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I N A S S E M B L Y

March 10, 2010

Introduced by M. of A. NOLAN -- Multi-Sponsored by -- M. of A. HEASTIE, HOOPER, MAISEL, REILLY, N. RIVERA, THIELE, WEISENBERG -- (at request of the State Comptroller) -- read once and referred 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:

1 Section 1. Subdivision 35 of section 1604 of the education law, as
2 added by chapter 263 of the laws of 2005, is amended to read as follows:
3 35. a. In their discretion, to adopt a resolution establishing the
4 [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, and
5 appoint a claims auditor AND DEPUTY CLAIMS AUDITOR, who shall hold [his
6 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
7 ABSENCE OR INABILITY OF THE CLAIMS AUDITOR OR DURING SUCH TIME AS THERE
8 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
9 AUDITOR who shall also be:
10 (1) a trustee of the school district;
11 (2) the clerk or treasurer of the school district;
12
13
14

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

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

3 (4) the person designated as purchasing agent; or

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

6 b. Such claims auditor AND DEPUTY CLAIMS AUDITOR shall not be required
7 to be [a resident] RESIDENTS of the district, and the [position] POSI-
8 TIONS of claims auditor AND DEPUTY CLAIMS AUDITOR shall be classified in
9 the exempt class of the civil service. The trustees, at any time after
10 the establishment of the [office] OFFICES of claims auditor AND DEPUTY
11 CLAIMS AUDITOR, may adopt a resolution abolishing such [office] OFFICES,
12 whereupon such [office] OFFICES shall be abolished. When the office of
13 claims auditor shall have been established and a claims auditor shall
14 have been appointed and shall have qualified, the powers and duties of
15 the trustees with respect to claims auditing, and allowing or rejecting
16 all accounts, charges, claims or demands against the school district,
17 shall devolve upon and thereafter be exercised by such claims auditor
18 during the continuance of such office. The trustees shall be permitted
19 to delegate the claims audit function by using (1) inter-municipal coop-
20 erative agreements, (2) shared services to the extent authorized by
21 section nineteen hundred fifty of this title, or (3) independent
22 contractors, to fulfill this function. IF THE TRUSTEES SO DELEGATE THE
23 CLAIMS AUDIT FUNCTION, ANY CLAIM SUBMITTED BY OR ON BEHALF OF THE ENTITY
24 OR INDIVIDUAL TO WHOM OR WHICH THE CLAIMS AUDIT FUNCTION IS DELEGATED
25 SHALL BE AUDITED BY THE TRUSTEES.

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

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

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

54 20-a. a. In its discretion to adopt a resolution establishing the
55 [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, and
56 appoint a claims auditor AND DEPUTY CLAIMS AUDITOR, who shall hold [his

1 or her position] THEIR POSITIONS subject to the pleasure of such board
2 of education. Such claims auditor AND DEPUTY CLAIMS AUDITOR shall report
3 directly to the board of education. THE DEPUTY CLAIMS AUDITOR SHALL
4 SERVE IN THE ABSENCE OR INABILITY OF THE CLAIMS AUDITOR OR DURING SUCH
5 TIME AS THERE IS A VACANCY IN THE OFFICE OF CLAIMS AUDITOR. No person
6 shall be eligible for appointment to the office of claims auditor OR
7 DEPUTY CLAIMS AUDITOR who shall also be:

- 8 (1) a member of the board of education;
- 9 (2) the clerk or treasurer of the board of education;
- 10 (3) the superintendent of schools or other official of the district
11 responsible for business management;
- 12 (4) the person designated as purchasing agent; or
- 13 (5) clerical or professional personnel directly involved in accounting
14 and purchasing functions of the school district.

