3653 to read as follows:

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

S 24. The general municipal law is amended by adding a new section 5-c to read as follows:

S 5-C. ACQUISITION AND USE OF CREDIT CARDS BY LOCAL GOVERNMENTS. 1. THE FOLLOWING TERMS, WHEN USED OR REFERRED TO IN THIS SECTION, SHALL HAVE THE FOLLOWING MEANING:

(A) "CREDIT CARD" MEANS ANY IDENTIFICATION PLATE, CARD OR SIMILAR DEVICE ISSUED BY A PERSON TO A LOCAL GOVERNMENT WHICH MAY BE USED TO PURCHASE OR LEASE PROPERTY OR ACQUIRE SERVICES ON THE CREDIT OF THE PERSON ISSUING THE CREDIT CARD OR A PERSON WHO HAS AGREED WITH THE ISSUER TO PAY OBLIGATIONS ARISING FROM THE USE OF A CREDIT CARD ISSUED TO ANOTHER PERSON. FOR PURPOSES OF THIS SECTION, "CREDIT CARD" SHALL NOT INCLUDE A DEBIT CARD OR SIMILAR DEVICE THE USE OF WHICH AUTHORIZES THE TRANSFER OR WITHDRAWAL OF ANY FUNDS OF THE LOCAL GOVERNMENT, AND NOTHING IN THIS SECTION SHALL BE DEEMED TO AUTHORIZE THE USE, BY OR ON BEHALF OF THE LOCAL GOVERNMENT OF A DEBIT CARD OR SIMILAR DEVICE THE USE OF WHICH AUTHORIZES THE TRANSFER OR WITHDRAWAL OF ANY FUNDS OF THE LOCAL GOVERNMENT.

(B) "CARD ISSUER" MEANS ANY ISSUER OF A CREDIT CARD.

(C) "FINANCING AGENCY" MEANS ANY AGENCY DEFINED AS SUCH IN SUBDIVISION EIGHTEEN OF SECTION FOUR HUNDRED ONE OF THE PERSONAL PROPERTY LAW.

(D) "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, CORPORATION OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

2. NO CREDIT CARD MAY BE USED BY OR ON BEHALF OF ANY LOCAL GOVERNMENT, AS SUCH TERM IS DEFINED IN SECTION TEN OF THIS ARTICLE, UNLESS THE GOVERNING BOARD OF THE LOCAL GOVERNMENT, BY LOCAL LAW, ORDINANCE OR RESOLUTION, DETERMINES THAT IT IS IN THE PUBLIC INTEREST TO AUTHORIZE SUCH LOCAL GOVERNMENT TO ENTER INTO AN AGREEMENT WITH ONE OR MORE FINANCING AGENCIES OR CARD ISSUERS TO PROVIDE FOR THE ISSUANCE OF ONE OR MORE CREDIT CARDS FOR THE PROCUREMENT OF COMMODITIES AND SERVICES AND FOR USE BY AUTHORIZED OFFICERS AND EMPLOYEES IN CONNECTION WITH TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES. THE CREDIT CARD OR CARDS SHALL BE ISSUED IN THE NAME OF THE LOCAL GOVERNMENT AND THE SPECIFIC OFFICERS AND EMPLOYEES, IN THEIR OFFICIAL CAPACITIES, AUTHORIZED PURSUANT TO THE INTERNAL CREDIT CARD POLICY ADOPTED IN ACCORDANCE WITH SUBDIVISION FOUR OF THIS SECTION, TO UTILIZE THE CREDIT CARD OR CARDS ISSUED TO THE LOCAL GOVERNMENT. ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION SHALL INCLUDE AN INTERNAL CREDIT CARD POLICY, IN ACCORDANCE WITH SUBDIVISION FOUR OF THIS SECTION, SETTING FORTH REQUIREMENTS FOR THE USE OF CREDIT CARDS ON BEHALF OF THE LOCAL GOVERNMENT. THE TERMS AND CONDITIONS OF SUCH AGREEMENT MUST BE CONSISTENT WITH THIS SECTION AND THE INTERNAL CREDIT CARD POLICY OF THE LOCAL GOVERNMENT, AND SHALL BE DEEMED TO INCORPORATE THE PROVISIONS OF SUBDIVISION TEN OF THIS SECTION.

