§ 6-p. Employee benefit accrued liability reserve fund. 1. The following terms when used or referred to in this section, shall have the following meaning:

(a) "Municipal corporation" shall mean a municipal corporation, as defined in section two of this chapter, school district, except a school district in a city with a population of one hundred twenty-five thousand or more, board of cooperative educational services, fire district, a district corporation and a special improvement district governed by a separate board of commissioners.

(b) "Employee benefits" shall mean the cash payment of the monetary value of accrued and accumulated but unused and unpaid sick leave, personal leave, holiday leave, vacation time, time allowances granted in lieu of overtime compensation and any other forms of payment for accrued but unliquidated time earned by municipal employees and payable to municipal employees upon termination of service, whether by retirement or otherwise, as authorized by ordinance, local law, or collective bargaining agreement or section six of the civil service law for which expenditures may be made pursuant to subdivision two of this section.

2. (a) The governing board of any municipal corporation may establish a reserve fund to be known as the employee benefit accrued liability reserve fund. Upon the creation of the fund, the municipality may make expenditures from the fund for any accrued employee benefit payment due an employee of the municipal corporation upon termination of the employee's service, provided however, that no municipality shall make an expenditure from such fund for any employee benefit for which the municipal corporation has established a reserve fund under any other provision of law.

(b) Notwithstanding any other provision of law to the contrary, where a municipal corporation has previously established a reserve fund for a type of accrued employee benefits for which expenditures may be made under paragraph (a) of this subdivision, the municipal corporation may, by resolution, discontinue such other reserve fund and transfer any unexpended balance to the reserve fund established under this section; provided, however, that to the extent such unexpended balance is subject to any liabilities incurred or accrued against the other reserve fund, any unexpended balances so transferred shall only be used for such

incurred or accrued liabilities including expenses in connection therewith. Prior to the discontinuance of the other reserve fund, the fiscal and legal officers of the municipal corporation shall certify to the governing board thereof the amount that may be necessary to satisfy all liabilities incurred or accrued against it.

3. There may be paid into such fund:

(a) such amounts as may be provided by budgetary appropriations;

(b) amounts from any other fund authorized by this chapter by resolution subject to permissive referendum; and

(c) such other funds as may be legally appropriated.

4. The moneys in 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, if the governing board shall delegate such duty to him, may invest the moneys in such fund in the manner provided by 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.

5. The chief fiscal officer shall account for this 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 this fund; the order, purpose thereof, date and amount of each payment from this fund; the assets of the fund, indicating cash balance and a schedule of investments. The chief fiscal officer, within sixty days of the end of each fiscal year, shall furnish a detailed report of the operation and condition of this fund to the governing board. The chief fiscal officer shall also keep a separate account for each kind of employee benefit funded pursuant to subdivision two of this section.

6. Any action or claim for accrued employee benefits shall be compromised or settled by the governing board, officer or employee of the municipal corporation authorized to settle or compromise actions or claims on behalf of the municipal corporation.

7. An expenditure may be made from this fund for the payment of all or part of the cost, including interest, of:

(a) the cash payment of the monetary value of accumulated or accrued and unused sick leave, holiday leave, vacation leave, time allowance granted in lieu of overtime compensation and other forms of payment for accrued leave time and benefits due to a municipal employee upon termination of municipal employment and separation from service as required by ordinance, local law, collective bargaining agreement or section six of the civil service law.

(b) the reasonable costs of the administration of the reserve fund.

(c) expert or professional services rendered in connection with the investigation, adjustment or settlement of claims, actions or judgments relating to claims for accrued employee benefits as defined in this section.

8. No member of the governing board shall:

(a) authorize a withdrawal from this fund for any purpose except as provided in this section; or

(b) expend any money withdrawn from this fund for a purpose other than as provided in this section.

Any member of the governing board who violates the provision of this subdivision shall be guilty of a misdemeanor.

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 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 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.

10. Notwithstanding any provision of law to the contrary, the governing board of a school district may, during the two thousand fifteen--two thousand sixteen school year, authorize a withdrawal from this fund in an amount not to exceed the lesser of: (a) the dollar value of excess funding in the fund as determined by the comptroller pursuant to section thirty-three of this chapter or (b) the amount of the school district's remaining gap elimination adjustment as calculated by the commissioner of education pursuant to subdivision seventeen of section thirty-six hundred two of the education law. Funds withdrawn pursuant to this subdivision may only be used for the purpose of maintaining educational programming during the two thousand fifteen--two thousand sixteen school year which otherwise would have been reduced as a result of such gap elimination adjustment. Governing boards which make such a withdrawal shall submit, in a form prescribed by the commissioner of education, relevant information about the withdrawal, which shall include but not be limited to, the amount of such withdrawal, the date of withdrawal, and the use of such withdrawn funds.

11. Notwithstanding any other provision of law to the contrary, a board of cooperative educational services that has been determined upon state audit or in its annual independent audit to have accumulated an excess in such fund over the sum sufficient to pay all liabilities incurred or accrued against it shall withdraw the amount of such excess as of the date of withdrawal and shall distribute such amount to all school districts that paid to such board of cooperative educational services moneys that were deposited to such fund in the same proportion as the total payments from such school district into such fund bears to the total payments from all school districts into such fund, or, at the request of the school district, may use such amount to offset the administrative and capital expenses payable by the school district in the current school year, and any such amount attributable to an approved cost of service computed pursuant to subdivision five of section nineteen hundred fifty of the education law shall not be included in the approved cost of services computed pursuant to subdivision five of

section nineteen hundred fifty of the education law. Such withdrawal shall be made within thirty days after the audit becomes final or within thirty days after this subdivision takes effect, whichever is later.