dormitory authority shall be deemed executory to the extent of moneys available to the board of cooperative educational services which is the lessee under such lease and no monetary liability on account thereof shall be incurred by such board beyond moneys legally available for the purpose thereof.

Public Authorities, Etc.

CHAPTER 38

An Act to amend the public authorities law, the private housing finance law, the New York state urban development corporation act, chapter three hundred forty-five of the laws of nineteen hundred sixty-eight, entitled "An act to establish a United Nations development district and to form a corporation for the purpose of formulating and administering plans for the development of such district for purposes of the United Nations", the community facilities project guarantee fund act, the New York state medical care facilities finance agency act, and the New York state project finance agency act. In relation to the apportionment of state funds to reserve funds of certain public authorities and the limitation or reduction of the amount of indebtedness which may be incurred by certain public authorities, and further limitation on the circumstances in which certain state instrumentalities can issue obligations and to create the New York state public authorities control board and provide for the procedure thereof, and to repeal subdivision three of section twelve hundred seventy, subdivision three of section twelve hundred ninety-nine-j, subdivision three of section twelve hundred ninety-nine-i, subdivision three of section thirteen hundred eleven, subdivision three of section thirteen hundred thirty-six and subdivision two of section twenty-four hundred thirty-nine of the public authorities law and paragraph e of subdivision one of section eight of section one of the New York state medical care facilities finance agency act, in relation to the apportionment of funds of the state to reserve funds of the metropolitan transportation authority, the Niagara frontier transportation authority, the Rochester Genesee regional transportation authority, the capital district transportation authority, the eastern New York regional transportation authority, the state of New York municipal bond bank agency, and the New York state medical care facilities finance agency.

Approved March 13, 1976, effective April 1, 1976.

Passed on message of necessity. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of the section twelve hundred seventy of the public authorities law is hereby repealed and subdivision four of such section is hereby renumbered to be subdivision three.

§ 2. Subdivision three of section twelve hundred ninety-one of such law, as amended by chapter five hundred twenty-six of the laws of nineteen hundred seventy-four, is hereby amended to read as follows:

3. To assure the continued operation and solvency of the corporation for the carrying out of the public purposes of this title, provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year as determined by the corporation on all bonds of the corporation then outstanding and secured by such debt service reserve fund. In order further to assure the main-
tenance of such debt service reserve funds in the respective amounts provided therefor by the corporation in the issuance of its bonds secured thereby, there shall be annually apportioned and paid to the corporation for deposit in each such debt service reserve fund such amount, if any, as shall be certified by the president of the corporation to the governor and director of the budget as necessary to restore such debt service reserve fund to an amount equal to the maximum amount provided therefor by the corporation as aforesaid. The president of the corporation shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore each debt service reserve fund to the amount aforesaid and the amount or amounts so certified, if any, shall be apportioned and paid to the corporation during the then current state fiscal year. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York State public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed forty million five hundred thirteen thousand dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 3. Subdivision three of section twelve hundred ninety-nine-1 of such law is hereby repealed and subdivision four of such section is hereby renumbered to be subdivision three.

§ 4. Subdivision three of section twelve hundred ninety-nine-ll of such law is hereby repealed and subdivision four of such section is hereby renumbered to be subdivision three.

§ 5. Subdivision three of section thirteen hundred eleven of such law is hereby repealed and subdivision four of such section is hereby renumbered to be subdivision three.

§ 6. Subdivision three of section thirteen hundred thirty-six of such law is hereby repealed and subdivision four of such section is hereby renumbered to be subdivision three.

§ 7. Paragraph a of subdivision two of section sixteen hundred eighty of such law, as separately amended by chapters three hundred seventy-three, three hundred ninety-one, five hundred eighty-nine, five hundred ninety-five, five hundred ninety-one and six hundred sixty-one of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

a. The dormitory authority is hereby authorized and empowered upon application of the educational institution concerned to acquire, design, construct, reconstruct, rehabilitate and improve, or otherwise provide and furnish and equip dormitories and attendant facilities for any educational institution, provided that any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement of any building or structure commenced after September first, nineteen hundred seventy-four for the Gananda school...
district or the Gananda educational facilities corporation, or any agency, board or commission therein, or any official thereof, shall comply with the provisions of section one hundred one of the general municipal law and the specifications for such contract may provide for assignment of responsibility for coordination of any of the contracts for such work to a single responsible and qualified person, firm or corporation; provided, however, that all contracts for construction of buildings on behalf of Queens Hospital Center shall be in conformity with the provisions of section one hundred one of the general municipal law, provided that any contracts for the construction, reconstruction, rehabilitation or improvement of any public work project undertaken by the dormitory authority of any facility for the aged for any political subdivision of the state or any district therein or agency, department, board or commission thereof, or any official thereof, shall comply with the provisions of section one hundred thirty-five of the state finance law.

Each educational institution defined in subdivision one of this section, except the department of health of the state of New York, shall, when authorized by an appropriate resolution adopted by its governing board or, when permitted, adopted by an appropriate committee of such governing board, have power: (i) to convey or cause to be conveyed to the authority real property or rights in real property required in connection with the construction and financing of a dormitory by the authority for such educational institution; and (ii) to enter into agreements and leases with the dormitory authority pursuant to paragraph e of subdivision two of this section, or, in the case of the department of health of the state of New York, providing that legislation or appropriations which specifies the facilities to be acquired, constructed, reconstructed, rehabilitated or improved for the department of health of the state of New York and the total estimated cost for each such facility, not to exceed seventy-five million dollars in the aggregate, shall have been approved by the legislature, the commissioner of health shall have power: (i) to convey or cause to be conveyed to the authority real property or rights in real property required in connection with the construction and financing of a dormitory by the authority for such educational institution; and (ii) to enter into agreements and leases with the dormitory authority, pursuant to paragraph e of subdivision two of this section. The educational institution for which such dormitory and attendant facility is intended to be provided shall approve the plans and specifications and location of such dormitory and attendant facility. The dormitory authority shall have the same power and authority in respect to such dormitories and attendant facilities provided pursuant to this subdivision that it has relative to other dormitories.