3. THE OFFICERS AND EMPLOYEES OF ANY LOCAL GOVERNMENT THAT HAS ENTERED INTO AN AGREEMENT WITH A FINANCING AGENCY OR CARD ISSUER AS AUTHORIZED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION MAY USE CREDIT CARDS ONLY IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S INTERNAL CREDIT CARD POLICY FOR THE PROCUREMENT OF COMMODITIES AND SERVICES FOR PROPERLY AUTHORIZED MUNICIPAL PURPOSES, AND FOR PROPERLY AUTHORIZED TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES. ANY SUCH OFFICER OR EMPLOYEE USING SUCH CREDIT CARD OR CARDS SHALL BE PERSONALLY LIABLE FOR ALL COSTS INCURRED BY THE LOCAL GOVERNMENT IN CONNECTION WITH THE IMPROPER OR UNAUTHORIZED USE BY THE OFFICER OR EMPLOYEE OF THE CREDIT CARD OR CARDS.

4. THE INTERNAL CREDIT CARD POLICY ADOPTED BY THE GOVERNING BOARD OF ANY LOCAL GOVERNMENT THAT HAS DETERMINED TO USE CREDIT CARDS FOR PROCUREMENT OF COMMODITIES, SERVICES OR TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES SHALL CONTAIN PROVISIONS PERTAINING TO:

(A) THE PARTICULAR OFFICERS AND EMPLOYEES, OTHERWISE EMPOWERED TO PROCURE COMMODITIES OR SERVICES ON BEHALF OF THE LOCAL GOVERNMENT, OR TO INCUR TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES, WHO ARE AUTHORIZED TO UTILIZE THE CREDIT CARD OR CARDS ISSUED TO THE LOCAL GOVERNMENT;

(B) AN AUTHORIZED CREDIT LIMIT FOR EACH CARD AND IN THE AGGREGATE FOR ALL CARDS ISSUED TO THE LOCAL GOVERNMENT, AND, IF THE GOVERNING BOARD CHOOSES, AN AUTHORIZED CREDIT LIMIT PER TRANSACTION;

(C) LIMITATIONS, IF ANY, ON THE TYPES OF COMMODITIES OR SERVICES, OR TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES, FOR WHICH THE CREDIT CARD OR CARDS MAY BE USED, AND THE CIRCUMSTANCES UNDER WHICH THE CREDIT CARD OR CARDS MAY BE USED FOR SUCH PURPOSES;

(D) THE PERIODIC MONITORING BY THE APPROPRIATE OFFICIALS OF THE LOCAL GOVERNMENT OF THE USE OF THE CREDIT CARD OR CARDS;

(E) THE DOCUMENTATION REQUIRED OF AN OFFICER OR EMPLOYEE USING THE CREDIT CARD FOR COMMODITIES OR SERVICES OR FOR TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES, IN ORDER TO FACILITATE THE APPROPRIATE AUDIT OF THE RESULTING CLAIMS SUBMITTED BY A FINANCING AGENCY OR CARD ISSUER, AND

THE TIMEFRAME IN WHICH SUCH DOCUMENTATION IS REQUIRED TO BE SUBMITTED BY THE OFFICER OR EMPLOYEE AFTER THEIR USE OF A CREDIT CARD;

(F) THE MEANS OF RECOUPING FROM THE RESPONSIBLE OFFICER OR EMPLOYEE COSTS INCURRED WITH RESPECT TO ANY ILLEGAL OR UNAUTHORIZED EXPENDITURES, OR IMPROPER USAGE OF THE CREDIT CARD OR CARDS; AND

(G) ANY OTHER TERMS OR CONDITIONS DEEMED BY THE GOVERNING BOARD TO BE NECESSARY TO EFFECTUATE THE PROPER USE OF A CREDIT CARD OR CARDS.

5. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, PROCUREMENTS OF COMMODITIES AND SERVICES FOR WHICH A CREDIT CARD IS USED SHALL BE SUBJECT TO ALL LAWS OTHERWISE APPLICABLE TO MUNICIPAL PROCUREMENTS, INCLUDING, BUT NOT LIMITED, TO SECTIONS ONE HUNDRED THREE AND ONE HUNDRED FOUR-B OF THIS CHAPTER. TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES FOR WHICH A CREDIT CARD IS USED SHALL BE INCURRED IN ACCORDANCE WITH AND SHALL BE SUBJECT TO ALL LAWS OTHERWISE APPLICABLE TO THE INCURRING OF SUCH MUNICIPAL CHARGES BY OFFICERS AND EMPLOYEES.

6. NO PAYMENT TO A FINANCING AGENCY OR CARD ISSUER FOR COMMODITIES, SERVICES OR TRAVEL OR OTHER ACTUAL AND NECESSARY EXPENSES FOR WHICH A CREDIT CARD WAS USED MAY BE MADE UNLESS, IN ADDITION TO ALL OTHER REQUIREMENTS FOR THE AUDIT AND APPROVAL OF CLAIMS, THE DOCUMENTATION REQUIRED BY THE LOCAL GOVERNMENT'S INTERNAL CREDIT CARD POLICY ADOPTED IN ACCORDANCE WITH SUBDIVISION FOUR OF THIS SECTION IS SUBMITTED TO THE AUDITING BODY OR OFFICIAL OF THE LOCAL GOVERNMENT AND A CLAIM FROM THE FINANCING AGENCY OR CARD ISSUER IS AUDITED AND APPROVED IN ACCORDANCE WITH LAWS GENERALLY APPLICABLE TO THE LOCAL GOVERNMENT'S AUDIT AND APPROVAL OF CLAIMS FUNCTION.

7. IF AFTER A CLAIM IS PRESENTED FOR AUDIT, A CREDIT CARD CHARGE IS DISALLOWED IN WHOLE OR IN PART, THE LOCAL GOVERNMENT SHALL NOT BE RESPONSIBLE FOR PAYMENT OF THE DISALLOWED CHARGE OR ANY INTEREST OR PENALTY WHICH SHALL HAVE ACCRUED AS A RESULT OF SUCH DISALLOWED CHARGE. ANY AGREEMENT THAT IS ENTERED INTO PURSUANT TO THIS SECTION SHALL BE DEEMED TO INCORPORATE THIS PROVISION. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO LIMIT ANY RIGHT THAT A FINANCING AGENCY OR CREDIT CARD ISSUER MAY HAVE UNDER LAW TO RECOVER THE AMOUNT OF ANY DISALLOWED CHARGE OR INTEREST OR PENALTY THEREON FROM ANY OTHER PERSON OR ENTITY.

8. THE AUDIT OF ANY CLAIM SUBMITTED BY A FINANCING AGENCY OR CARD ISSUER SHALL BE UNDERTAKEN IN A TIMELY FASHION SO THAT, UPON APPROVAL OF THE CLAIM, PAYMENT MAY BE MADE PRIOR TO THE IMPOSITION OF INTEREST OR PENALTY CHARGES.

9. CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION BETWEEN LOCAL GOVERNMENTS AND FINANCING AGENCIES OR CARD ISSUERS SHALL BE AWARDED AFTER THE SOLICITATION OF ALTERNATIVE PROPOSALS OR QUOTATIONS IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S WRITTEN INTERNAL POLICIES AND PROCEDURES GOVERNING PROCUREMENTS ADOPTED PURSUANT TO SECTION ONE HUNDRED FOUR-B OF THIS CHAPTER. IN THE CASE OF A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, SUCH POLICIES AND PROCEDURES MAY PROVIDE FOR THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO ENGAGE THE SERVICES OF A FINANCING AGENCY OR CARD ISSUER PURSUANT TO A COOPERATIVE PROCUREMENT AGREEMENT FOR SUCH SERVICES WITH ONE OR MORE LOCAL GOVERNMENTS OF THIS STATE OR OF ANY OTHER STATE, OR THROUGH AN EXISTING COOPERATIVE PROCUREMENT AGREEMENT ENTERED INTO AMONG LOCAL GOVERNMENTS OF THIS STATE OR ANY OTHER STATE FOR SUCH SERVICES IF SUCH EXISTING CONTRACT HAS BEEN AWARDED PURSUANT TO A COMPETITIVE REQUEST FOR PROPOSALS PROCESS AND HAS BEEN EXTENDED OR OFFERED FOR USE BY OTHER LOCAL GOVERNMENTS; PROVIDED, HOWEVER, THAT THE GOVERNING BOARD OF THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL FIRST DETERMINE THAT ENGAGING THE SERVICES OF A FINANCING AGENCY

