

New York State's Property Tax Cap

A Citizens' Guide

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NEW YORK STATE'S PROPERTY TAX CAP

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New York State has a new law capping annual increases in local government and school district property taxes. Effective in local fiscal years starting on or after Jan. 1, 2012, the law limits the annual growth of property taxes levied by local governments and school districts to **2 percent** or the rate of inflation, whichever is less.

The cap applies to all counties, cities, towns and villages outside New York City, and to all fiscally independent school districts. It also applies to the property tax levies of special districts established to finance fire departments, libraries, sewer and water systems and other purposes.

This booklet lays out the basics of the tax cap and answers some common questions about how the cap will work. It concludes with a full text of the tax cap provisions passed by the Legislature and signed into law by Governor Andrew Cuomo in June 2011.

Several important aspects of the new tax cap law may need to be clarified for many New Yorkers. For example:

- **The cap is not absolute.** School budgets can exceed the cap if approved by at least 60 percent of school district voters. Tax caps for counties, cities, towns, villages and special districts can be overridden by a vote of at least 60 percent of the local governing bodies.
- **The annual cap in your community will seldom be exactly two percent.** It could be *lower* if the rate of inflation has been below two percent, which was the case in several recent years. However, as explained in the following pages, the law also includes several exceptions and allowances that can make the cap *higher*. These factors will vary from year to year and will differ in each taxing jurisdiction.
- **A simple majority of voters will now have the power to block *any* tax increase in independent school districts.** Districts that fail to win voter approval for their proposed budgets after two tries must freeze their property tax levies.

CALCULATING THE CAP

Annual growth in property tax levies will be capped at 2 percent or inflation, whichever is less. Inflation is defined as the average monthly Consumer Price Index for all urban consumers (CPI-U) for the 12-month period ending six months prior to the start of the next fiscal year, minus the average for the same period preceding the current fiscal year. For example, if a town fiscal year begins Jan. 1, the percentage change in the inflation rate is the average CPI-U for July 1, 2010, through June 30, 2011. For school district fiscal years, which commonly start on July 1, the inflation rate is the change in average monthly CPI-U for the 12 months ending the previous Dec. 31. The cap cannot be less than zero.

The basic cap of up to 2 percent is subject to the following exclusions or modifications:

- **A growth factor reflecting the “quantity change” in taxable property values in the base year.** This factor is based on actual physical changes to taxable property—such as new construction of homes, stores and offices—and not mere changes in the assessed value of existing, unchanged taxable properties. These taxes can be added to the allowable (capped) levy in the first year after the value of the change is reflected on the local tax roll.
- **Tort settlements or awards whose costs exceed 5 percent of the tax levy in the base year.** A tort is a type of lawsuit seeking damages for personal injuries caused by negligence. Tort settlements exceeding 5 percent of a jurisdiction’s tax levy are rare.
- **Capital costs (including debt service) for school districts,** which cannot borrow money for capital purposes without voter approval.
- **Pension contribution increases that exceed two percentage points of covered payroll.** (See page 4 for details on how this amount is computed.)
- **A carryover of up to 1.5 percent of unused tax levy growth to the following year.** For example, if a city raises taxes by 2 percent in a year when its cap is 3 percent, 1 percent can be added to the subsequent year’s levy cap.

A proposed tax levy that does not exceed the cap will continue to require approval by more than 50 percent of the members of the governing body of a county, city, town, village or special district, or by a simple majority of voters participating in a school district or special district budget referendum.

The amount of property taxes that can be levied by a local government or school district without exceeding the cap can be calculated in this manner:

1. Determine the total amount of taxes levied, not collected, in the prior fiscal year.
2. Multiply the total amount of taxes levied for the prior year by the “tax base growth factor,” reflecting physical additions to the tax base, as reported to the local government by the state Department of Taxation and Finance.
3. Add any payments in lieu of taxes (PILOTs) that were receivable from property owners in the base year. The total amount of PILOTs receivable is to be included in the calculation of the tax levy limit. No adjustment is permitted.
4. Starting in fiscal year 2013, subtract the tax levy necessary to support expenditures for tort actions for any amount that exceeds five percent of the local government’s tax levy in the prior fiscal year. There is no subtraction for these expenditures in the calculation for the 2012 fiscal year.
5. Multiply the result by the allowable levy growth factor—either 2 percent or inflation, whichever is less.
6. Subtract any PILOTs receivable in the coming year. The total amount of PILOTs receivable is to be included in the calculation of the tax levy limit. No adjustment is permitted.
7. Add pension costs exceeding two percentage points of payroll, as explained on page 4.
8. Beginning with fiscal year 2013 budgets, add any available cap carryover from the prior fiscal year. There is no available carryover for the 2012 fiscal year.

Provisions for overriding the cap are summarized on page 5.

The Pension Exclusion

Pensions for employees of local governments covered by the tax cap are financed by annual tax-funded contributions to statewide public pension systems. Pension contribution rates are calculated as a percentage of total salaries paid to employees in each of the three pension plans—the New York State Employee Retirement System (ERS), the Police and Fire Retirement System (PFRS) and the New York State Teachers Retirement System (TRS). Taxpayer-funded pension contribution rates have been rising in recent years and will continue to rise in the next several years, mainly as a result of increases in pension benefits and market losses sustained by the pension funds since the late 1990s.

Pension costs attributable to pension contribution rate increases of more than two percentage points in a given year are *not* subject to the new property tax cap.

During fiscal years starting in 2011, the system-wide average contribution rates were 16.3 percent for ERS, 21.6 percent for PFRS and 11.1 percent for TRS. For budgets covering fiscal years that start in 2012—the first group subject to the tax cap—those rates rise by 2.6 percentage points for ERS employees and 4.2 percentage points for PFRS employees. (The TRS rate accrued by school districts in 2012-13 is expected to rise by no more than 1.4 percent, according to a preliminary projection, and so will fall under the cap.) Subtracting two percentage points from the ERS and PFRS figures, a jurisdiction can increase its tax levy by an amount equal to 0.6 percentage points of its ERS salaries and 2.2 percentage points of its PFRS salaries—in addition to the “capped” portion of the tax levy.

For a hypothetical employer with a \$1 million ERS salary base and a separate \$1 million PFRS salary base, the ERS exemption is calculated by multiplying 0.6 percent by the \$1 million salary base (\$6,000), and the PFRS exemption is calculated by multiplying 2.2 percent by the separate \$1 million salary base (\$22,000), for a total pension exemption of \$28,000. All other pension costs fall under the basic cap.

The impact of the pension exclusion on a given jurisdiction’s net tax cap depends on the relative size of its payroll in comparison with its property tax levy. The addition to the basic 2 percent cap will be *greatest* in jurisdictions where payrolls equal or exceed the tax levy, and *least* in jurisdictions where the payroll is smaller than the levy. In the example above, if the employer’s tax levy is the same as its total payroll of \$2 million, a pension exclusion of \$28,000 adds 1.4 percentage points to the basic cap, yielding a net tax cap of 3.4 percent before other exclusions. A budget holding taxes within the cap will still require approval by a simple majority of the governing board or school district voters.