§ 8. Subparagraph four of paragraph d of subdivision nine of section sixteen hundred eighty of such law, as amended by chapter three hundred thirty-two of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

(4) To ensure the continued operation and solvency of the authority for the carrying out of the public purposes relating to providing facilities for locally sponsored or city university community colleges provision is made in the foregoing provisions of this paragraph d for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund. In order further to ensure the maintenance of such debt service reserve funds, there shall be annually apportioned and paid to the authority for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the authority to the governor and state director of the budget, as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due.
in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund. The chairman of the authority shall annually, on or before December first, make and deliver to the governor and state director of the budget his certificate stating the sum, if any, required to restore each such debt service reserve fund to the amount aforesaid, and the sum or sums so certified, if any, shall be apportioned and paid to the authority during the then current state fiscal year. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subparagraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subparagraph, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed two hundred seventy million dollars for locally sponsored community colleges and four hundred seventy million dollars for city university community colleges, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amounts so received.

§ 9. Subdivision two of section eighteen hundred twenty-eight of such law, as amended by chapter six hundred seventy-four of the laws of nineteen hundred seventy-three, is hereby amended to read as follows:

2. To assure the continued operation and solvency of the authority for the fulfillment of its corporate purposes with pollution control funds, provision is made in subdivision two of section eighteen hundred twenty-eight of this title for the accumulation in the pollution control capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all pollution control bonds of the authority then outstanding. In order further to secure such maintenance of the pollution control capital reserve fund, there shall be annually apportioned and paid to the authority for deposit in the pollution control capital reserve fund such sum, if any, as shall be certified by the chairman of the authority to the governor and director of the budget as necessary to restore the pollution control capital reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the pollution control bonds of the authority then outstanding. The chairman of the authority shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore the pollution control capital reserve fund to the amount aforesaid and the amount so stated in said certificate, if any, shall be apportioned and paid to the authority during the then current state fiscal year. No amount or amounts shall be apportioned and paid to the authority pursuant to this subdivision two until the authority has entered into a written agreement with the director of the budget providing for the repayment thereof to the state. Any such agreement shall provide, in lieu of any other provisions required by law regarding such repayment, that the authority will repay the state in full from pollution control funds.
the amount or amounts so apportioned and paid on the date one year after all pollution control bonds and notes of the authority outstanding at the date of such agreement or thereafter issued, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders thereof, are fully met and discharged. The principal amount of bonds secured by the pollution control capital reserve fund to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act, as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed five million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 10. Subdivision three of section eighteen hundred sixty-a of such law, as added by chapter seven hundred fifty-one of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

3. To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this act provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund. In order further to assure the maintenance of such debt service reserve funds, there shall be annually apportioned and paid to the authority for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the authority to the governor and state director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund. The chairman of the authority shall annually, on or before December first, make and deliver to the governor and state director of the budget his certificate stating the sum, if any, required to restore each such debt service reserve fund to the amount aforesaid, and the sum or sums so certified, if any, shall be apportioned and paid to the authority during the then current state fiscal year. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and
§ 11. Subdivision three of section nineteen hundred seventy-seven-b of such law, as added by chapter three hundred seventy-seven of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

3. In order to assure the continued operation and solvency of the authority for the fulfillment of its corporate purposes with respect to the Battery Park project area, the chairman of the authority shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to restore such capital reserve fund to the amount as of the particular date of computation equal to the greatest (herein sometimes called the "Battery Park project area capital reserve fund requirement") of the respective amounts for the then current or any future fiscal year of the authority, of annual debt service with respect to such bonds, such annual debt service for any fiscal year being the amount of money equal to the aggregate of (a) all interest payable during such fiscal year on all such bonds outstanding on said date of computation, plus (b) the principal amount of all such bonds outstanding on said date of computation which mature during such fiscal year, plus (c) all amounts specified in any resolution of the authority authorizing any of such bonds as payable during such fiscal year for a sinking fund payment with respect to any of such bonds which mature after such fiscal year, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due and the payment when due and application in accordance with the resolution authorizing those bonds of all of such sinking fund payments payable at or after said date of computation; and there shall be annually apportioned and paid to the authority for deposit in such capital reserve fund the sums so certified by the chairman of the authority. All sums so apportioned and paid shall be deposited by the authority in such capital reserve fund. The principal amount of bonds secured by such capital reserve fund to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act, as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed two hundred million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

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§ 12. Paragraph (a) of subdivision three of section nineteen hundred seventy-seven of such law, as added by chapter five hundred ninety-six of the laws of nineteen hundred seventy-three, is hereby amended to read as follows:

(a) In order to assure the continued operation and solvency of the authority for the fulfillment of its corporate purposes, the chairman of the authority shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to restore each capital reserve fund to the housing loan capital reserve fund requirement therefor. There shall be annually apportioned and paid to the authority for deposit in each such capital reserve fund the sum so certified by the chairman of the authority as required to restore such capital reserve fund to the housing loan capital reserve fund requirement therefor. All sums so apportioned and paid shall be deposited by the authority in the respective capital reserve funds. The principal amount of bonds secured by a capital reserve fund or funds to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section forty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed eighty-five million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

1So in original.

§ 13. Subdivision two of section twenty-four hundred eighty-four of such law, as amended by chapter one thousand twenty-three of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

(2) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this act, provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding state fiscal year on all bonds of the agency then outstanding and secured by such reserve fund. In order to further assure the continued operation and solvency of the agency for the fulfillment of its corporate purposes, there shall be annually apportioned and paid to the agency for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget, as necessary to restore any such debt service reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding state fiscal year on the bonds of the agency then outstanding and secured by such reserve fund; in which case such sum so apportioned and paid shall be deposited by the agency in such debt service reserve fund. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act.
§ 14. Subdivision two of section twenty-four hundred thirty-nine of such law is hereby repealed.

§ 15. Such law is hereby amended by adding thereto a new article, to be article one-A, to read as follows:

ARTICLE 1-A—NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD

1. The New York state public authorities control board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this chapter and any other provision of law.

2. The membership of the board shall consist of three persons, appointed by the governor of which one shall be upon the recommendation of the temporary president of the senate and one upon the recommendation of the speaker of the assembly. The members first appointed shall serve until January thirty-first, nineteen hundred seventy-seven. Thereafter their successors shall serve for a term of one year ending on January thirty-first in each year. The governor shall designate one of the members to serve as chairman. The board shall act by unanimous vote of the entire board. Any determination of the board shall be evidenced by a certification thereof executed by all the members.

3. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or political subdivision of the state, or governmental entity operating any public school or college or other public agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, shall forfeit his office or employment by reason of his acceptance or appointment as a member, representative, officer, employee or agent of the board nor shall service as such member, representative, officer, employee or agent of the board be deemed incompatible or in conflict with such office or employment.
4. The members of the board shall serve without salary or per diem allowance but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties pursuant to this section or other provision of law, provided however that such members and representatives are not, at the time such expenses are incurred, public employees otherwise entitled to such reimbursement.

§ 16. The second unnumbered paragraph of subdivision two of section eighteen hundred twenty of such law, as amended by chapter six hundred seventy-four of the laws of nineteen hundred seventy-three, is hereby amended to read as follows:

Money in the pollution control capital reserve fund not required for immediate use or disbursement may be invested in obligations of the state or the United States of America or obligations the principal and interest of which are guaranteed by the state or the United States of America. In computing the amount of the pollution control capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par or, if purchased at less than par, at their cost to the authority. The authority shall not issue pollution control bonds at any time secured by the pollution control capital reserve fund if the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the pollution control bonds then to be issued and on all other pollution control bonds of the authority then outstanding will exceed the amount of the pollution control capital reserve fund at the time of issuance unless the authority, at the time of issuance of such pollution control bonds, shall deposit in such fund from the proceeds of the pollution control bonds to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the pollution control bonds then to be issued and on all other pollution control bonds of the authority then outstanding.

§ 17. Paragraphs (a) and (e) of subdivision two of section nineteen hundred seventy-seven-o of such law, as added by chapter five hundred ninety-six of the laws of nineteen hundred seventy-three, are hereby amended to read, respectively, as follows:

(a) In addition to the setting aside of such other reserves or sinking funds as it shall deem advisable and necessary, and the regulation and disposition thereof, the authority may create and establish one or more capital reserve funds for bonds issued by the authority for the purposes of financing loans, advances and mortgage loans to housing companies.

(e) The authority shall not issue any bonds at any time secured by such a capital reserve fund if the amount in the capital reserve fund which will secure such bonds at the time of issuance does not equal or exceed the amount of the housing loan capital reserve fund requirement for such fund unless the authority at the time of issuance of such bonds shall deposit in such fund from the proceeds of such bonds or other sources an amount which together with the amount then in such fund will not be less than the amount of the housing loan capital reserve fund requirement for such fund.

§ 18. Subdivision two of section nineteen hundred seventy-seven-b of such law, as added by chapter three hundred seventy-seven of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

2. The authority shall not issue any of such bonds at any time secured by such capital reserve fund if the amount in such capital reserve
fund at the time of issuance does not equal or exceed the amount of said capital reserve fund requirement unless the authority at the time of issuance of such bonds shall deposit in such fund from the proceeds of such bonds or other sources an amount which together with the amount then in such fund will not be less than the amount of said capital reserve fund requirement.

§ 10. Paragraph (d) of subdivision one of section forty-seven of the private housing finance law, as amended by chapter two hundred eighty-nine of the laws of nineteen hundred seventy, is hereby amended to read as follows:

d) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article, provision is made in paragraph (a) of this subdivision for the accumulation in the capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and mental retardation services project bonds, community senior citizens services project bonds and mental hygiene improvement bonds. In order further to assure such maintenance of the capital reserve fund, there shall be annually apportioned and paid to the agency for deposit in the capital reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore the capital reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and mental retardation services project bonds, community senior citizens services project bonds and mental hygiene improvement bonds. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore the capital reserve fund to the amount aforesaid and the amount so stated, if any, shall be apportioned and paid to the agency during the then current fiscal year. The principal amount of bonds secured by the capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed three hundred thirty-eight million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.
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§ 20. Paragraph (d) of subdivision three of section forty-seven of such law, as added by chapter eight hundred fifty-seven of the laws of nineteen hundred sixty-two, is hereby amended to read as follows:

(d) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article, provision is made in paragraph (a) of this subdivision for the accumulation in the equity reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all equity bonds of the agency then outstanding. In order further to assure such maintenance of the equity reserve fund, there shall be annually apportioned and paid to the agency for deposit in the equity reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore the equity reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the equity bonds of the agency then outstanding. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore the equity reserve fund to the amount aforesaid and the amount so stated, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the equity reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act, as determined by the New York State public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a bond reserve fund or funds exceed three hundred fifteen thousand dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 21. Paragraph (c) of subdivision five of section forty-seven of such law, as added by chapter one hundred ninety-seven of the laws of nineteen hundred sixty-four, is hereby amended to read as follows:

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all non-profit project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such debt service reserve funds, there shall be annually apportioned and paid to the agency for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the non-profit project bonds of the agency then out-
standing and secured by such reserve fund. The chairman of the
agency shall annually, on or before December first, make and deliver to
the governor and director of the budget his certificate stating the sum,
if any, required to restore each such debt service reserve fund to the
amount aforesaid, and the sum or sums so certified, if any, shall be
appropriated and paid to the agency during the then current state fiscal
year. The principal amount of bonds secured by a debt service reserve
fund or funds to which state funds are apportionable pursuant to this
paragraph shall be limited to the total amount of bonds and notes out-
standing on the effective date of this act, plus the total amount of bonds
and notes contracted after the effective date of this act to finance
projects in progress on the effective date of this act, as determined by
the New York state public authorities control board created pursuant to
section fifty of the public authorities law whose affirmative determina-
tion shall be conclusive as to all matters of law and fact solely for the
purposes of the limitations contained in this paragraph, but in no event
shall the total amount of bonds so secured be less than one hundred
ninety-three million dollars, excluding bonds issued to refund such outstanding bonds until the date
of redemption of such outstanding bonds. As outstanding bonds so
secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refund-
ing bonds shall not reduce the amount so secured.