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

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

37 e. To have supervision and direction of associate, assistant and other
38 superintendents, directors, supervisors, principals, teachers, lectur-
39 ers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDI-
40 TORS, attendance officers, janitors and other persons employed in the
41 management of the schools or the other educational activities of the
42 district authorized by this chapter and under the direction and manage-
43 ment of the board of education; to transfer teachers from one school to
44 another, or from one grade of the course of study to another grade in
45 such course, and to report immediately such transfers to such board for
46 its consideration and actions; to report to such board violations of
47 regulations and cases of insubordination, and to suspend an associate,
48 assistant or other superintendent, director, supervisor, expert, princi-
49 pal, teacher or other employee until the next regular meeting of such
50 board, when all facts relating to the case shall be submitted to such
51 board for its consideration and action.

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

55 5. The board of education shall append to the statement of estimated
56 expenditures a detailed statement of the total compensation to be paid

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

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

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

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

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

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

55 q. To provide transportation SERVICES for pupils [to and from classes
56 maintained by such board of cooperative educational services] at the

1 request of one or more school districts. SUCH SERVICES MAY INCLUDE, BUT
2 NEED NOT BE LIMITED TO, AUTHORIZED PUPIL TRANSPORTATION TO AND FROM
3 CLASSES MAINTAINED BY A BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND TO
4 AND FROM SCHOOL, BOTH PUBLIC AND NONPUBLIC. School districts and boards
5 of cooperative educational services are authorized to enter into
6 contracts with one or more school districts, private contractors, and
7 one or more boards of cooperative educational services and any municipal
8 corporation and authority to provide such transportation. Boards of
9 cooperative educational services may operate joint or regional transpor-
10 tation systems for the transportation authorized by articles seventy-
11 three and eighty-nine of this chapter. Such [transportation] TRANSPORTA-
12 TION, except when provided by a political subdivision or a board of
13 cooperative educational services, shall be subject to the requirements
14 of subdivision fourteen of section three hundred five of [the education
15 law] THIS CHAPTER.

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

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

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

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

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

37 5. Shall create, abolish, maintain and consolidate such positions,
38 divisions, boards or bureaus as, in its judgment, may be necessary for
39 the proper and efficient administration of its work; shall appoint prop-
40 erly qualified persons to fill such positions, including a superinten-
41 dent of schools, such associate, assistant and other superintendents,
42 directors, supervisors, principals, teachers, lecturers, special
43 instructors, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS
44 AUDITORS, attendance officers, secretaries, clerks, custodians, janitors
45 and other employees and other persons or experts in educational, social
46 or recreational work or in the business management or direction of its
47 affairs as said board shall determine necessary for the efficient
48 management of the schools and other educational, social, recreational
49 and business activities; and shall determine their duties except as
50 otherwise provided herein.

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

53 5. To have supervision and direction of associate, assistant and other
54 superintendents, directors, supervisors, principals, teachers, lectur-
55 ers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDI-
56 TORS, attendance officers, janitors and other persons employed in the

1 management of the schools or the other educational activities of the
2 district authorized by this chapter and under the direction and manage-
3 ment of the board of education; to transfer teachers from one school to
4 another, or from one grade of the course of study to another grade in
5 such course, and to report immediately such transfers to such board for
6 its consideration and action; to report to such board violations of
7 regulations and cases of insubordination, and to suspend an associate,
8 assistant or other superintendent, director, supervisor, expert, princi-
9 pal, teacher or other employee until the next regular meeting of such
10 board, when all facts relating to the case shall be submitted to such
11 board for its consideration and action.