OVERRIDE PROVISIONS

A **county, city, town, village or special district** can exceed the tax levy limit if at least 60 percent of the members of its governing body vote in favor of a local law overriding the cap. Local laws, in turn, are subject to statutory requirements including advance public notice and public hearings.

As explained by the state Department of Taxation and Finance:

A budget officer, or chief executive, may prepare a tentative budget that requires a tax levy in excess of the levy limit. However, the governing body cannot, without first complying with override requirements, (i) adopt a budget that requires a levy in excess of the tax levy limit, or (ii) impose or cause the imposition of a tax levy to the extent that a budget requires a levy in excess of the levy limit.

In other words, the override vote in a county, city, town, village or special district must come **before** the budget vote.

In **school districts**, voters will continue to have a direct say on proposed school budgets—and a greater say than ever on taxes. Under the new law, a school budget that requires a tax levy above the cap must be approved by a supermajority of at least 60 percent of the district residents participating in the annual budget vote, held on the second Tuesday in May. A budgeted tax hike within the limit will continue to require approval by at least a simple majority of voters.

If a budget is defeated, the school board can resubmit it to district voters in original or revised form. However, if the budget is defeated a second time, or if the board chooses not to resubmit, the district *must* revert to a contingency budget.

Under a contingency budget, the school tax will be frozen—with no exceptions or allowances. The tax cap law is clear:

Notwithstanding any other provision of law to the contrary, if the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote ... the sole trustee, trustees or board of education shall levy a tax no greater than the tax that was levied for the prior school year.

QUESTIONS AND ANSWERS

Q: Does the property tax cap affect property tax rates?

A: Tax rates cannot be changed in any way that would raise the total amount of property taxes—the tax levy—above the cap. Localities cannot get around the cap by manipulating rates.

Q: Can I expect my own tax bill change at the same rate as the levy?

A: The cap will limit growth in your tax bill, but the specific level depends on assessments. To understand why, consider how the property tax rate is calculated:

$$(\text{Tax Levy} \div \text{Assessed Value}) \times 1,000 = \text{Tax Rate}$$

So, for example, in a community with a tax levy of \$1 million and a tax base with assessed value of \$100,000,000, the tax rate is \$10 per \$1,000. Assuming no change in assessed values, a 2 percent increase in the tax levy will also drive up the tax bill by 2 percent, or 20 cents per \$1,000 in the example used here. Your property tax bill could rise faster than the tax levy if, for example, there is a *decrease* in assessed property values during the same year. Possible causes of a decrease in property values include a flood or other natural disaster; the purchase of taxable property by a tax-exempt organization; eminent domain proceedings in which government acquires ownership of a private parcel; a general drop in market values; and successful challenges to assessed values.

If assessments change at a uniform rate, then the tax cap will have a uniform impact on individual tax bills. But if some assessments change more than others—rising faster, for example, in a section of town closest to a new school or highway—than taxes will increase more for some property owners than for others. **A locality cannot circumvent the tax cap simply by manipulating assessments.**

Q: In a given year, will the tax cap be the same for my county, town and school district?

A: The starting point in all cases will be a tax levy limit of 2 percent or the rate of inflation, whichever is less. But the net cap for each taxing jurisdiction may be slightly different, based on factors such as inflation rates in the prior year, pension contributions, growth factors and, on the school level, voter-approved capital construction expenses.

Q: A new strip mall was added to my town's tax base. Would the increased property tax revenue offset a property tax increase?

A: Under the new tax cap, as under previous law, the addition of new taxable properties to the tax base through new construction or expansion of existing structures or facilities will make it possible to reduce taxes on other taxable property. But to avoid discouraging development, new taxes generated by new construction during a given year (also known as “quantity change” in the tax base) will not initially be subject to the levy limit, although it will be part of the capped tax levy in subsequent years.

Q: How does the “carryover” provision work? Can it be used by a property tax jurisdiction to exceed the tax cap?

A: When a local governments or school district holds its annual tax levy within the cap, it has the option of adding the difference to the cap limit in the following year (but **only** in the immediately following year). For example, if a locality increased its tax levy by 1.2 percent in a year in which the 2 percent tax cap applied, then up to 0.8 percent of the tax levy is therefore “unused” and can then be raised in the next year before hitting the cap. Up to 1.5 percentage points can be carried over in this way, hypothetically raising the basic tax cap to as high as 3.5 percent above the prior year. Of course, there is no requirement to carryover unused taxing authority, and all local budgets will continue to require approval from the governing body or school district voters.

Q: A big utility in our town just won a big court-ordered reduction in its assessment, and a court-ordered refund of some past taxes. Will this be excluded from the tax cap?

A: The exclusion for court awards applies only to tort cases, which involve personal injuries due to negligence. Localities that are found liable for having over-assessed some property cannot use that as an excuse for exceeding the tax cap.

Q: In the past, defeated school budgets could be replaced by contingency budgets that raised taxes even higher. Does the new tax cap change this?

A: Yes. Under the new tax cap law, a contingency budget cannot result in a tax levy increase. That means spending increases up to the limit are allowable only if financed by revenues other than the

property tax; for example, state or federal aid, district fees or other sources.

Q: Can a school district circumvent the cap by having the public vote on separate referenda for expenditures, such as sports or music programs?

A: No. If separate referenda on budget items are put before the voters that necessitate a tax levy that exceeds the tax cap, then a 60 percent supermajority would be required for each individual referendum to be approved and go into effect. Bond issues for capital purposes will require a simple majority, however.

Q: I live in a city that does not have a separate school property tax. How does the tax cap apply, if at all, to my school district?

A: The school districts in Buffalo, Yonkers, Rochester and Syracuse are “dependent” on their city governments, which levy a single property tax to cover both municipal purposes and schools. Since residents of these cities do not vote directly on school budgets, they will not have the ability to directly control the share of the tax levy going to schools. But the total city tax levy, including the portion intended for the school district, is subject to the cap. Excluding these cities and New York City, which is completely excluded from the cap, all other school districts in New York State are independent property tax jurisdictions and are subject to the tax cap.

Q: In my town, the public directly votes on the budget for our fire and library districts. Do these budgets need 60 percent voter approval of their budgets to raise their tax levies above the cap?

A: Special district budgets will continue to require only simple majority approval from voters. A cap override in a special district will require approval from 60 percent of the members of the district’s governing body.

Q: My town tax bill lists a separate property tax for the highway department, which is headed by an independently elected superintendent. Would this be a special district subject to the tax cap?

A: No, not if the highway department is part of the town budget rather than an independent special district. It is not uncommon for individual municipal departments, particularly those headed by an elected official, to have their tax levies shown separately on a property tax bill, yet are legally part of the overall tax levy of the

town or municipality. Accordingly, it would be possible for a town department to have a large increase in the tax rate above the tax cap, though in actuality it represents merely a portion of the larger town tax levy that remains within tax cap.

Property taxes levied by a town to fund the town budget under its taxing authority fall within the town's tax levy limit. Property taxes levied by a town on behalf of another entity, such as a special district, fall within that other local entity's tax levy limit.