§ 22. Paragraph (e) of subdivision six of section forty-seven of
such law, as amended by chapter one thousand thirty-five of the laws
of nineteen hundred sixty-nine, is hereby amended to read as follows:

(e) To assure the continued operation and solvency of the agency
for the carrying out of the public purposes of this article provision is
made in paragraph (a) of this subdivision for the accumulation in the
hospital and nursing home capital reserve fund of an amount equal to
the maximum amount of principal and interest maturing and becoming
due in any succeeding calendar year on all hospital and nursing home
project bonds of the agency then outstanding and secured by such
reserve fund. In order further to assure the maintenance of such
hospital and nursing home capital reserve fund, there shall be annually
appropriated and paid to the agency for deposit in such hospital and
nursing home capital reserve fund such sum, if any, as shall be certified
by the chairman of the agency to the governor and director of the
budget as necessary to restore such reserve fund to an amount equal
to the maximum amount of principal and interest maturing and becom-
ing due in any succeeding calendar year on the hospital and nursing
home project bonds of the agency then outstanding and secured by
such reserve fund. The chairman of the agency shall annually, on
or before December first, make and deliver to the governor and director of
the budget his certificate stating the sums, if any, required to re-
store such hospital and nursing home capital reserve fund to the amount
aforesaid, and the sums so certified, if any, shall be appropriated and
paid to the agency during the then current state fiscal year. The prin-
cipal amount of bonds secured by the hospital and nursing home capital
reserve fund to which state funds are apportionable pursuant to this
paragraph shall be limited to the total amount of bonds and notes out-
standing on the effective date of this act, plus the total amount of bonds
and notes contracted after the effective date of this act to finance
projects in progress on the effective date of this act, as determined by
the New York state public authorities control board created pursuant to
section fifty of the public authorities law whose affirmative determina-
tion shall be conclusive as to all matters of law and fact solely for the
purposes of the limitations contained in this paragraph, but in no event
shall the total amount of bonds so secured be less than one hundred
ninety-three million dollars, excluding bonds issued to refund such outstanding bonds until the date
of redemption of such outstanding bonds. As outstanding bonds so
secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refund-
ing bonds shall not reduce the amount so secured.
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to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed one hundred sixteen million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 23. Paragraph (e) of subdivision eight of section forty-seven of such law, as added by chapter three hundred fifty-nine of the laws of nineteen hundred sixty-eight, is hereby amended to read as follows:

(e) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article, provision is made in paragraph (a) of this subdivision for the accumulation in each health facilities reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all health facilities bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such health facilities reserve funds, there shall be annually apportioned and paid to the agency for deposit in each health facilities reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the health facilities bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore each such health facilities reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by a health facilities reserve fund or funds to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a reserve fund or funds exceed six hundred seventy-five million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 24. Paragraph (e) of subdivision nine of section forty-seven of such law, as added by chapter five hundred nineteen of the laws of nineteen hundred sixty-eight, such subdivision as renumbered by chap-
ter four hundred eighty-seven of the laws of nineteen hundred sixty-nine, is hereby amended to read as follows:

c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in each urban rental debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all urban rental project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such urban rental debt service reserve funds, there shall be annually apportioned and paid to the agency for deposit in each urban rental debt service reserve fund such sum if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the urban rental project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore each such urban rental debt service reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by an urban rental debt service reserve fund or funds to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed six hundred forty-five million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 25. Paragraph (c) of subdivision ten of section forty-seven of such law, as added by chapter one thousand thirteen of the laws of nineteen hundred sixty-nine, is hereby amended to read as follows:

c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in the youth facilities capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all youth facilities project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such youth facilities capital reserve fund, there shall be annually apportioned and paid to the agency for deposit in such youth facilities capital reserve fund such sum if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest.
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maturings and becoming due in any succeeding calendar year on the youth facilities project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore such youth facilities capital reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the youth facilities capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such capital reserve fund exceed twenty-four million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 26. Paragraph (c) of subdivision twelve of section forty-seven of such law, as added by chapter one thousand thirty-four of the laws of nineteen hundred sixty-nine and such subdivision as so renumbered by chapter forty-eight of the laws of nineteen hundred seventy, is hereby amended to read as follows:

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in the community mental health services and mental retardation services capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all community mental health services and mental retardation services project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such community mental health services and mental retardation services capital reserve fund, there shall be annually apportioned and paid to the agency for deposit in such community mental health services and mental retardation services capital reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community mental health services and mental retardation services project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore such community mental health services and mental retardation services capital reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the community mental health

172 Changes or additions in text are indicated by underline
services and mental retardation services capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed thirteen million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 27. Paragraph (c) of subdivision fourteen of section forty-seven of such law, as added by chapter two hundred eighty-nine of the laws of nineteen hundred seventy, such subdivision as renumbered by chapter seven hundred sixty-seven of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in the community senior citizens services capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all community senior citizens services project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such community senior citizens services capital reserve fund, there shall be annually apportioned and paid to the agency for deposit in such community senior citizens services capital reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community senior citizens services project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore such community senior citizens services capital reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the community senior citizens services capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the pur-
poses of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed two million eight hundred thousand dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 28. Paragraph b of subdivision two of section forty-seven-a of such law, as amended by chapter nine hundred seventy-two of the laws of nineteen hundred sixty-nine, is hereby amended to read as follows:

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other monies which may be available for the purpose, to provide sufficient funds for the construction, acquisition, reconstruction, rehabilitation or improvement of state university facilities pursuant to the preceding paragraph of this subdivision, the payment of interest on state university construction bonds and state university construction notes issued for such purposes, the establishment of reserves to secure such bonds and notes, and all other expenditures of the agency incident to and necessary or convenient for any such construction, acquisition, reconstruction, rehabilitation or improvement; provided, however, that the agency shall not issue state university construction bonds and state university construction notes in an aggregate principal amount exceeding three billion dollars, excluding state university construction bonds and state university construction notes issued to refund outstanding state university construction bonds or state university construction notes.