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

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

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

42 1. No claim against a city school district, except for compensation
43 for services of an officer or employee engaged at agreed wages by the
44 hour, day, week, month or year or for the principal of or interest on
45 indebtedness of the district, shall be paid unless an itemized voucher
46 therefor approved by the officer whose action gave rise or origin to the
47 claim, shall have been presented to the board of education or claims
48 auditor of the city school district and shall have been audited and
49 allowed. PROVIDED, HOWEVER, ANY SCHOOL DISTRICT WITH ACTUAL ENROLLMENT
50 OF MORE THAN TEN THOUSAND STUDENTS IN THE PREVIOUS SCHOOL YEAR SHALL BE
51 AUTHORIZED TO AUDIT A STATISTICALLY REPRESENTATIVE SAMPLE OF CLAIMS IN
52 LIEU OF AUDITING INDIVIDUAL CLAIMS SEPARATELY SO LONG AS IT IS DETER-
53 MINED BY RESOLUTION OF THE BOARD OF EDUCATION THAT THE METHODOLOGY FOR
54 CHOOSING THE SAMPLE PROVIDES REASONABLE ASSURANCE THAT ALL THE CLAIMS
55 REPRESENTED IN THE SAMPLE ARE PROPER CHARGES AGAINST THE SCHOOL

1 DISTRICT. The board of education shall be authorized, but not required,
2 to prescribe the form of such voucher.

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

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

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

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

- 35 (1) a member of the board of education;
- 36 (2) the clerk or treasurer of the board of education;
- 37 (3) the superintendent of schools or other official of the district
38 responsible for business management;
- 39 (4) the person designated as purchasing agent; or
- 40 (5) clerical or professional personnel directly involved in accounting
41 and purchasing functions of the school district.

42 1-a. The [position] POSITIONS of claims auditor AND DEPUTY CLAIMS
43 AUDITOR shall be classified in the exempt class of civil service. Such
44 board of education, at any time after the establishment of the [office]
45 OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, may adopt a resol-
46 ution abolishing such [office] OFFICES, whereupon such [office] OFFICES
47 shall be abolished.

48 2. When the office of claims auditor shall have been established and a
49 claims auditor shall have been appointed and shall have qualified, the
50 powers and duties of the board of education with respect to claims
51 auditing, allowing or rejecting all accounts, charges, claims or demands
52 against the city school district shall devolve upon and thereafter be
53 exercised by such claims auditor, during the continuance of such office.
54 The board of education shall be permitted to delegate the claims audit
55 function by using (1) inter-municipal cooperative agreements, (2) shared
56 services to the extent authorized by section nineteen hundred fifty of

1 this title, or (3) independent contractors, to fulfill this function.
2 IF THE BOARD SO DELEGATES THE CLAIMS AUDIT FUNCTION, ANY CLAIM SUBMITTED
3 BY OR ON BEHALF OF THE ENTITY OR INDIVIDUAL TO WHOM OR WHICH THE CLAIMS
4 AUDIT FUNCTION IS DELEGATED SHALL BE AUDITED BY THE BOARD.

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

7 S 2527. Official undertakings. The clerk of the board of education or,
8 where the office of claims auditor has been created, the claims auditor,
9 THE DEPUTY CLAIMS AUDITOR, and the treasurer, collector and such other
10 officers and employees as the board of education shall designate, shall,
11 before they enter upon the duties of their respective offices or posi-
12 tions, each execute to the school district and file with the school
13 district clerk an official undertaking in such sum and with such corpo-
14 rate surety as the board of education shall direct and approve. The
15 board of education may, at any time, require any such officer or employ-
16 ee to file a new official undertaking for such sum and with such corpo-
17 rate surety as the board shall approve. Such undertakings as shall have
18 been approved by the board of education shall forthwith be filed with
19 the school district clerk. The expense of any undertaking executed
20 pursuant to this section shall be a school district charge.

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

23 2-a. a. In its discretion to adopt a resolution establishing the
24 [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR and appoint
25 a claims auditor AND DEPUTY CLAIMS AUDITOR who shall hold [his or her
26 position] THEIR POSITIONS subject to the pleasure of the board. Such
27 claims auditor AND DEPUTY CLAIMS AUDITOR shall report directly to the
28 board of education. THE DEPUTY CLAIMS AUDITOR SHALL SERVE IN THE
29 ABSENCE OR INABILITY OF THE CLAIMS AUDITOR OR DURING SUCH TIME AS THERE
30 IS A VACANCY IN THE OFFICE OF CLAIMS AUDITOR. No person shall be eligi-
31 ble for appointment to the office of claims auditor who shall be