Q: My sewer district imposes a bi-annual fee on my property. Is this subject to the tax cap?

A: Fees that are imposed by a special district are **not** subject to the property tax cap since they are not taxes.

A key distinction between a fee and a property tax is that a tax is imposed based on the assessed value of the property, whereas a fee is typically imposed uniformly on each property in the district, or according to service usage by each property (as measured by water meters, for example), or has a rate differential based on the type of property.

Q: My town is going through a reassessment to full value, which may result in higher taxes on my house and in my neighborhood. Does the tax cap restrict that potential tax increase?

A: Assessment changes may redistribute the tax burden within a given taxing jurisdiction, but localities cannot use reassessments to raise that tax burden to a level exceeding the cap. As was the case prior to the tax cap, a reassessment to full value within a taxing jurisdiction will vary in its impact upon individual properties. Some homes will face a higher tax, while others may face a lower tax due to changes in individual property values. The sum of these individual tax liabilities constitutes the tax levy, which is subject to the tax cap.

Q: What happens if a taxing jurisdiction exceeds the allowable tax levy by mistake?

A: Each property tax jurisdiction is responsible for determining its tax levy amount prior to formally approving the tax levy based on several calculations, including the rate of inflation, and any allowable exceptions such as a tort judgment or excess employee pension costs. If the tax levy exceeds the allowable amount due to "clerical or technical error," the excess tax levy must be placed into

an interest-earning reserve account to be applied to offset the next year's tax levy. The state comptroller's office will prescribe specific requirements for property tax jurisdictions that accidentally exceed their levy limits.

Q: What happens when two local governments or school districts merge? Does the tax cap still apply?

A: Yes. A new tax levy within the tax cap is calculated by the new taxing jurisdiction as a result of any change in the previous governmental arrangement. For example, the new school district that emerges from a consolidation of two or more districts would calculate the new tax levy based on the prior year's levy amounts from the separate school districts, which would be overseen and determined by the state Education Department. Furthermore, if a local government dissolves and another assumes its debts, obligations and tax base, the new levy limit would be calculated by the remaining government.

RESOURCES

Links to additional information on the tax cap, including additional “frequently asked questions,” can be found at the following state government websites:

Governor Andrew M. Cuomo

<http://governor.ny.gov/citizenconnects/?q=reforminggovernment/1>

Office of the State Comptroller*

<http://www.osc.state.ny.us/localgov/realprop/index.htm>

Department of Taxation and Finance*

<http://www.tax.ny.gov/research/property/cap.htm>

To compare property taxes and expenditures in different New York communities covered by the tax cap, use “BenchmarkingNY” at www.SeeThroughNY.net

* In some cases, portions of authoritative tax cap guidance reports developed by these agencies for the use of local government officials are paraphrased or reproduced verbatim in the preceding pages of this booklet. The official reports can be downloaded at the websites listed above.

APPENDIX

Property TaxCap Provisions Excerpted from Chapter 97 of the Laws of 2011

Underlined text is new law; old law is crossed-out

PART A

Section 1. The general municipal law is amended by adding a new section 3-c to read as follows:

§ 3-c. Limit upon real property tax levies by local governments.

1. Unless otherwise provided by law, the amount of real property taxes that may be levied by or on behalf of any local government, other than the city of New York and the counties contained therein, shall not exceed the tax levy limit established pursuant to this section.

2. When used in this section:

(a) "Allowable levy growth factor" shall be the lesser of: (i) one and two one-hundredths; or (ii) the sum of one plus the inflation factor; provided, however, that in no case shall the levy growth factor be less than one.

(b) "Available carryover" means the amount by which the tax levy for the prior fiscal year was below the tax levy limit for such fiscal year, if any, but no more than an amount that equals one and one-half percent of the tax levy limit for such fiscal year.

(c) "Coming fiscal year" means the fiscal year of the local government for which a tax levy limit shall be determined pursuant to this section.

(d) "Inflation factor" means the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the coming fiscal year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the prior fiscal year, divided by: (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the prior fiscal year, with the result expressed as a decimal to four places.

(e) "Local government" means a county, city, town, village, fire district, or special district

including but not limited to a district created pursuant to article twelve or twelve-A, or governed by article thirteen of the town law, or created pursuant to article five-A, five-B or five-D of the county law, chapter five hundred sixteen of the laws of nineteen hundred twenty-eight, or chapter two hundred seventy-three of the laws of nineteen hundred thirty-nine, and shall include town improvements provided pursuant to articles three-A and twelve-C of the town law but shall not include the city of New York or the counties contained therein.

(f) "Prior fiscal year" means the fiscal year of the local government immediately preceding the coming fiscal year.

(g) "Tax levy limit" means the amount of taxes authorized to be levied by or on behalf of a local government pursuant to this section, provided, however, that the tax levy limit shall not include the following:

(i) a tax levy necessary for expenditures resulting from court orders or judgments against the local government arising out of tort actions for any amount that exceeds five percent of the total tax levied in the prior fiscal year;

(ii) in years in which the system average actuarial contribution rate of the New York state and local employees' retirement system, as defined by paragraph ten of subdivision a of section nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state and local employees' retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iii) in years in which the system average actuarial contribution rate of the New York state and local police and fire retirement system, as defined by paragraph eleven of subdivision a of section three hundred nineteen-a of the retirement and social security law, increases by more than two

percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state and local police and fire retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iv) in years in which the normal contribution rate of the New York state teachers' retirement system, as defined by paragraph a of subdivision two of section five hundred seventeen of the education law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state teachers' retirement system caused by growth in the normal contribution rate minus two percentage points.

(h) "Tax" or "taxes" shall include (i) a charge imposed upon real property by or on behalf of a county, city, town, village or school district for municipal or school district purposes, and (ii) special ad valorem levies and special assessments as defined in subdivisions fourteen and fifteen of section one hundred two of the real property tax law.

3. (a) Subject to the provisions of subdivision five of this section, beginning with the fiscal year that begins in two thousand twelve, no local government shall adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year. Provided however the tax levy limit shall not prohibit a levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph (g) of subdivision two of this section.

(b)(i) The commissioner of taxation and finance shall calculate a quantity change factor for each local government for the coming fiscal year based upon the physical or quantity change, as defined by section twelve hundred twenty of the real property tax law, reported to the commissioner of taxation and finance by the assessor or assessors pursuant to section five hundred seventy-five of the real property tax law.

The quantity change factor shall show the percentage by which the full value of the taxable real property in the local government has changed due to physical or quantity change between the second final assessment roll or rolls preceding the final

assessment roll or rolls upon which taxes are to be levied, and the final assessment roll or rolls immediately preceding the final assessment roll or rolls upon which taxes are to be levied.

(ii) After determining the quantity change factor for the local government, the commissioner of taxation and finance shall proceed as follows:

(A) If the quantity change factor is negative, the commissioner of taxation and finance shall not determine a tax base growth factor for the local government.

(B) If the quantity change factor is positive, the commissioner of taxation and finance shall determine a tax base growth factor for the local government which is equal to one plus the quantity change factor.