§ 29. Paragraph b of subdivision two of section forty-seven-b of such law, as amended by chapter six hundred seven of the laws of nineteen hundred seventy, is hereby amended to read as follows:

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other monies which may be available for the purpose, to provide sufficient funds for the construction, acquisition, reconstruction, rehabilitation or improvement of mental hygiene facilities pursuant to the preceding paragraph of this subdivision, the payment of interest on mental hygiene improvement bonds and mental hygiene improvement notes issued for such purposes, the establishment of reserves to secure such bonds and notes, and all other expenditures of the agency incident to and necessary or convenient for any such construction, acquisition, reconstruction, rehabilitation or improvement; provided, however, that the agency shall not issue mental hygiene improvement bonds and mental hygiene improvement notes in an aggregate principal amount exceeding one billion, fifty seven hundred five million dollars, excluding mental hygiene improvement bonds and mental hygiene improvement notes issued to refund outstanding mental hygiene improvement bonds or mental hygiene improvement notes.
§ 30. Paragraph (b) of subdivision three of section forty-seven of such law, as added by chapter eight hundred fifty-seven of the laws of nineteen hundred sixty-two, is hereby amended to read as follows:
(b) The agency shall not issue equity bonds at any time secured by the equity reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the equity bonds then to be issued and on all other equity bonds of the agency then outstanding will exceed the amount of the equity reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the equity bonds then to be issued and on all other equity bonds of the agency then outstanding.

§ 31. Paragraph (b) of subdivision fourteen of section forty-seven of such law, as added by chapter two hundred eighty-nine of the laws of nineteen hundred seventy and such subdivision as so renumbered by chapter seven hundred sixty-seven of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:
(b) The agency shall not issue community senior citizens services project bonds and notes in an aggregate principal amount exceeding fifty million dollars excluding community senior citizens services project bonds and notes issued to refund outstanding community senior citizens services project bonds and community senior citizens services project notes, nor shall it issue community senior citizens services project bonds at any time secured by the community senior citizens capital reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the community senior citizens services project bonds outstanding and then to be issued and secured by the community senior citizens services capital reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community senior citizens services project bonds then to be issued and on all community senior citizens services project bonds of the agency then outstanding and secured by such reserve fund.

§ 32. Paragraph (b) of subdivision one of section forty-seven of such law, as amended by chapter two hundred eighty-nine of the laws of nineteen hundred seventy, is hereby amended to read as follows:
(b) The agency shall not issue bonds other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and mental retardation services project bonds, community senior citizens services project bonds and mental hygiene improvement bonds at any time secured by the capital reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on such bonds then to be issued and on all other bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and mental retardation services project bonds, community mental health services and mental retardation services project bonds, community...
senior citizens services project bonds and mental hygiene improvement bonds will exceed the amount of the capital reserve fund at the time of issuance unless the agency, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on such bonds then to be issued and on all other bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban renewal project bonds, health facilities bonds, youth facilities project bonds, community mental health services and mental retardation services project bonds, community senior citizens services project bonds and mental hygiene improvement bonds.

§ 33. Paragraph (b) of subdivision twelve of section forty-seven of such law, as added by chapter ten hundred thirty-four of the laws of nineteen hundred sixty-nine and such subdivision as so renumbered by chapter forty-eight of the laws of nineteen hundred seventy, is hereby amended to read as follows:

(b) The agency shall not issue community mental health services and mental retardation services project bonds and notes in an aggregate principal amount exceeding one hundred million dollars excluding community mental health services and mental retardation services project bonds and community mental health services and mental retardation services project notes issued to refund outstanding community mental health services and mental retardation services project bonds and community mental health services and mental retardation services project notes, nor shall it issue community mental health services and mental retardation services project bonds at any time secured by the community mental health services and mental retardation services capital reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the community mental health services and mental retardation services project bonds outstanding and then to be issued and secured by the community mental health services and mental retardation services capital reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community mental health services and mental retardation services project bonds then to be issued and on all other community mental health services and mental retardation services project bonds of the agency then outstanding and secured by such reserve fund.

§ 34. Paragraph (b) of subdivision ten of section forty-seven of such law, as amended by chapter two hundred seventy-nine of the laws of nineteen hundred seventy, is hereby amended to read as follows:

(b) The agency shall not issue youth facilities project bonds and notes in an aggregate principal amount exceeding one hundred million dollars excluding youth facilities project bonds and youth facilities project notes issued to refund outstanding youth facilities project bonds and youth facilities project notes, nor shall it issue youth facilities project bonds at any time secured by the youth facilities capital reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the youth facilities project bonds outstanding and then to be issued and secured by the youth
facilities capital reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the youth facilities project bonds then to be issued and on all other youth facilities project bonds of the agency then outstanding and secured by such reserve fund.

§ 35. Paragraph (b) of subdivision six of section forty-seven of such law, as amended by chapter three hundred ninety-two of the laws of nineteen hundred seventy-three, is hereby amended to read as follows:

(b) The agency shall not issue hospital and nursing home project bonds and notes in an aggregate principal amount exceeding one billion nine hundred fifty million dollars excluding hospital and nursing home project bonds and hospital and nursing home project notes issued to refund outstanding hospital and nursing home project bonds and hospital and nursing home project notes, nor shall it issue hospital and nursing home project bonds at any time secured by the hospital and nursing home capital reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the hospital and nursing home project bonds outstanding and then to be issued and secured by the hospital and nursing home capital reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the hospital and nursing home project bonds then to be issued and on all other hospital and nursing home project bonds of the agency then outstanding and secured by such reserve fund.

§ 36. Section eighteen of section one of chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, constituting the New York state urban development corporation act, as amended by chapter four hundred forty-six of the laws of nineteen hundred seventy-three, is hereby amended to read as follows:

§ 18. Bond authorization

The corporation shall not issue bonds and notes in an aggregate principal amount exceeding two one billion two hundred ninety-five million dollars, excluding bonds and notes issued to refund or otherwise repay outstanding bonds and notes of the corporation or of the New York state project finance agency and also excluding notes issued by the corporation to evidence eligible loans made to the corporation pursuant to the New York state project finance agency act.1

1 McKinney Unconsoli.Laws § 4361 et seq.

§ 37. Subdivision seven of section ten-e of chapter three hundred forty-five of the laws of nineteen hundred sixty-eight, entitled "An act to establish a United Nations development district and to form a corporation for the purpose of formulating and administering plans for the development of such district for purposes of the United Nations," as added by chapter six hundred twenty-three of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

(7) The principal amount of bonds secured by a debt service reserve fund or funds to which state funds may be apportioned pursuant to subdivision three of this section shall not exceed seventy-five the total

deletions by strikeouts
amount of indebtedness outstanding on the effective date of this act, plus the total amount of indebtedness contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount so secured exceed sixty million two hundred thousand dollars, excluding until the date of refunding, bonds issued to refund such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 38. Section ten of section fourteen of chapter ten hundred thirteen of the laws of nineteen hundred sixty-five constituting the community facilities project guarantee fund act, as re-entitled and as amended by chapter ten hundred thirty of the laws of nineteen hundred seventy-one, is hereby amended to read as follows:

§ 10. Conditions for the guarantee of loans by the fund
Prior to entering into any agreement for the guarantee of a loan made by a lending institution or by the housing finance agency, as provided in sections eight and nine of this act, the fund shall obtain a certificate of approval of availability issued by the director of the budget in an amount no less than ten per centum of the amount of the loan to be guaranteed. A copy of any such certificate shall be filed with the state comptroller, chairman of the senate finance committee and the chairman of the assembly ways and means committee. Upon entering into any guarantee agreement, the fund shall request the state comptroller to encumber on its books the amount made available pursuant to such certificate of approval of availability but in no event shall the total amount so encumbered with respect to all agreements exceed two million five hundred forty-seven thousand three hundred forty dollars. In the event that payment is made out of any monies so encumbered on account of any default in a guaranteed loan, the fund shall forthwith request the director of the budget to issue a further certificate of approval of availability in an amount sufficient to restore the encumbrance to ten per centum of the amount of loan. The fund may from time to time request the state comptroller to adjust the encumbrance, upon certification to the director of the budget and the lending institution or the housing finance agency, as the case may be, that it has set aside monies in its loan guarantee account in an amount sufficient in whole or in part to secure its guarantee, as provided herein.

Prior to entering into any agreement for the guarantee of a loan made by a lending institution or the housing finance agency, the fund may request the lending institution or the housing finance agency to submit an estimated schedule of payments to become due while the loan is outstanding and to provide such other documentation or information as it may deem necessary or appropriate.

§ 39. Paragraph (e) of subdivision one of section eight of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three, constituting the New York state medical care facilities finance agency act, is hereby repealed and paragraph (d) of such subdivision is hereby re-lettered to be paragraph (e).
§ 39-a. Paragraph (b) of subdivision one of section eight of such act is hereby amended to read as follows:
(b) The agency shall not issue health facilities bonds and health facilities notes in an aggregate principal amount exceeding one billion dollars, excluding health facilities bonds and health facilities notes issued to refund outstanding health facilities bond or health facilities notes. The agency shall not issue health facilities bonds at any time secured by a health facilities reserve fund if upon issuance, the amount in the health facilities reserve fund will be less than the health facilities reserve fund requirement, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the health facilities reserve fund requirement.

§ 33-b. Paragraph (b) of subdivision one of section seven of such act is hereby amended to read as follows:
(b) The agency shall not issue hospital and nursing home project bonds and hospital and nursing home project notes in an aggregate principal amount exceeding two billion dollars, excluding hospital and nursing home project bonds and hospital and nursing home project notes issued to refund outstanding hospital and nursing home project bonds and hospital and nursing home project notes. The agency shall not issue hospital and nursing home project bonds at any time secured by the hospital and nursing home capital reserve fund if upon issuance, the amount in the hospital and nursing home capital reserve fund will be less than the hospital and nursing home capital reserve fund requirement, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the hospital and nursing home capital reserve fund requirement.

§ 40. Paragraph (c) of subdivision one of section seven of such act, is hereby amended to read as follows:
(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this act, provision is made in paragraph (a) of this subdivision for the accumulation in the hospital and nursing home capital reserve fund of an amount equal to the hospital and nursing home capital reserve fund requirement. In order further to assure the maintenance of the hospital and nursing home capital reserve fund, there shall be annually apportioned and paid to the agency for deposit in the hospital and nursing home capital reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the hospital and nursing home capital reserve fund requirement. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore the hospital and nursing home capital reserve fund to the amount aforesaid and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the hospital and nursing home capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control
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board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed two hundred forty million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

§ 41. Section eighteen of section two of chapter seven of the laws of nineteen hundred seventy-five, constituting the New York state project finance agency act, is hereby amended to read as follows:

§ 18. Maximum authorization
The agency shall make eligible loans and eligible purchases in an aggregate amount, excluding any that have the effect of refunding eligible loans, not to exceed seven hundred million dollars, not issue bonds and notes in an aggregate principal amount exceeding three hundred five million dollars, excluding bonds and notes issued to refund or otherwise repay outstanding bonds and notes of the agency or of the corporation.

§ 42. If any section, part or provision of this act shall be declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such declaration shall be limited to the section, part or provision directly involved in the controversy in which such declaration was made and shall not affect any other section, part or provision thereof.

§ 43. This act shall take effect on the first day of April, nineteen hundred seventy-six.

Note.—Subdivision three of section twelve hundred ninety-nine, subdivision three of section twelve hundred ninety-nine-j, subdivision three of section twelve hundred ninety-nine-l, subdivision three of section thirteen hundred eleven, subdivision three of section thirteen hundred thirty-six and subdivision two of section twenty-four hundred thirty-nine of the public authorities law and paragraph c of subdivision one of section eight of section one of the New York state medical care facilities finance agency act, repealed by this act, provide for the apportionment of state funds to the metropolitan transportation authority, the Niagara frontier transportation authority, the Rochester transit service regional transportation authority, the capital district transportation authority, the central New York regional transportation authority, the state of New York municipal bond bank agency, and the New York state medical care facilities finance agency, respectively, for deposit in a debt service reserve fund of such amount as is certified by the chairman of the respective public authority or agency to the governor and the director of the budget as necessary to restore such debt service reserve fund to an amount equal to the amount provided therefor by the respective public authority or agency.
City University of New York
Aid Bill (file gives no indication
whether bill passed)

1976
IN SENATE—Introduced by COMMITTEE ON RULES—read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY—Introduced by COMMITTEE ON RULES—read once and referred to the Committee on Ways and Means