32 (1) a member of the board of education;

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

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

36 (4) the person designated as purchasing agent; or

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

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

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

1 2. [The said] SUCH board of education may require any person present-
2 ing for settlement an account or claim for any cause whatever against it
3 to be sworn before it or a committee thereof, or before the claims audi-
4 tor, DEPUTY CLAIMS AUDITOR, or before any person designated by said
5 board, touching such account or claim, and when so sworn, to answer
6 orally as to any facts relative to the justness of such account or
7 claim. A member of the board, the claims auditor, DEPUTY CLAIMS AUDITOR,
8 or any other person designated as hereinbefore stated, shall have the
9 power to administer an oath to any person who shall give testimony to
10 the justness of such account or claim, and for the purpose of securing
11 such testimony may issue subpoenas for the attendance of witnesses.
12 Wilful false swearing before [the said] SUCH board of education, a
13 committee thereof, the claims auditor, DEPUTY CLAIMS AUDITOR, or before
14 any person designated as hereinbefore stated, is perjury and punishable
15 as such.

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

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

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

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

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

54 2. Such funds shall be disbursed by authority of the board of educa-
55 tion upon written orders drawn on the city treasurer or other fiscal
56 officer of the city. Such orders shall be signed by the superintendent

1 of schools and the secretary of the board of education or such other
2 officers as the board may authorize. If a claims auditor AND DEPUTY
3 CLAIMS AUDITOR shall have been appointed, orders shall be signed by the
4 claims auditor OR DEPUTY CLAIMS AUDITOR; provided, however, that the
5 board may require, in addition, the signature of such other officer or
6 officers as it may by resolution direct. Orders shall be numbered
7 consecutively and shall specify the purpose for which they are drawn and
8 the person or corporation to whom they are payable.

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

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

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

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

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

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

1 AUTHORIZES THE TRANSFER OR WITHDRAWAL OF ANY FUNDS OF THE LOCAL GOVERN-
2 MENT.

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

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

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

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

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

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

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

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

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

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

55 (E) THE DOCUMENTATION REQUIRED OF AN OFFICER OR EMPLOYEE USING THE
56 CREDIT CARD FOR COMMODITIES OR SERVICES OR FOR TRAVEL AND OTHER ACTUAL

1 AND NECESSARY EXPENSES, IN ORDER TO FACILITATE THE APPROPRIATE AUDIT OF
2 THE RESULTING CLAIMS SUBMITTED BY A FINANCING AGENCY OR CARD ISSUER, AND
3 THE TIMEFRAME IN WHICH SUCH DOCUMENTATION IS REQUIRED TO BE SUBMITTED BY
4 THE OFFICER OR EMPLOYEE AFTER THEIR USE OF A CREDIT CARD;

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

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

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

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

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

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

41 9. CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION BETWEEN LOCAL
42 GOVERNMENTS AND FINANCING AGENCIES OR CARD ISSUERS SHALL BE AWARDED
43 AFTER THE SOLICITATION OF ALTERNATIVE PROPOSALS OR QUOTATIONS IN ACCORD-
44 ANCE WITH THE LOCAL GOVERNMENT'S WRITTEN INTERNAL POLICIES AND PROCE-
45 DURES GOVERNING PROCUREMENTS ADOPTED PURSUANT TO SECTION ONE HUNDRED
46 FOUR-B OF THIS CHAPTER. IN THE CASE OF A SCHOOL DISTRICT OR BOARD OF
47 COOPERATIVE EDUCATIONAL SERVICES, SUCH POLICIES AND PROCEDURES MAY
48 PROVIDE FOR THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL
49 SERVICES TO ENGAGE THE SERVICES OF A FINANCING AGENCY OR CARD ISSUER
50 PURSUANT TO A COOPERATIVE PROCUREMENT AGREEMENT FOR SUCH SERVICES WITH
51 ONE OR MORE LOCAL GOVERNMENTS OF THIS STATE OR OF ANY OTHER STATE, OR
52 THROUGH AN EXISTING COOPERATIVE PROCUREMENT AGREEMENT ENTERED INTO AMONG
53 LOCAL GOVERNMENTS OF THIS STATE OR ANY OTHER STATE FOR SUCH SERVICES IF
54 SUCH EXISTING CONTRACT HAS BEEN AWARDED PURSUANT TO A COMPETITIVE
55 REQUEST FOR PROPOSALS PROCESS AND HAS BEEN EXTENDED OR OFFERED FOR USE
56 BY OTHER LOCAL GOVERNMENTS; PROVIDED, HOWEVER, THAT THE GOVERNING BOARD