(iii) The commissioner of taxation and finance shall notify the state comptroller and each local government of the applicable tax base growth factors, if any, as soon thereafter as such factors are determined.

(c) Each local government shall calculate the tax levy limit applicable to the coming fiscal year which shall be determined as follows:

(i) Ascertain the total amount of taxes levied for the prior fiscal year.

(ii) Multiply the result by the tax base growth factor, calculated pursuant to paragraph (b) of this subdivision, if any.

(iii) Add any payments in lieu of taxes that were receivable in the prior fiscal year.

(iv) Subtract the tax levy necessary to support expenditures pursuant to subparagraph (i) of paragraph (g) of subdivision two of this section for the prior fiscal year, if any.

(v) Multiply the result by the allowable levy growth factor.

(vi) Subtract any payments in lieu of taxes receivable in the coming fiscal year.

(vii) Add the available carryover, if any.

(d) Whenever the responsibility and associated cost of a local government function is transferred to another local government, the state comptroller shall determine the costs and savings on the affected local governments attributable to such transfer for the first fiscal year following the transfer, and notify such local governments of such determination and that they shall adjust their tax levy limits accordingly.

4. (a) When two or more local governments consolidate, the state comptroller shall determine the tax levy limit for the

consolidated local government for the first fiscal year following the consolidation based on the respective tax levy limits of the component local governments that formed such consolidated local government from the last fiscal year prior to the consolidation.

(b) When a local government dissolves, the state comptroller shall determine the tax levy limit for the local government that assumes the debts, liabilities, and obligations of such dissolved local government for the first fiscal year following the dissolution based on the respective tax levy limits of such dissolved local government and such local government that assumes the debts, liabilities, and obligations of such dissolved local government from the last fiscal year prior to the dissolution.

(c) The tax levy limit established by this section shall not apply to the first fiscal year after a local government is newly established or constituted through a process other than consolidation or dissolution.

5. A local government may adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year, not including any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph g of subdivision two of this section, only if the governing body of such local government first enacts, by a vote of sixty percent of the total voting power of such body, a local law to override such limit for such coming fiscal year only, or in the case of a district or fire district, a resolution, approved by a vote of sixty percent of the total voting power of such body, to override such limit for such coming fiscal year only.

6. In the event a local government's actual tax levy for a given fiscal year exceeds the tax levy limit as established pursuant to this section due to clerical or technical errors, the local government shall place the excess amount of the levy in reserve in accordance with such requirements as the state comptroller may prescribe, and shall use such funds and any interest earned thereon to offset the tax levy for the ensuing fiscal year. If, upon examination pursuant to sections thirty-three and thirty-four of this chapter, the state comptroller finds that a local government levied taxes in excess of the applicable tax levy limit, the local government, as soon as practicable, shall place an amount equal to the excess amount

of the levy in such reserve in accordance with this subdivision.

7. All local governments subject to the provisions of this section shall, prior to adopting a budget for the coming fiscal year, submit to the state comptroller, in a form and manner as he or she may prescribe, any information necessary for calculating the tax levy limit for the coming fiscal year.

§ 2. The education law is amended by adding a new section 2023-a to read as follows:
§ 2023-a. Limitations upon school district tax levies.

1. Generally, unless otherwise provided by law, the amount of taxes that may be levied by or on behalf of any school district, other than a city school district of a city with one hundred twenty-five thousand inhabitants or more, shall not exceed the tax levy limit established pursuant to this section, not including any tax levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of this section.

2. Definitions. As used in this section:

a. "Allowable levy growth factor" shall be the lesser of: (i) one and two one-hundredths; or (ii) the sum of one plus the inflation factor; provided, however, that in no case shall the levy growth factor be less than one.

b. "Available carryover" means the amount by which the tax levy for the prior school year was below the applicable tax levy limit for such school year, if any, but no more than an amount that equals one and one-half percent of the tax levy limit for such school year.

c. "Capital local expenditures" means the taxes associated with budgeted expenditures resulting from the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for school district capital facilities or school district capital equipment, including debt service and lease expenditures, and transportation capital debt service, subject to the approval of the qualified voters where required by law.

d. "Capital tax levy" means the tax levy necessary to support capital local expenditures, if any.

e. "Coming school year" means the school year for which tax levy limits are being determined pursuant to this section.

f. "Inflation factor" means the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the current year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, divided by: (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, with the result expressed as a decimal to four places.

g. "Prior school year" means the school year immediately preceding the coming school year.

h. "School district" means a common school district, union free school district, central school district, central high school district or a city school district in a city with less than one hundred twenty-five thousand inhabitants.

i. "Tax levy limit" means the amount of taxes a school district is authorized to levy pursuant to this section, provided, however, that the tax levy limit shall not include the following:

(i) a tax levy necessary for expenditures resulting from court orders or judgments against the school district arising out of tort actions for any amount that exceeds five percent of the total tax levied in the prior school year;

(ii) in years in which the system average actuarial contribution rate of the New York state and local employees' retirement system, as defined by paragraph ten of subdivision a of section nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for school district employer contributions to the New York state and local employees' retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iii) in years in which the normal contribution rate of the New York state teachers' retirement system, as defined by paragraph a of subdivision two of section five hundred seventeen of this chapter, increases by more than two percentage points from the previous year, a tax levy necessary for

expenditures for the coming fiscal year for school district employer contributions to the New York state teachers' retirement system caused by growth in the normal contribution rate minus two percentage points; and (iv) a capital tax levy.

2-a. Tax base growth factor.

a. No later than February fifteenth of each year, the commissioner of taxation and finance shall identify those school districts for which tax base growth factors must be determined for the coming school year, and shall notify the commissioner of the tax base growth factors so determined, if any.

b. The commissioner of taxation and finance shall calculate a quantity change factor for the coming school year for each school district based upon the physical or quantity change, as defined by section twelve hundred twenty of the real property tax law, reported to the commissioner of taxation and finance by the assessor or assessors pursuant to section five hundred seventy-five of the real property tax law. The quantity change factor shall show the percentage by which the full value of the taxable real property in the school district has changed due to physical or quantity change between the second final assessment roll or rolls preceding the final assessment roll or rolls upon which taxes are to be levied, and the final assessment roll or rolls immediately preceding the final assessment roll or rolls upon which taxes are to be levied.

c. After determining the quantity change factor for a school district, the commissioner of taxation and finance shall proceed as follows:

(i) If the quantity change factor is negative, the commissioner of taxation and finance shall not determine a tax base growth factor for the school district.

(ii) If the quantity change factor is positive, the commissioner of taxation and finance shall determine a tax base growth factor for the school district which is equal to one plus the quantity change factor.

3. Computation of tax levy limits. a. Each school district shall calculate the tax levy limit for each school year which shall be determined as follows:

(1) Ascertain the total amount of taxes levied for the prior school year.

(2) Multiply the result by the tax base growth factor, if any.

(3) Add any payments in lieu of taxes that

were receivable in the prior school year.

(4) Subtract the tax levy necessary to support the expenditures pursuant to subparagraphs (i) and (iv) of paragraph i of subdivision two of this section for the prior school year, if any.