AN ACT

to amend a chapter of the laws of nineteen hundred seventy-six, entitled, "AN ACT to amend chapter fifty-three of the laws of nineteen hundred seventy-six, entitled "An Act (LOCAL ASSISTANCE BUDGET)", in relation to state aid for the city university of New York; requiring a fixed level of financial support of such university by the city of New York for certain years; to amend the education law, in relation to the budgetary processes for the city university; to amend the education law, in relation to the admission of non-residents of the city of New York to the city university; continuing programs of full opportunity and educational opportunity; requiring submission of a detailed financial plan for such university; directing the state budget director to develop a plan for a uniform system of accounting for the state and city universities of New York; authorizing the city of New York to establish a supplemental tuition assistance program; terminating the term of office of the present members of the board of higher education; to amend the education law, in relation to the membership of the board of higher education and providing for the appointment of members to such board; to repeal sections sixty-two hundred
two, sixty-two hundred fifteen and sixty-two hundred sixteen of the education
law relating, respectively, to the board of higher education, the budget
processes for the city university of New York community colleges and the
budget processes for the city university of New York senior colleges; and
creating a temporary state commission on the future of post secondary
education in New York state and prescribing its powers and duties", in
relation to legislative findings; state aid to the city of New York for operating
aid for the city university of New York; collection of moneys due and owing
the state from the city on account of the city university of New York;
budgetary processes for the senior and community colleges of the city univer-
sity; limiting expenditures by the board of higher education in the city of New
York; and the membership, duties and reports by the temporary state com-
mmission on the future of postsecondary education in New York state; the es-
establishment of a supplemental postsecondary school tuition program; repea-
ting section one thereof relating to legislative findings, sections four and five
thereof relating to city university community college and senior college
budgetary processes; section ten thereof relating to supplemental tuition
assistance program; section fourteen thereof relating to the temporary state
commission on the future of postsecondary education in New York state; and
repealing section sixteen thereof relating to the effective date

The People of the State of New York, represented in Senate and Assembly, do
enact as follows:

1. Section 1. Section one of a chapter of the laws of nineteen hundred seventy-six,
2. entitled "An Act to amend chapter fifty-three of the laws of nineteen hundred
3. seventy-six, entitled "An Act (LOCAL ASSISTANCE BUDGET)", in relation
4. to state aid for the city university of New York; requiring a fixed level of finan-
5. cial support of such university by the city of New York for certain years; to
6. amend the education law, in relation to the budgetary processes for the city uni-
7. versity; to amend the education law, in relation to the admission of non-
8. residents of the city of New York to the city university; continuing programs of
9. full opportunity and educational opportunity; requiring submission of a detailed
10. financial plan for such university; directing the state budget director to develop
11. a plan for a uniform system of accounting for the state and city universities of
12. New York; authorizing the city of New York to establish a supplemental tuition
13. assistance program; terminating the term of office of the present members of the
board of higher education; to amend the education law, in relation to the
membership of the board of higher education and providing for the appointment
of members to such board; to repeal sections sixty-two hundred two, sixty-two
hundred fifteen and sixty-two hundred sixteen of the education law relating,
respectively, to the board of higher education, the budget processes for the city
university of New York community colleges and the budget processes for the city
university of New York senior colleges; and creating a temporary state com-
mッション on the future of post secondary education in New York state and
prescribing its powers and duties", is hereby repealed and a new section one in-
serted therein to read as follows:

Section 1. Legislative findings. The legislature hereby recognizes the unique func-
tions and mission of the city university of New York. In close relationship to the
demands of its urban setting and to the lasting benefit of the city of New York and the
state of New York, it has made and continues to make an indispensable contribu-
tion to the people of the city and state of New York.

The legislature further recognizes that the fiscal crisis in the city of New York has
led this great university system to the brink of academic and fiscal collapse. The
resulting instability of the city university of New York threatens its very existence un-
less responsible leadership is exercised at state, city and university levels.

Accordingly, the legislature hereby declares that the continuation of open access to
the City University of New York, and prevention of the erosion of the scope and
quality of education at this great educational institution is a vital objective of public
policy.

The legislature further declares that a comprehensive plan and course of action are
required to restore stability and direction to the university.

The legislature finds that the state must assume the responsibility for public post-
secondary education in the city of New York beyond the associate degree, as it does
elsewhere in the state. The legislature further finds that the immediate withdrawal of
the city of New York from the financing of the senior colleges in nineteen hundred
seventy-seven-seventy-eight would seriously affect the viability of these institutions
and calls upon the city not to reduce its support until such time as the recommen-
dations of the temporary state commission on the future of postsecondary education in
"New York state, created by section fourteen of this act, are considered and acted upon
by the legislature.

§ 2. Section two of such chapter is hereby amended to read as follows:

§ 2. That part, entitled "City of New York—City University" of chapter
fifty-three of the laws of nineteen hundred seventy-six, entitled "An Act
(LOCAL ASSISTANCE BUDGET)", is hereby amended by deleting the items
set forth herein in brackets and adding thereto the items set forth in italics, to
read as follows:

CITY OF NEW YORK
CITY UNIVERSITY

State aid to the city of New York for operating
aid for the city university of New York not
to exceed \( \$196,000,000 \) \( \$198,000,000 \) for
the nineteen hundred seventy-six-seventy-
seven city fiscal year, of which up to
\$24,000,000, pursuant to a schedule approv-
ed by the state director of the budget, may
be used for the nineteen hundred seventy-
five-seventy-six city fiscal year. Total state
aid for operating expenses of the city univer-
sity for the city fiscal years nineteen
hundred seventy-five-seventy-six and
nineteen hundred seventy-six-seventy-
seven shall not exceed \( \$389,000,000 \) \( \$391,-
000,000 \) in aggregate.

The amount of any item or items in the follow-
ing schedule, notwithstanding any other
provision of law, may be increased or
decreased by interchange with any other
item or items in the schedule with the
approval of the director of the budget ...

State aid to the city of New York for operating
expenses of the senior colleges of the city uni-
versity of New York in accordance with sec-
tions 6215 and 6216 of the education law, in-
cluding expenses of baccalaureate programs
at Medgar Evers College in (a) nursing, (b)
medical sciences (pre-medical), (c) ac-
counting and business, (d) competency bas-
ed public administration, and (e) com-
petency based teacher education, notwithstanding the provisions of sub-
paragraphs (a) and (c) of paragraph A of subdivision 2 of section 6216 ...........