1 OF THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES
2 SHALL FIRST DETERMINE THAT ENGAGING THE SERVICES OF A FINANCING AGENCY
3 OR CARD ISSUER PURSUANT TO OR THROUGH A COOPERATIVE PROCUREMENT AGREE-
4 MENT WILL RESULT IN COST SAVINGS AND THAT ANY SUCH COOPERATIVE PROCURE-
5 MENT AGREEMENT IS FULLY IN COMPLIANCE WITH THE PROVISIONS OF THIS
6 SECTION.

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

12 S 25. Section 6-e of the general municipal law, as added by chapter
13 655 of the laws of 1992, paragraph m of subdivision 1 as added, para-
14 graph n of subdivision 1 as relettered, subdivision 3 and paragraph d of
15 subdivision 4 as amended by chapter 528 of the laws of 2000, and subdi-
16 vision 5 as amended by chapter 140 of the laws of 1996, is amended to
17 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

54 i. "Public emergency" means an epidemic, conflagration, riot, storm,
55 flood or other sudden, unforeseen or unexpected occurrence or condition
56 which requires the immediate expenditure of moneys to protect the public

1 health, safety or welfare of the inhabitants of the municipal corpo-
2 ration.

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

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

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

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

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

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

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

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

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

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

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

50 2-A. A SCHOOL DISTRICT MAY ESTABLISH A CONTINGENCY AND TAX STABILIZA-
51 TION RESERVE FUND BY A RESOLUTION OF ITS GOVERNING BOARD.

52 3. There may be paid into the contingency and tax stabilization
53 reserve fund such amounts as may be provided therefor by budgetary
54 appropriation, unappropriated unreserved fund balance in the eligible
55 portion of the annual budget, and such revenues as are not required by
56 law to be paid into any other fund or account; provided, however, that

1 no amount may be appropriated for payment into a contingency and tax
2 stabilization reserve fund which would cause the balance of the fund to
3 exceed ten percent of the eligible portion of the annual budget for the
4 fiscal year for which the appropriation would be made.

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

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

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

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

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

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

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

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

49 e. When preparing the tentative budget of a municipal corporation, if
50 the current balance of a contingency and tax stabilization reserve fund,
51 as shown by the statement of the chief fiscal officer required by subdi-
52 vision six of this section, exceeds ten percent of the eligible portion
53 of the annual budget for the current fiscal year, such excess shall be
54 used to reduce the amount of real property taxes needed to finance the
55 eligible portion of the annual budget for the next succeeding fiscal
56 year. IN ADDITION, IN THE CASE OF A SCHOOL DISTRICT, ANY MONIES DEPOSIT-

1 ED TO SUCH RESERVE FUND WHICH ARE NOT EXPENDED TO LESSEN OR PREVENT ANY
2 PROJECTED INCREASE IN EXCESS OF TWO AND ONE-HALF PERCENT IN THE AMOUNT
3 OF THE REAL PROPERTY TAX LEVY NEEDED TO FINANCE THE ELIGIBLE PORTION OF
4 THE ANNUAL BUDGET FOR ANY OF THE THREE FISCAL YEARS SUCCEEDING THE
5 FISCAL YEAR IN WHICH THE MONIES ARE SO DEPOSITED SHALL BE RETURNED TO
6 THE GENERAL FUND ON OR BEFORE THE FIRST DAY OF THE FOURTH FISCAL YEAR
7 FOLLOWING THE DEPOSIT OF SUCH MONIES TO SUCH RESERVE FUND.