(5) Multiply the result by the allowable levy growth factor.

(6) Subtract any payments in lieu of taxes receivable in the coming fiscal year.

(7) Add the available carryover, if any.

b. On or before March first of each year, any school district subject to the provisions of this section shall submit to the state comptroller, the commissioner, and the commissioner of taxation and finance, in a form and manner prescribed by the state comptroller, any information necessary for the calculation of the tax levy limit; and the school district's determination of the tax levy limit pursuant to this section shall be subject to review by the commissioner and the commissioner of taxation and finance.

4. Reorganized school districts. When two or more school districts reorganize, the commissioner shall determine the tax levy limit for the reorganized school district for the first school year following the reorganization based on the respective tax levy limits of the school districts that formed the reorganized district from the last school year in which they were separate districts, provided that in the event of formation of a new central high school district, the tax levy limits for the new central high school district and its component school districts shall be determined in accordance with a methodology prescribed by the commissioner.

5. Erroneous levies. In the event a school district's actual tax levy for a given school year exceeds the maximum allowable levy as established pursuant to this section due to clerical or technical errors, the school district shall place the excess amount of the levy in reserve in accordance with such requirements as the state comptroller may prescribe, and shall use such funds and any interest earned thereon to offset the tax levy for the ensuing school year.

6. (a) Notwithstanding any other provision of law to the contrary, in the event the trustee, trustees or board of education of a school district that is subject to the provisions of this section proposes a budget that will require a tax levy that exceeds the tax levy limit for the corresponding school year, not including any

levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of this section, then such budget shall be approved if sixty percent of the votes cast thereon are in the affirmative.

(b) Where the trustee, trustees or board of education proposes a budget subject to the requirements of paragraph (a) of this subdivision, the ballot for such budget shall include the following statement in substantially the same form: "Adoption of this budget requires a tax levy increase of which exceeds the statutory tax levy increase limit of for this school fiscal year and therefore exceeds the state tax cap and must be approved by sixty percent of the qualified voters present and voting."

7. In the event that the original proposed budget is not approved by the voters, the sole trustee, trustees or board of education may adopt a final budget pursuant to subdivision eight of this section or resubmit to the voters the original or a revised budget at a special district meeting in accordance with subdivision three of section two thousand seven of this part. Upon one defeat of such resubmitted budget, the sole trustee, trustees or board of education shall adopt a final budget pursuant to subdivision eight of this section.

8. Notwithstanding any other provision of law to the contrary, if the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote pursuant to subdivision seven of this section, the sole trustee, trustees or board of education shall levy a tax no greater than the tax that was levied for the prior school year.

9. Nothing in this section shall preclude the trustee, trustees, or board of education of a school district, in their discretion, from submitting additional items of expenditures to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this part; provided however, except in the case of a proposition submitted for any expenditure contained within subparagraphs (i) through (iv) of paragraph i of subdivision two of this section, if any proposition, or propositions collectively that are subject to a vote on the same date, would require an expenditure of money that would require

a tax levy and would result in the tax levy limit being exceeded for the corresponding school year then such proposition shall be approved if sixty percent of the votes cast thereon are in the affirmative.

§ 3. Section 2023 of the education law, as amended by section 24 of part A of chapter 436 of the laws of 1997, subdivision 1 as amended by chapter 682 of the laws of 2002, subparagraphs (v) and (vi) of paragraph b of subdivision 4 as separately amended by section 1 of part D-2 of chapter 57 of the laws of 2007 and chapter 422 of the laws of 2007, subparagraph (vii) of paragraph b of subdivision 4 as added by section 1 of part D-2 of chapter 57 of the laws of 2007, subparagraph (vii) of paragraph b of subdivision 4 as added by chapter 422 of the laws of 2007 and paragraph b-1 of subdivision 4 as amended by section 5 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

§ 2023. Levy of tax for certain purposes without vote; contingency budget.

1. If the qualified voters shall neglect or refuse to vote the sum estimated necessary for teachers' salaries, after applying thereto the public school moneys, and other moneys received or to be received for that purpose, or if they shall neglect or refuse to vote the sum estimated necessary for ordinary contingent expenses, including the purchase of library books and other instructional materials associated with a library and expenses incurred for interschool athletics, field trips and other extracurricular activities and the expenses for cafeteria or restaurant services, the sole trustee, board of trustees, or board of education shall adopt a contingency budget including such expenses and shall levy a tax, subject to the restrictions as set forth in subdivision four of this section and subdivision eight of section two thousand twenty-three-a of this part, for the same, in like manner as if the same had been voted by the qualified voters, subject to the limitations contained in subdivisions three and four of this section.

2. Notwithstanding the defeat of a school budget, school districts shall continue to transport students to and from the regular school program in accordance with the mileage limitations previously adopted by the qualified voters of the school district. Such mileage limits shall change only when amended by a special proposition passed

by a majority of the qualified voters of the school district. In cases where the school budget is defeated by such qualified voters of the school district, appropriations for transportation costs for purposes other than for transportation to and from the regular school program, and transportation that would constitute an ordinary contingent expense pursuant to subdivision one of this section, shall be authorized in the budget only after approval by the qualified voters of the district.

3. The administrative component of a contingency budget shall not comprise a greater percentage of the contingency budget exclusive of the capital component than the lesser of (1) the percentage the administrative component had comprised in the prior year budget exclusive of the capital component; or (2) the percentage the administrative component had comprised in the last proposed defeated budget exclusive of the capital component.

4. a. The contingency budget shall not result in a percentage increase in total spending over the district's total spending under the school district budget for the prior school year that exceeds the lesser of: (i) the result obtained when one hundred twenty percent is multiplied by the percentage increase in the consumer price index, with the result rounded to two decimal places; or (ii) four percent.

b. The following types of expenditures shall be disregarded in determining total spending:

(i) expenditures resulting from a tax certiorari proceeding;

(ii) expenditures resulting from a court order or judgment against the school district;

(iii) emergency expenditures that are certified by the commissioner as necessary as a result of damage to, or destruction of, a school building or school equipment;

(iv) capital expenditures resulting from the construction, acquisition, reconstruction, rehabilitation or improvement of school facilities, including debt service and lease expenditures, subject to the approval of the qualified voters where required by law;

(v) expenditures in the contingency budget attributable to projected increases in public school enrollment, which, for the purpose of this subdivision, may include increases attributable to the enrollment of students attending a pre-kindergarten program

~~established in accordance with section thirty-six hundred two-e of this chapter, to be computed based upon an increase in enrollment from the year prior to the base year for which the budget is being adopted to the base year for which the budget is being adopted, provided that where the trustees or board of education have documented evidence that a further increase in enrollment will occur during the school year for which the contingency budget is prepared because of new construction, inception of a pre-kindergarten program, growth or similar factors, the expenditures attributable to such additional enrollment may also be disregarded;~~

~~(vi) non-recurring expenditures in the prior year's school district budget; and~~

~~(vii) expenditures for payments to charter schools pursuant to section twenty-eight hundred fifty-six of this chapter;~~

~~(viii) expenditures for self-supporting programs. For purposes of this subparagraph, "self-supporting programs" shall mean any programs that are entirely funded by private funds that cover all the costs of the program;~~

~~b-1. Notwithstanding any other provision of this subdivision to the contrary, in the event a state grant in aid provided to the district in the prior year is eliminated and incorporated into a non-categorical general state aid in the current school year, the amount of such grant may be included in the computation of total spending for the prior school year, provided that the commissioner has verified that the grant in aid has been incorporated into such non-categorical general state aid; tax levy greater than the tax levied for the prior school year.~~

~~[e.] b.~~ The resolution of the trustee, board of trustees, or board of education adopting a contingency budget shall incorporate by reference a statement specifying the projected percentage increase or decrease in total spending for the school year, and explaining the reasons for disregarding any portion of an increase in spending in formulating the contingency budget.