OR CARD ISSUER PURSUANT TO OR THROUGH A COOPERATIVE PROCUREMENT AGREEMENT WILL RESULT IN COST SAVINGS AND THAT ANY SUCH COOPERATIVE PROCUREMENT AGREEMENT IS FULLY IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

10. NO LIABILITY TO A FINANCING AGENCY OR CARD ISSUER UNDER A CONTRACT ENTERED INTO PURSUANT TO THIS SECTION SHALL CONSTITUTE A GENERAL OBLIGATION INDEBTEDNESS OF THE LOCAL GOVERNMENT, AND NEITHER THE FAITH AND CREDIT, NOR THE TAXING POWER OF THE LOCAL GOVERNMENT, MAY BE PLEDGED TO THE PAYMENT OF ANY AMOUNT DUE OR TO BECOME DUE UNDER SUCH A CONTRACT.

S 25. Section 6-e of the general municipal law, as added by chapter 655 of the laws of 1992, paragraph m of subdivision 1 as added, paragraph n of subdivision 1 as relettered, subdivision 3 and paragraph d of subdivision 4 as amended by chapter 528 of the laws of 2000, and subdivision 5 as amended by chapter 140 of the laws of 1996, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

i. "Public emergency" means an epidemic, conflagration, riot, storm, flood or other sudden, unforeseen or unexpected occurrence or condition which requires the immediate expenditure of moneys to protect the public health, safety or welfare of the inhabitants of the municipal corporation.

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

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

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

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

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

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

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

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

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

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

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

2-A. A SCHOOL DISTRICT MAY ESTABLISH A CONTINGENCY AND TAX STABILIZATION RESERVE FUND BY A RESOLUTION OF ITS GOVERNING BOARD.

3. There may be paid into the contingency and tax stabilization reserve fund such amounts as may be provided therefor by budgetary appropriation, unappropriated unreserved fund balance in the eligible portion of the annual budget, and such revenues as are not required by law to be paid into any other fund or account; provided, however, that no amount may be appropriated for payment into a contingency and tax stabilization reserve fund which would cause the balance of the fund to

exceed ten percent of the eligible portion of the annual budget for the fiscal year for which the appropriation would be made.

4. a. The moneys in a contingency and tax stabilization reserve fund may be expended only pursuant to an appropriation for a purpose authorized by this subdivision. Except as provided in paragraph e of this subdivision, such an appropriation shall be made only upon the recommendation of the chief executive officer and the adoption of a resolution appropriating the recommended amount by at least two-thirds of the voting strength of the governing board.

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

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

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

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

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

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

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

e. When preparing the tentative budget of a municipal corporation, if the current balance of a contingency and tax stabilization reserve fund, as shown by the statement of the chief fiscal officer required by subdivision six of this section, exceeds ten percent of the eligible portion of the annual budget for the current fiscal year, such excess shall be used to reduce the amount of real property taxes needed to finance the eligible portion of the annual budget for the next succeeding fiscal year. IN ADDITION, IN THE CASE OF A SCHOOL DISTRICT, ANY MONIES DEPOSITED TO SUCH RESERVE FUND WHICH ARE NOT EXPENDED TO LESSEN OR PREVENT ANY PROJECTED INCREASE IN EXCESS OF TWO AND ONE-HALF PERCENT IN THE AMOUNT

OF THE REAL PROPERTY TAX LEVY NEEDED TO FINANCE THE ELIGIBLE PORTION OF THE ANNUAL BUDGET FOR ANY OF THE THREE FISCAL YEARS SUCCEEDING THE FISCAL YEAR IN WHICH THE MONIES ARE SO DEPOSITED SHALL BE RETURNED TO THE GENERAL FUND ON OR BEFORE THE FIRST DAY OF THE FOURTH FISCAL YEAR FOLLOWING THE DEPOSIT OF SUCH MONIES TO SUCH RESERVE FUND.

