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

5689--A

2011-2012 Regular Sessions

I N S E N A T E

June 10, 2011

Introduced by Sen. FLANAGAN -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to requiring notice of reserve funds, the powers and duties of boards of cooperative educational services, and reserves funded by resolution; and to amend the general municipal law, in relation to 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

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

Section 1. Subdivision 5 of section 1608 of the education law, as amended by section 5 of part A of chapter 436 of the laws of 1997, is amended to read as follows:

5. The trustee or board of trustees shall append to the statement of estimated expenditures a detailed statement of the total compensation to be paid to the superintendent of schools, and any assistant or associate superintendents of schools in the ensuing school year, including a delineation of the salary, annualized cost of benefits and any in-kind or other form of remuneration, AND A SCHEDULE OF RESERVE FUNDS, SETTING FORTH THE NAME OF EACH RESERVE FUND, A DESCRIPTION OF ITS PURPOSE, THE BALANCE AS OF THE CLOSE OF THIRD QUARTER OF THE CURRENT SCHOOL DISTRICT FISCAL YEAR AND A BRIEF STATEMENT EXPLAINING ANY PLANS FOR THE USE OF EACH SUCH RESERVE FUND FOR THE ENSUING FISCAL YEAR. The trustees shall also append a list of all other school administrators and supervisors,

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

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if any, whose annual salary will be eighty-five thousand dollars or more in the ensuing school year, with the title of their positions and annual salary identified; provided however, that the commissioner may adjust such salary level to reflect increases in administrative salaries after June thirtieth, nineteen hundred ninety-eight. The trustees shall submit a copy of such list and statement, in a form prescribed by the commissioner, of compensation to the commissioner within five days after their preparation. The commissioner shall compile such data, together with the data submitted pursuant to subdivision three of section seventeen hundred sixteen of this chapter, into a single statewide compilation, which shall be made available to the governor, the legislature, and other interested parties upon request.

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

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

S 3. Paragraph q of subdivision 4 of section 1950 of the education law, as separately amended by chapters 367 and 563 of the laws of 1979, is amended to read as follows:

q. To provide transportation SERVICES for pupils [to and from classes maintained by such board of cooperative educational services] at the request of one or more school districts. SUCH SERVICES MAY INCLUDE, BUT NEED NOT BE LIMITED TO, AUTHORIZED PUPIL TRANSPORTATION TO AND FROM CLASSES MAINTAINED BY A BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND TO AND FROM SCHOOL, BOTH PUBLIC AND NONPUBLIC. School districts and boards of cooperative educational services are authorized to enter into contracts with one or more school districts, private contractors, and one or more boards of cooperative educational services and any municipal corporation and authority to provide such transportation. Boards of cooperative educational services may operate joint or regional transportation systems for the transportation authorized by articles seventy-three and eighty-nine of this chapter. Such [transporation] TRANSPORTATION, except when provided by a political subdivision or a board of cooperative educational services, shall be subject to the requirements

of subdivision fourteen of section three hundred five of [the education law] THIS CHAPTER.

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

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

S 5. Subdivision 2 of section 2116-b of the education law, as added by chapter 263 of the laws of 2005, is amended to read as follows:

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

S 6. The education law is amended by adding a new section 3653 to read as follows:

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

S 7. Section 6-e of the general municipal law, as added by chapter 655 of the laws of 1992, paragraph m of subdivision 1 as added, paragraph n of subdivision 1 as relettered, subdivision 3 and paragraph d of subdivision 4 as amended by chapter 528 of the laws of 2000, and subdivision 5 as amended by chapter 140 of the laws of 1996, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the town outside any villages. Such permissive referendum shall be governed by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. The members of the governing board are hereby declared trustees of the moneys in the contingency and tax stabilization reserve fund and shall be subject to all duties and responsibilities imposed by law on

trustees, and such duties and responsibilities may be enforced by the municipal corporation or by any board, commission, agency, officer or taxpayer thereof.

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

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

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

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

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

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

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

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

4. There may be paid into such fund:

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

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

5. An expenditure from such a reserve fund may only be made by appropriation pursuant to a resolution of the governing board of the municipal corporation, SCHOOL DISTRICT or fire district establishing the same and only for the payment of the principal and interest on bonds issued by such municipal corporation, SCHOOL DISTRICT or fire district and forming a part of an issue having a maximum maturity of not less than five years; or for the purchase of bonds of such municipal corporation,

SCHOOL DISTRICT or fire district forming a part of an issue having a maximum maturity of not less than five years at a price not to exceed the par value thereof and accrued interest to the date of delivery of such bonds to such municipal corporation, SCHOOL DISTRICT or fire district, provided, however, that if any such bonds were issued subject to the right of such municipal corporation, SCHOOL DISTRICT or fire district to redeem the same prior to the maturity date thereof then such purchase may be made for the redemption of such bonds at the price and on the terms stated in such bonds or in the proceeding authorizing the same as the case may be.

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

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

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

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

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

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

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

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

b. The interest earned by such fund.

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

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

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

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

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

district, as the case may be, or by any board, commission, agency, officer or taxpayer thereof.

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

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

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

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

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

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

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

S 10. Any school district having excess monies in an employee benefit accrued liability reserve fund established pursuant to section 6-p of the general municipal law, on the effective date of this act, may make a one-time election, by resolution of its governing board adopted no later than one year from such effective date, to transfer all or part of such excess monies into the general fund of the school district. For the purposes of this section, "excess monies" shall be that amount in the fund which exceeds the amount certified to the governing board by the

fiscal and legal officers of the school district as necessary to satisfy all liabilities incurred or accrued against the reserve fund.

S 11. Paragraphs b and c of subdivision 1 of section 6-r of the general municipal law, as added by chapter 260 of the laws of 2004, are amended to read as follows:

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

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

S 12. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.