~~[d.] c.~~ Notwithstanding any other provision of law to the contrary, the trustees or board of education shall not be authorized to amend or revise a final contingency budget where such amendment or revision would result in total spending in excess of the spending limitation in

paragraph (a) of this subdivision; provided that the trustees or board of education shall be authorized to add appropriations for-

~~(i) the categories of expenditures excluded from the spending limitations set forth in paragraph (b) of this subdivision, subject to approval of the qualified voters where required by law;~~

~~(ii) expenditures resulting from an actual increase in enrollment over the projected enrollment used to develop the contingency budget, provided that where such actual enrollment is less than such projected enrollment, it shall be the duty of the trustees or board of education to use such excess funds to reduce taxes; and~~

~~(iii) the expenditure of gifts, grants in aid for specific purposes or for general use or insurance proceeds authorized pursuant to subdivision two of [subdivision] section seventeen hundred eighteen of this chapter in addition to that which has been previously budgeted.~~

~~[e. For the purposes of this subdivision:-~~

~~(i) "Base school year" shall mean the school year immediately preceding the school year for which the contingency budget is prepared;~~

~~(ii) "Consumer price index" shall mean the percentage that represents the average of the national consumer price indexes determined by the United States department of labor, for the twelve month period preceding January first of the current year;~~

~~(iii) "Current year" shall mean the calendar year in which the school district budget is submitted for a vote of the qualified voters;~~

~~(iv) "Resident public school district enrollment shall mean the resident public school enrollment of the school district as defined in paragraph n of subdivision one of section thirty-six hundred two of this chapter;~~

~~(v) "Total spending" shall mean the total amount appropriated under the school district budget for the school year;]~~

§ 4. Paragraph a of subdivision 7 of section 1608 of the education law, as amended by chapter 238 of the laws of 2007, is amended to read as follows:

a. Each year, commencing with the proposed budget for the two thousand--two thousand one school year, the trustee or board of trustees shall prepare a property tax report card, pursuant to regulations of the commissioner, and shall make it

publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include:

(i) the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget and the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year; and

(ii) the district's tax levy limit determined pursuant to section two thousand twenty-three-a of this title, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this title, that would result from adoption of the proposed budget; and (iii) the projected enrollment growth for the school year for which the budget is prepared, and the percentage change in enrollment from the previous year; and [(iii)] (iv) the percentage increase in the consumer price index, as defined in paragraph c of this subdivision; and [(iv)] (v) the projected amount of the unappropriated unreserved fund balance that will be retained if the proposed budget is adopted, the projected amount of the reserved fund balance, the projected amount of the appropriated fund balance, the percentage of the proposed budget that the unappropriated unreserved fund balance represents, the actual unappropriated unreserved fund balance retained in the school district budget for the preceding school year, and the percentage of the school district budget for the preceding school year that the actual unappropriated unreserved fund balance represents.

§ 5. Paragraph a of subdivision 7 of section 1716 of the education law, as amended by chapter 238 of the laws of 2007, is amended to read as follows:

a. Each year, commencing with the proposed budget for the two thousand--two thousand one school year, the board of education shall prepare a property tax report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation,

appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include: (i) the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget and the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year; and (ii) the district's tax levy limit determined pursuant to section two thousand twenty-three-a of this title, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this title, that would result from adoption of the proposed budget; and (iii) the projected enrollment growth for the school year for which the budget is prepared, and the percentage change in enrollment from the previous year; and [(iii)] (iv) the percentage increase in the consumer price index, as defined in paragraph c of this subdivision; and [(iv)] (v) the projected amount of the unappropriated unreserved fund balance that will be retained if the proposed budget is adopted, the projected amount of the reserved fund balance, the projected amount of the appropriated fund balance, the percentage of the proposed budget that the unappropriated unreserved fund balance represents, the actual unappropriated unreserved fund balance retained in the school district budget for the preceding school year, and the percentage of the school district budget for the preceding school year that the actual unappropriated unreserved fund balance represents.

§ 6. Section 2008 of the education law is amended by adding a new subdivision 3 to read as follows:

3. Notwithstanding any other provision of law to the contrary, any proposition submitted by the voters that requires the expenditure of money shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

§ 7. Section 2022 of the education law, as amended by section 23 of part A of chapter 436 of the laws of 1997, subdivisions 1 and 3 as amended by section 8 of part C of chapter 58 of the laws of 1998, subdivision

2-a as amended by section 3 of part A of chapter 60 of the laws of 2000, paragraph b of subdivision 2-a as amended by section 5 of part W of chapter 57 of the laws of 2008, subdivision 4 as amended by section 7 of part M of chapter 57 of the laws of 2005 and subdivision 6 as added by chapter 61 of the laws of 2003, is amended to read as follows:

§ 2022. Vote on school district budgets and on the election of school district trustees and board of education members.

1. Notwithstanding any law, rule or regulation to the contrary, the election of trustees or members of the board of education, and the vote upon the appropriation of the necessary funds to meet the estimated expenditures, in any common school district, union free school district, central school district or central high school district shall be held at the annual meeting and election on the third Tuesday in May, provided, however, that such election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances.

~~When such election or vote is taken by recording the ayes and noes of the qualified voters attending, a majority of the qualified voters present and voting, by a hand or voice vote, may determine to take up the question of voting the necessary funds to meet the estimated expenditures for a specific item separately, and the qualified voters present and voting may increase the amount of any estimated expenditures or reduce the same, except for teachers' salaries, and the ordinary contingent expenses of the schools.~~

The sole trustee, board of trustees or board of education of every common, union free, central or central high school district and every city school district to which this article applies shall hold a budget hearing not less than seven nor more than fourteen days prior to the annual meeting and election or special district meeting at which a school budget vote will occur, and shall prepare and present to the voters at such budget hearing a proposed school district budget for the ensuing school year.