5. The moneys in the contingency and tax stabilization reserve fund shall be deposited in one or more of the banks or trust companies designated, in the manner provided by law, as depositories of the funds of such municipal corporation. The governing board, or the chief fiscal officer having custody of such money of such municipal corporation, if the governing board shall delegate such duty to him, may invest the moneys in such fund in obligations specified in section eleven of this article. Any interest earned or capital gain realized on the money so deposited or invested shall accrue to and become part of such fund.

6. The chief fiscal officer shall account for the contingency and tax stabilization reserve fund separate and apart from all other funds of the municipal corporation. Such accounting shall show: the source, date and amount of each sum paid into the fund; the interest earned by such fund; capital gains or losses resulting from the sale of investments of the fund; the order, source thereof, date and amount of each appropriation from this fund; the assets of the fund, indicating cash balance and a schedule of investments. Not later than sixty days after the start of each fiscal year and at such times as may be required by the governing board, the chief fiscal officer shall furnish to the governing board a detailed report of the operation and condition of the fund during the preceding fiscal year which shall include a statement of receipts and disbursements, and a statement of the balance of the fund as of the last day of such preceding fiscal year and such other dates as may be specified by the governing board. Not later than thirty days prior to the last date provided by law for the filing of the tentative budget, the chief fiscal officer shall furnish to the officer or body responsible for preparing the tentative budget a statement of the current balance of the fund.

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

8. Any officer of a municipal corporation shall be guilty of a misdemeanor if he or she willfully and knowingly causes the municipal corporation to:

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

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

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

S 26. Section 6-h of the general municipal law, as added by chapter 742 of the laws of 1945, the section heading and subdivisions 2, 5, 6 and 8 as amended by chapter 592 of the laws of 1957, subdivision 1 as amended by chapter 755 of the laws of 1965, subdivision 9 as amended by chapter 140 of the laws of 1996 and subdivision 11 as amended by chapter 424 of the laws of 2001, is amended to read as follows:

S 6-h. Reserve fund for payment of bonded indebtedness in counties, cities, villages, towns, SCHOOL DISTRICTS and fire districts. 1. As used

in this section, the term "governing board," in so far as it is used in reference to a county, shall mean the board of supervisors thereof; in so far as it is used in reference to a city, shall mean the "local legislative body" thereof, as that term is defined in subdivision seven of section two of the municipal home rule law, as amended from time to time; in so far as it is used in reference to a village, shall mean the board of trustees thereof; in so far as it is used in reference to a town, shall mean the town board thereof; in so far as it is used in reference to a fire district, shall mean the board of fire commissioners; IN SO FAR AS IT IS USED IN REFERENCE TO A SCHOOL DISTRICT, SHALL MEAN THE BOARD OF EDUCATION OR BOARD OF TRUSTEES, OR FOR A COMMON SCHOOL DISTRICT HAVING ONE TRUSTEE, SUCH TRUSTEE.

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

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

4. There may be paid into such fund:

a. Such an amount as may be provided therefor by budgetary appropriation.

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

5. An expenditure from such a reserve fund may only be made by appropriation pursuant to a resolution of the governing board of the municipal corporation, SCHOOL DISTRICT or fire district establishing the same and only for the payment of the principal and interest on bonds issued by such municipal corporation, SCHOOL DISTRICT or fire district and forming a part of an issue having a maximum maturity of not less than five years; or for the purchase of bonds of such municipal corporation, SCHOOL DISTRICT or fire district forming a part of an issue having a maximum maturity of not less than five years at a price not to exceed the par value thereof and accrued interest to the date of delivery of such bonds to such municipal corporation, SCHOOL DISTRICT or fire district, provided, however, that if any such bonds were issued subject to the right of such municipal corporation, SCHOOL DISTRICT or fire district to redeem the same prior to the maturity date thereof then such purchase may be made for the redemption of such bonds at the price and on the terms stated in such bonds or in the proceeding authorizing the same as the case may be.

