

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:

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 (3) the superintendent of schools or other official of the district
13 responsible for business management;
14
15
16

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

LBD15769-03-0

1 (4) the person designated as purchasing agent; or
2 (5) clerical or professional personnel directly involved in accounting
3 and purchasing functions of the school district.

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

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

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

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

52 20-a. a. In its discretion to adopt a resolution establishing the
53 [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, and
54 appoint a claims auditor AND DEPUTY CLAIMS AUDITOR, who shall hold [his
55 or her position] THEIR POSITIONS subject to the pleasure of such board
56 of education. Such claims auditor AND DEPUTY CLAIMS AUDITOR shall report

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 5. To have supervision and direction of associate, assistant and other
52 superintendents, directors, supervisors, principals, teachers, lectur-
53 ers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDI-
54 TORS, attendance officers, janitors and other persons employed in the
55 management of the schools or the other educational activities of the
56 district authorized by this chapter and under the direction and manage-

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

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

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

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

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

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

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

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

22 S 2526. Claims auditor. 1. The board of education of a city school
23 district may adopt a resolution establishing the [office] OFFICES of
24 claims auditor AND DEPUTY CLAIMS AUDITOR, and appoint a claims auditor
25 AND DEPUTY CLAIMS AUDITOR, who shall hold [his or her position] THEIR
26 POSITIONS subject to the pleasure of such board of education. 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 OR DEPUTY CLAIMS
32 AUDITOR who shall be:

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

40 1-a. The [position] POSITIONS of claims auditor AND DEPUTY CLAIMS
41 AUDITOR shall be classified in the exempt class of civil service. Such
42 board of education, at any time after the establishment of the [office]
43 OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR, may adopt a resol-
44 ution abolishing such [office] OFFICES, whereupon such [office] OFFICES
45 shall be abolished.

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

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

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

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

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

21 2-a. a. In its discretion to adopt a resolution establishing the
22 [office] OFFICES of claims auditor AND DEPUTY CLAIMS AUDITOR and appoint
23 a claims auditor AND DEPUTY CLAIMS AUDITOR who shall hold [his or her
24 position] THEIR POSITIONS subject to the pleasure of the board. Such
25 claims auditor AND DEPUTY CLAIMS AUDITOR shall report directly to the
26 board of education. THE DEPUTY CLAIMS AUDITOR SHALL SERVE IN THE
27 ABSENCE OR INABILITY OF THE CLAIMS AUDITOR OR DURING SUCH TIME AS THERE
28 IS A VACANCY IN THE OFFICE OF CLAIMS AUDITOR. No person shall be eligi-
29 ble for appointment to the office of claims auditor who shall be

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 OR CARD ISSUER PURSUANT TO OR THROUGH A COOPERATIVE PROCUREMENT AGREE-
2 MENT WILL RESULT IN COST SAVINGS AND THAT ANY SUCH COOPERATIVE PROCURE-
3 MENT AGREEMENT IS FULLY IN COMPLIANCE WITH THE PROVISIONS OF THIS
4 SECTION.

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

10 S 25. Section 6-e of the general municipal law, as added by chapter
11 655 of the laws of 1992, paragraph m of subdivision 1 as added, para-
12 graph n of subdivision 1 as relettered, subdivision 3 and paragraph d of
13 subdivision 4 as amended by chapter 528 of the laws of 2000, and subdi-
14 vision 5 as amended by chapter 140 of the laws of 1996, is amended to
15 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

52 i. "Public emergency" means an epidemic, conflagration, riot, storm,
53 flood or other sudden, unforeseen or unexpected occurrence or condition
54 which requires the immediate expenditure of moneys to protect the public
55 health, safety or welfare of the inhabitants of the municipal corpo-
56 ration.

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

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

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

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

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

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

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

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

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

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

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

48 2-A. A SCHOOL DISTRICT MAY ESTABLISH A CONTINGENCY AND TAX STABILIZA-
49 TION RESERVE FUND BY A RESOLUTION OF ITS GOVERNING BOARD.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 b. Expend any money from the contingency and tax stabilization reserve
46 fund for a purpose other than that for which it was appropriated.
47 The provisions of this subdivision shall be considered to be in addition
48 to any other penalties provided by law.

49 S 26. Section 6-h of the general municipal law, as added by chapter
50 742 of the laws of 1945, the section heading and subdivisions 2, 5, 6
51 and 8 as amended by chapter 592 of the laws of 1957, subdivision 1 as
52 amended by chapter 755 of the laws of 1965, subdivision 9 as amended by
53 chapter 140 of the laws of 1996 and subdivision 11 as amended by chapter
54 424 of the laws of 2001, is amended to read as follows:

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

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

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

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

25 4. There may be paid into such fund:

26 a. Such an amount as may be provided therefor by budgetary appropri-
27 ation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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