2. Except as provided in subdivision four of this section, nothing in this section shall preclude the trustees or board of education, in their discretion, from submitting additional items of expenditure to the voters for

approval as separate propositions or the voters from submitting propositions pursuant to ~~section~~ sections two thousand eight and two thousand thirty-five of this ~~article~~ part; provided however that such propositions shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

2-a. Every common, union free, central, central high school district and city school district to which this article applies shall mail a school budget notice to all qualified voters of the school district after the date of the budget hearing, but no later than six days prior to the annual meeting and election or special district meeting at which a school budget vote will occur. The school budget notice shall compare the percentage increase or decrease in total spending under the proposed budget over total spending under the school district budget adopted for the current school year, with the percentage increase or decrease in the consumer price index, from January first of the prior school year to January first of the current school year, and shall also include the information required by paragraphs a and b of this subdivision. The notice shall also set forth the date, time and place of the school budget vote, in the same manner as in the notice of annual meeting, and shall also include the district's tax levy limit pursuant to section two thousand twenty-three-a of this part, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this part, that would result from adoption of the proposed budget. Such notice shall be in a form prescribed by the commissioner.

a. Commencing with the proposed budget for the two thousand one–two thousand two school year, such notice shall also include a description of how total spending and the tax levy resulting from the proposed budget would compare with a projected contingency budget adopted pursuant to section two thousand twenty-three of this article, assuming that such contingency budget is adopted on the same day as the vote on the proposed budget. Such comparison shall be in total and by component (program, capital and administrative), and shall include a statement of the assumptions made in estimating the projected contingency

budget.

b. Commencing with the proposed budget for the two thousand eight--two thousand nine school year, such notice shall also include, in a format prescribed by the commissioner, an estimate of the tax savings that would be available to an eligible homeowner under the basic school tax relief (STAR) exemption authorized by section four hundred twenty-five of the real property tax law if the proposed budget were adopted. Such estimate shall be made in the manner prescribed by the commissioner, in consultation with the office of real property services.

3. In all elections for trustees or members of boards of education or votes involving the expenditure of money, or authorizing the levy of taxes, the vote thereon shall be by ballot, or, in school districts that prior to nineteen hundred ninety-eight conducted their vote at the annual meeting, may be ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such district meetings.

4. The budget adoption process shall conform to the requirements set forth in section two thousand twenty-three-a of this part. In the event that the original proposed budget is not approved by the voters, the sole trustee, trustees or board of education may adopt a final budget pursuant to subdivision five of this section or resubmit to the voters the original or a revised budget pursuant to subdivision three of section two thousand seven of this part. Upon one defeat of such resubmitted budget, the sole trustee, trustees or board of education shall adopt a final budget pursuant to subdivision five of this section.

Notwithstanding any other provision of law to the contrary, the school district budget for any school year, or any part of such budget or any propositions involving the expenditure of money for such school year shall not be submitted for a vote of the qualified voters more than twice.

5. If the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote pursuant to subdivision four of this section, the sole trustee, trustees or board of education, after applying thereto the public school moneys and other moneys received or to be received for that purpose, shall levy a tax for the sum necessary for teachers' salaries and other

ordinary contingent expenses in accordance with the provisions of this subdivision and ~~section~~ sections two thousand twenty-three and two thousand twenty-three-a of this article.

6. Notwithstanding the provisions of subdivision four of section eighteen hundred four and subdivision five of section nineteen hundred six of this title, subdivision one of section two thousand two of this article, subdivision one of this section, subdivision two of section twenty-six hundred one-a of this title and any other provision of law to the contrary, the annual district meeting and election of every common, union free, central and central high school district and the annual meeting of every city school district in a city having a population of less than one hundred twenty-five thousand inhabitants that is scheduled to be held on the third Tuesday of May, two thousand three is hereby adjourned until the first Tuesday in June, two thousand three. The trustees or board of education of each such school district shall provide notice of such adjourned meeting to the qualified voters in the manner prescribed for notice of the annual meeting, and such notice shall provide for an adjourned budget hearing. The adjourned district meeting or district meeting and election shall be deemed the annual meeting or annual meeting and election of the district for all purposes under this title and the date of the adjourned meeting shall be deemed the state-wide uniform voting day for all purposes under this title. Notwithstanding the provisions of subdivision seven of section sixteen hundred eight or subdivision seven of section seventeen hundred sixteen of this title or any other provision of law, rule or regulation to the contrary, in two thousand three the property tax report card shall be submitted to the department no later than twenty days prior to the date of the adjourned meeting and the department shall make its compilation available electronically at least seven days prior to such date.

§ 8. Section 2035 of the education law is amended by adding a new subdivision 3 to read as follows:

3. Any proposition submitted pursuant to this section shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

§ 9. Section 2601-a of the education law, as added by chapter 171 of the laws of 1996,

subdivision 2 as amended by section 6 and subdivision 4 as amended by section 8 of part M of chapter 57 of the laws of 2005, subdivision 3 as amended by chapter 640 of the laws of 2008, subdivision 5 as amended by section 29 of part A of chapter 436 of the laws of 1997, subdivision 6 as amended and subdivision 7 as added by chapter 474 of the laws of 1996, is amended to read as follows:

§ 2601-a. Procedures for adoption of school budgets in small city school districts. 1. The board of education of each city school district subject to this article shall provide for the submission of a budget for approval of the voters pursuant to the provisions of this section and in accordance with the requirements set forth in section two thousand twenty-three-a of this title.

2. The board of education shall conduct all annual and special school district meetings for the purpose of adopting a school district budget in the same manner as a union free school district in accordance with the provisions of article forty-one of this title, except as otherwise provided by this section. The annual meeting and election of each such city school district shall be held on the third Tuesday of May in each year, provided, however that such annual meeting and election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances, and any school budget revote shall be held on the date and in the same manner specified in subdivision three of section two thousand seven of this title. The provisions of this article, and where applicable subdivisions nine and nine-a of section twenty-five hundred two of this title, governing the qualification and registration of voters, and procedures for the nomination and election of members of the board of education shall continue to apply, and shall govern the qualification and registration of voters and voting procedures with respect to the adoption of a school district budget.

3. The board of education shall prepare a proposed school district budget for the ensuing year in accordance with the provisions of section seventeen hundred sixteen of this chapter, including all provisions relating to required notices and appendices to the statement of expenditures. No board of education shall incur a school district liability

except as authorized by the provisions of section seventeen hundred eighteen of this chapter. Such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall include, but need not be limited to, office and central administrative expenses, traveling expenses and all compensation, salaries and benefits of all school administrators and supervisors, including business administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements, any and all expenditures associated with the operation of the board of education, the office of the superintendent of schools, general administration, the school business office, consulting costs not directly related to direct student services and programs, planning and all other administrative activities. The program component shall include, but need not be limited to, all program expenditures of the school district, including the salaries and benefits of teachers and any school administrators or supervisors who spend a majority of their time performing teaching duties, and all transportation operating expenses. The capital component shall include, but need not be limited to, all transportation capital, debt service, and lease expenditures; costs resulting from judgments in tax certiorari proceedings or the payment of awards from court judgments, administrative orders or settled or compromised claims; and all facilities costs of the school district, including facilities lease expenditures, the annual debt service and total debt for all facilities financed by bonds and notes of the school district, and the costs of construction, acquisition, reconstruction, rehabilitation or improvement of school buildings, provided that such budget shall include a rental, operations and maintenance section that includes base rent costs, total rent costs, operation and maintenance charges, cost per square foot for each facility leased by the school district, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, and maintenance and repairs of

school facilities. For the purposes of the development of a budget for the nineteen hundred ninety-seven--ninety-eight school year, the board of education shall separate its program, capital and administrative costs for the nineteen hundred ninety-six--ninety-seven school year in the manner as if the budget for such year had been presented in three components. Except as provided in subdivision four of this section, nothing in this section shall preclude the board, in its discretion, from submitting additional items of expenditure to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this chapter subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