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

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

Any such bonds so paid, purchased or redeemed and any interest coupons representing unmatured interest attached thereto shall be cancelled and

destroyed by the chief fiscal officer of such municipal corporation, SCHOOL DISTRICT or fire district establishing such fund who shall make a notation of such cancellation and destruction in the bond register of such municipal corporation, SCHOOL DISTRICT or fire district. Such notation shall describe each such bond by title, date of issue, number, denomination and date of maturity, and if coupons are attached thereto by number, face value and date of maturity.

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

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

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

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

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

b. The interest earned by such fund.

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

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

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

f. The assets of the fund, indicating the cash balance therein and a schedule of the amounts invested. The chief fiscal officer at the termination of each fiscal year shall render a detailed report of the operation and condition of each of such funds to the governing board.

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

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

10. The members of the governing board shall be guilty of a misdemeanor if they:

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

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

11. Notwithstanding the foregoing provisions of this section, in any town which is located wholly or partly within the Adirondack park and

has within its boundaries state lands subject to taxation assessed at more than thirty [percentum] PER CENTUM of the total taxable assessed valuation of the town as determined from the assessment rolls of the town, as completed from time to time, a reserve fund for the payment of bonded indebtedness shall not be established on and after May first, nineteen hundred forty-eight, unless the state comptroller, on behalf of the state, shall consent thereto, and, on and after May first, nineteen hundred forty-eight, in any such town no expenditure or transfer from any such fund heretofore or hereafter established shall be made unless the state comptroller, on behalf of the state, shall consent thereto.

S 27. Subdivision 9 of section 6-p of the general municipal law, as added by chapter 518 of the laws of 1996, is amended to read as follows:

9. If, after the establishment of such fund, the municipality determines that such fund is no longer needed, the moneys remaining in such fund may be transferred to any other reserve fund OR ANY OTHER POST EMPLOYMENT BENEFITS TRUST of the municipal corporation authorized by this chapter that is comprised of moneys which were raised on the same tax base as the moneys in the reserve fund established under this section or TO A RESERVE FUND ESTABLISHED PURSUANT TO section thirty-six hundred fifty-one of the education law, only to the extent that the moneys in this fund shall exceed the sum sufficient to pay all liabilities incurred or accrued against it. Prior to the discontinuance of such fund, the fiscal and legal officers of such municipal corporation shall certify to the governing board thereof the amount that may be necessary to retain in such fund to satisfy all liabilities incurred or accrued against it and such sum shall be retained in the fund for payment of such amounts or until later certified that such funds are no longer needed.

S 28. Any school district having excess monies in an employee benefit accrued liability reserve fund established pursuant to section 6-p of the general municipal law, on the effective date of this act, may make a one-time election, by resolution of its governing board adopted no later than one year from such effective date, to transfer all or part of such excess monies into the general fund of the school district. For the purposes of this section, "excess monies" shall be that amount in the fund which exceeds the amount certified to the governing board by the fiscal and legal officers of the school district as necessary to satisfy all liabilities incurred or accrued against the reserve fund.

S 29. Paragraphs b and c of subdivision 1 of section 6-r of the general municipal law, as added by chapter 260 of the laws of 2004, are amended to read as follows:

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

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

S 30. Section 20.00 of the local finance law is amended by adding a new paragraph e to read as follows:

E. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MUNICIPALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION FROM ENTERING INTO AN AGREEMENT WITH ONE OR MORE FINANCING AGENCIES OR CARD ISSUERS FOR THE ISSUANCE OF A CREDIT CARD OR CARDS IN THE NAME OF THE MUNICIPALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION OR FROM USING SUCH CREDIT CARD OR CARDS FOR THE PROCUREMENT OF COMMODITIES, SERVICES AND EXPENSES IN ACCORDANCE WITH SECTION FIVE-C OF THE GENERAL MUNICIPAL LAW.

S 31. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.