§ 6-r. Retirement contribution reserve funds 1. As used in this section:

a. "Municipal corporation" means 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, district corporation, police district, and special improvement district governed by a separate board of commissioners.

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) a participating 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.

2. The governing board of any municipal corporation which is also a participating employer by resolution may establish a retirement contribution reserve fund for the purpose of (a) financing retirement contributions, and/or (b) in the case of a municipal corporation which is a participating employer as defined in subdivision three of section five hundred one of the education law, financing appropriations authorized by law in order to offset all or a portion of the amount deducted from the moneys apportioned to the municipal corporation from the state for the support of common schools pursuant to section five hundred twenty-one of the education law.

2-a. With respect to a municipal corporation which is a participating employer as defined in subdivision three of section five hundred one of

the education law, which elects to utilize a retirement contribution reserve fund (a) to finance retirement contributions to the New York state teachers' retirement system pursuant to section five hundred twenty-one of the education law and/or (b) to offset all or a portion of the amount deducted from the moneys apportioned to the municipal corporation from the state for the support of common schools pursuant to section five hundred twenty-one of the education law, such municipal corporation shall establish a sub-fund within the retirement contribution reserve fund, which shall be separately administered consistent with the provisions of this section. Such municipal corporation may pay into such sub-fund during any particular fiscal year an amount not to exceed two per centum of the total compensation or salaries of all teachers in the employ of said municipal corporation who are members of the New York state teachers' retirement system paid during the immediately preceding fiscal year. The balance of such sub-fund may not exceed ten per centum of the total compensation or salaries of all teachers in the employ of the municipal corporation who are members of the New York state teachers' retirement system paid during the immediately preceding fiscal year. For the purposes of this subdivision, the term "teacher" shall have the same meaning as such term is defined under subdivision four of section five hundred one of the education law.

3. There may be paid into a retirement contribution reserve fund:

a. such amounts as may be provided therefor by budgetary appropriation or raised by tax therefor;

b. such revenues as are not required by law to be paid into any other fund or account;

c. such other funds as may be legally appropriated; and

d. notwithstanding any law to the contrary, such amounts as may be transferred from a reserve fund established pursuant to section six-c, six-d, six-e, six-f or six-g of this article comprised of moneys raised from the same tax base as the moneys in the retirement contribution

reserve fund, or a reserve fund established pursuant to section thirty-six hundred fifty-one of the education law, provided, that any such transfer shall only be made by resolution of the governing board of such municipal corporation adopted after a public hearing held on at least fifteen days prior published notice in the official newspaper of the municipal corporation or, if the municipal corporation does not have an official newspaper, in at least one newspaper having general circulation in the municipal corporation.

4. The moneys in a retirement contribution reserve fund shall be deposited and secured in the manner provided by section ten of this article. The governing board of such municipal corporation, or the chief fiscal officer thereof if the governing board shall delegate such duty to him or her, 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 governing board of such municipal corporation by resolution may authorize expenditures from a retirement contribution reserve fund. Except as otherwise provided by law, moneys in a retirement contribution reserve fund may only be expended (a) to finance retirement contributions, and/or (b) in the case of a municipal corporation which is a participating employer, as defined in subdivision three of section five hundred one of the education law, for appropriations authorized by law in order to offset all or a portion of the amount deducted from the moneys apportioned to the participating employer from the state for the support of common schools pursuant to section five hundred twenty-one of the education law. With respect to a municipal corporation which is a participating employer as defined in subdivision three of section five hundred one of the education law, expenditures from the retirement contribution reserve fund to finance retirement contributions to the New York State teachers' retirement system pursuant to section five hundred twenty-one of the education law and/or to offset all or a portion of the amount deducted from the moneys apportioned to the municipal corporation from the state for the support of common schools pursuant to section five hundred twenty-one of the education law may only be made from the

sub-fund established pursuant to subdivision two-a of this section.

6. The governing board of such municipal corporation by resolution may authorize the transfer of a portion of the moneys in a retirement contribution reserve fund to a reserve fund of the municipal corporation established pursuant to section six-c, six-d, six-e, six-f or six-g of this article comprised of moneys raised from the same tax base as the moneys in the retirement contribution reserve fund, or a reserve fund established pursuant to section thirty-six hundred fifty-one of the education law, provided, that any such transfer shall only be made by resolution of the governing board of such municipal corporation adopted after a public hearing held on at least fifteen days prior published notice in the official newspaper of the municipal corporation or, if the municipal corporation does not have an official newspaper, in at least one newspaper having general circulation in the municipal corporation.

7. The chief fiscal officer of such municipal corporation shall account for a retirement contribution 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 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.

8. The members of the governing board of such municipal corporation are hereby declared trustees of a retirement contribution reserve fund 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 municipal corporation, as the case may be, or by any board, commission, agency, officer or taxpayer thereof.

9. No member of the governing board of such municipal corporation shall:

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

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

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

10. The governing board of such municipal corporation by resolution may determine that a retirement contribution reserve fund is no longer needed and terminate the fund. Such resolution shall transfer any moneys remaining in such fund to one or more reserve funds of the municipal corporation established pursuant to section six-c, six-d, six-e, six-f or six-g of this article comprised of moneys raised from the same tax base as the moneys in the retirement contribution reserve fund, or one or more reserve funds established pursuant to section thirty-six hundred fifty-one of the education law.

11. The governing board of a municipal corporation which is a participating employer as defined in subdivision three of section five hundred one of the education law by resolution may (a) authorize the transfer of all or a portion of the monies in the separately administered sub-fund as established under subdivision two-a of this section to the retirement contribution reserve fund, and/or (b) authorize the transfer of all or a portion of the monies in the retirement contribution reserve fund to the separately administered sub-fund as provided in subdivision two-a of this section, subject to the limits on annual payments into the sub-fund and the balance of the sub-fund specified by subdivision two-a of this section.