4. The budget adoption process shall conform to the requirements set forth in section two thousand twenty-three-a of this title. In the event the qualified voters of the district reject the budget proposed pursuant to subdivision three of this section, the board may propose to the voters a revised budget pursuant to subdivision three of section two thousand seven of this title or may adopt a contingency budget pursuant to subdivision five of this section and subdivision five of section two thousand twenty-two of this title. The school district budget for any school year, or any part of such budget or any propositions involving the expenditure of money for such school year shall not be submitted for a vote of the qualified voters more than twice. In the event the qualified voters reject the resubmitted budget, the board shall adopt a contingency budget in accordance with subdivision five of this section and subdivision five of such section two thousand twenty-two of this title.

5. If the qualified voters fail or refuse to vote the sum estimated to be necessary for teachers' salaries and other ordinary contingent expenses, the board shall adopt a contingency budget in accordance with this subdivision and shall levy a tax for that portion of such sum remaining after applying thereto the moneys received or to be received from state, federal or other sources, in the same manner as if the budget had been approved by the qualified voters; subject to the limitations imposed in subdivision four of section two thousand

twenty-three of this chapter, subdivision eight of section two thousand twenty-three-a of this title and this subdivision. The administrative component shall not comprise a greater percentage of the contingency budget exclusive of the capital component than the lesser of (1) the percentage the administrative component had comprised in the prior year budget exclusive of the capital component; or (2) the percentage the administrative component had comprised in the last proposed defeated budget exclusive of the capital component. Such contingency budget shall include the sum determined by the board to be necessary for:

(a) teachers' salaries, including the salaries of all members of the teaching and supervising staff;

(b) items of expense specifically authorized by statute to be incurred by the board of education, including, but not limited to, expenditures for transportation to and from regular school programs included as ordinary contingent expenses in subdivision twelve of section twenty-five hundred three of this chapter, expenditures for textbooks, required services for non-public school students, school health services, special education services, kindergarten and nursery school programs, and the district's share of the administrative costs and costs of services provided by a board of cooperative educational services;

(c) items of expense for legal obligations of the district, including, but not limited to, contractual obligations, debt service, court orders or judgments, orders of administrative bodies or officers, and standards and requirements of the board of regents and the commissioner that have the force and effect of law;

(d) the purchase of library books and other instructional materials associated with a library;

(e) items of expense necessary to maintain the educational programs of the district, preserve the property of the district or protect the health and safety of students and staff, including, but not limited to, support services, pupil personnel services, the necessary salaries for the necessary number of non-teaching employees, necessary legal expenses, water and utility charges, instructional supplies for teachers' use, emergency repairs, temporary rental of essential classroom facilities, and

expenditures necessary to advise school district voters concerning school matters; and

(f) expenses incurred for interschool athletics, field trips and other extracurricular activities; and

(g) any other item of expense determined by the commissioner to be an ordinary contingent expense in any school district.

6. The commissioner shall determine appeals raising questions as to what items of expenditure are ordinary contingent expenses pursuant to subdivision five of this section in accordance with section two thousand twenty-four and three hundred ten of this chapter.

7. Each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the regents to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in special education, or

(ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or

(iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their

school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

§ 10. Paragraph b-1 of subdivision 4 of section 3602 of the education law, as amended by section 26 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

b-1. Notwithstanding any other provision of law to the contrary, for the two thousand seven--two thousand eight ~~through~~ school year and thereafter, the additional amount payable to each school district pursuant to this subdivision in the current year as total foundation aid, after deducting the total foundation aid base, shall be deemed a state grant in aid identified by the commissioner for general use for purposes of ~~sections~~ section ~~seventeen hundred eighteen and two thousand twenty-three~~ of this chapter.

§ 11. Paragraph a of subdivision 1 of section 3635 of the education law, as amended by chapter 69 of the laws of 1992, is amended to read as follows:

a. Sufficient transportation facilities (including the operation and maintenance of motor vehicles) shall be provided by the school district for all the children residing within the school district to and from the school they legally attend, who are in need of such transportation because of the remoteness of the school to the child or for the promotion of the best interest of such children. Such transportation shall be provided for all children attending grades kindergarten through eight who live more than two miles from the school which they legally attend and for all children attending grades nine through twelve who live more than three miles from the school which they legally attend and shall be provided for each such child up to a distance of fifteen miles, the distances in each case being measured by the nearest available route from home to school. The cost of providing such transportation between two or three miles, as the case may be, and fifteen miles shall be considered for the purposes of this chapter to be a charge upon the district and an ordinary contingent expense of the district. Transportation for a lesser distance than two miles in the case of children attending grades kindergarten through eight or three miles in the case of children attending grades nine through twelve and for a greater distance than fifteen

miles may be provided by the district with the approval of the qualified voters, and, if provided, shall be offered equally to all children in like circumstances residing in the district; provided, however, that this requirement shall not apply to transportation offered pursuant to section thirty-six hundred thirty-five-b of this article.

§ 12. Nothing contained in this act shall impair or invalidate the powers or duties, as authorized by law, of a control board, interim finance authority or fiscal stability authority including such powers or duties that may require the tax levy limit, as that term is defined in section one or section two of this act, to be exceeded.

§ 13. This act shall take effect immediately; provided, however, that sections two through eleven of this act shall take effect July 1, 2011 and shall first apply to school district budgets and the budget adoption process for the 2012-13 school year; and shall continue to apply to school district budgets and the budget adoption process for any school year beginning in any calendar year during which this act is in effect; provided further, that if section 26 of part A of chapter 58 of the laws of 2011 shall not have taken effect on or before such date then section ten of this act shall take effect on the same date and in the same manner as such chapter of the

laws of 2011, takes effect; provided further, that section one of this act shall first apply to the levy of taxes by local governments for the fiscal year that begins in 2012 and shall continue to apply to the levy of taxes by local governments for any fiscal year beginning in any calendar year during which this act is in effect; provided, further, that this act shall remain in full force and effect at a minimum until and including June 15, 2016 and shall remain in effect thereafter only so long as the public emergency requiring the regulation and control of residential rents and evictions and all such laws providing for such regulation and control continue as provided in subdivision 3 of section 1 of the local emergency rent control act, sections 26-501, 26-502 and 26-520 of the administrative code of the city of New York, section 17 of chapter 576 of the laws of 1974 and subdivision 2 of section 1 of chapter 274 of the laws of 1946 constituting the emergency housing rent control law, and section 10 of chapter 555 of the laws of 1982, amending the general business law and the administrative code of the city of new york relating to conversions of residential property to cooperative or condominium ownership in the city of New York as such laws are continued by chapter 93 of the laws of 2011 and as such sections are amended from time to time.

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