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

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

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

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

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

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

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

51 S 26. Section 6-h of the general municipal law, as added by chapter
52 742 of the laws of 1945, the section heading and subdivisions 2, 5, 6
53 and 8 as amended by chapter 592 of the laws of 1957, subdivision 1 as
54 amended by chapter 755 of the laws of 1965, subdivision 9 as amended by
55 chapter 140 of the laws of 1996 and subdivision 11 as amended by chapter
56 424 of the laws of 2001, is amended to read as follows:

1 S 6-h. Reserve fund for payment of bonded indebtedness in counties,
2 cities, villages, towns, SCHOOL DISTRICTS and fire districts. 1. As used
3 in this section, the term "governing board," in so far as it is used in
4 reference to a county, shall mean the board of supervisors thereof; in
5 so far as it is used in reference to a city, shall mean the "local
6 legislative body" thereof, as that term is defined in subdivision seven
7 of section two of the municipal home rule law, as amended from time to
8 time; in so far as it is used in reference to a village, shall mean the
9 board of trustees thereof; in so far as it is used in reference to a
10 town, shall mean the town board thereof; in so far as it is used in
11 reference to a fire district, shall mean the board of fire
12 commissioners; IN SO FAR AS IT IS USED IN REFERENCE TO A SCHOOL
13 DISTRICT, SHALL MEAN THE BOARD OF EDUCATION OR BOARD OF TRUSTEES, OR FOR
14 A COMMON SCHOOL DISTRICT HAVING ONE TRUSTEE, SUCH TRUSTEE.

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

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

27 4. There may be paid into such fund:

28 a. Such an amount as may be provided therefor by budgetary appropri-
29 ation.

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

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

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

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

1 Any such bonds so paid, purchased or redeemed and any interest coupons
2 representing unmatured interest attached thereto shall be cancelled and
3 destroyed by the chief fiscal officer of such municipal corporation,
4 SCHOOL DISTRICT or fire district establishing such fund who shall make a
5 notation of such cancellation and destruction in the bond register of
6 such municipal corporation, SCHOOL DISTRICT or fire district. Such nota-
7 tion shall describe each such bond by title, date of issue, number,
8 denomination and date of maturity, and if coupons are attached thereto
9 by number, face value and date of maturity.

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

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

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

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

- 25 a. The date and amount of each sum paid into the fund.
- 26 b. The interest earned by such fund.
- 27 c. The capital gains or losses resulting from the sale of investments
28 of the fund.
- 29 d. The interest or capital gains which have accrued to the fund.
- 30 e. The amount and date of each withdrawal from the fund.
- 31 f. The assets of the fund, indicating the cash balance therein and a
32 schedule of the amounts invested. The chief fiscal officer at the termi-
33 nation of each fiscal year shall render a detailed report of the opera-
34 tion and condition of each of such funds to the governing board.

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

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

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

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

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

1 11. Notwithstanding the foregoing provisions of this section, in any
2 town which is located wholly or partly within the Adirondack park and
3 has within its boundaries state lands subject to taxation assessed at
4 more than thirty [percentum] PER CENTUM of the total taxable assessed
5 valuation of the town as determined from the assessment rolls of the
6 town, as completed from time to time, a reserve fund for the payment of
7 bonded indebtedness shall not be established on and after May first,
8 nineteen hundred forty-eight, unless the state comptroller, on behalf of
9 the state, shall consent thereto, and, on and after May first, nineteen
10 hundred forty-eight, in any such town no expenditure or transfer from
11 any such fund heretofore or hereafter established shall be made unless
12 the state comptroller, on behalf of the state, shall consent thereto.

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

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

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

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

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

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

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

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

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