For state financial assistance for operating expenses for the nineteen seventy-
five-seven-six college fiscal year for the community colleges of the city university of New York in the manner provided by article 126 of the education law and chapter 332 of the laws of 1975, including expenses of non-credit remedial, vocational preparation, community service and continuing education programs heretofore or presently undertaken. As regulations adopted by the board of higher education of the city of New York pursuant to chapter 332 of the laws of 1975 and approved by the director of the budget provide for aid for students in technical programs, the total state aid paid for the balance of the nineteen hundred seventy-five-seven-six college fiscal year may exceed the statutory limitations of one-third or two-fifths of operating costs of the colleges; only if the amount of aid for students in technical programs would cause the statutory limitation to be exceeded. The amount that the total state aid may exceed the statutory limitations in such case shall not be greater than the amount of aid approved for students in technical programs

For state financial assistance for operating expenses for the community colleges of the city university of New York including expenses of such non-credit programs as the board of higher education of the city of New York
may determine eligible for state aid in the
same manner as the state university board
of trustees may determine such programs of
the community colleges under its
jurisdiction eligible for state aid, and as
provided for by article 126 of the education
law and chapter 332 of the laws of 1975, and
including $8,000,000 for expenses of
educational programs including bilingual
programs at the South Bronx facility of the
Eugenio Maria de Hostos educational unit,
pursuant to a schedule approved by the state
director of the budget, which sum of $8,000,000
shall not be subject to the interchangeability
provision of this schedule. The foregoing shall
not [to] exceed [$59,100,000] $62,100,000
for the nineteen hundred seventy-
six-seventy-seven college fiscal year and
[for which] payments for which in the
nineteen hundred seventy-six-seventy-
seven state fiscal year shall not exceed
[[$44,300,000]] $47,300,000. As regulations
adopted by the board of higher education of
the city of New York pursuant to chapter
332 of the laws of 1975 and approved by the
director of the budget provide for aid for
students in technical programs, the total
state aid paid may exceed the statutory
limitations of one-third or two-fifths of
operating costs of the colleges only if the
amount of aid for students in technical
programs would cause the statutory
limitation to be exceeded. The amount that
the total state aid may exceed the statutory
limitation in such case shall not be greater
than the amount of aid approved for
students in technical programs .......... 

     [44,300,000] 47,300,000
State aid to the city of New York for services and expenses of programs to expand opportunities in the senior colleges of the city university for the educationally and economically disadvantaged in accordance with chapter 917 of the laws of 1970 and to be made available to the comptroller of the city of New York to match, dollar for dollar, funds made available to the city university of New York by the city of New York from monies in the city treasury raised by real estate taxes and general fund revenues of the city of New York for the purposes included in and in accordance with chapter 917 of the laws of 1970. The monies hereby appropriated are to be available for payment of liabilities heretofore accrued or hereafter to accrue. In order to be eligible to receive such supplemental financial assistance under educational opportunity programs in accordance with chapter 917 of the laws of 1970, a student in such program may, as prescribed by rules and regulations approved by the state budget director, be required to file an application, if eligible, with the appropriate agency of the Federal government for a basic educational opportunity grant.

State aid to the city of New York for services and expenses of programs to expand opportunities in the community colleges of the city university for the educationally and economically disadvantaged in accordance with chapter 917 of the laws of 1970. Such funds shall be for matching, dollar for dollar, funds made available for such programs by the sponsor or sponsors of the community
college. In order to be eligible to receive such supplemental financial assistance under educational opportunity programs in accordance with chapter 917 of the laws of 1970, a student in such programs may, as prescribed by rules and regulations approved by the state budget director, be required to file an application, if eligible, with the appropriate agency of the Federal government for a basic educational opportunity grant ....... 758,400

Total of schedule ............ [187,758,400] 190,758,400

[State aid to the city of New York for certain educational programs related to particular educational needs of minority students, and including bilingual educational programs at the South Bronx facility of the Eugenio Maria de Hostos educational unit, pursuant to a schedule approved by the state director of the budget ............... 3,000,000]

State aid to the city of New York for the conduct of a poverty research and training program at the Baruch College of the City University of New York in accordance with the provisions of chapter 1024 of the laws of 1974 ............ 150,000

§ 3. Section three of such chapter is hereby amended to read as follows:
§ 3. The city of New York shall provide in its expense budget and allocate to the account of the city university of New York as operating aid during its nineteen hundred seventy-six–seventy-seven fiscal year from its own funds not less than the sum of one hundred sixty million five hundred thousand dollars ($160,500,000); provided, however, such sum shall be exclusive of monies payable by such city for campus schools and for the payment of debt service on bonds attributable to such university. Such allocations shall be made in accordance with a schedule promulgated by the state director of the budget prior to July first, nineteen hundred seventy-six. In the event of the failure of the city of
New York to timely allocate any such monies to the account of the city university pursuant to such schedule, such university shall forthwith make and deliver to the comptroller of the state of New York a certificate stating the sum, if any, actually allocated by such city to such university with respect to such amount due to be allocated and such sum actually allocated. After the state comptroller shall have given written notice to the director of the office of management and budget of the city of New York, such difference shall be paid to the comptroller of the city of New York for the account of such university by the state comptroller out of the next succeeding payment of state aid apportioned to the city of New York as per capita aid for the support of local government pursuant to section fifty-four of the state finance law during such city fiscal year. The amount so paid over to such city comptroller shall be deducted from the corresponding apportionment of such per capita state aid otherwise payable to the city of New York, and shall not obligate the state to make or entitle the city of New York to receive any additional apportionment or payment of per capita state aid; provided, however, that such per capita state aid payments to be so paid over pursuant to the provisions of this section shall be subject to all prior statutory liens.

In addition to the aforesaid remedy, if the state comptroller is unable to deduct a sum of money from a per capita aid payment at any time during the city fiscal year pursuant to this section due to an insufficient amount of per capita aid due and owing at such time, the state comptroller may summarily levy upon and seize from the city of New York an amount equal to such sum in the city treasury or any city depository.

§ 4. Section four of such chapter is hereby repealed and a new section four is hereby added to such chapter to read as follows:

§ 4. The education law is hereby amended by adding thereto a new section to be section sixty-two hundred twenty-one to read as follows:

§ 6221. City university of New York community college budget process. 1. For the purposes of this section, the term “approved programs and services” shall mean and include all programs and services provided by the community colleges, except for campus schools or other elementary or secondary schools which receive state aid under other provisions of law, provided that all such programs have been approved as a part of the master plan of the city university and as a part of the regents plan for higher education or general revision thereof pursuant to section two hundred thirty-seven of this chapter.

2. The amount, methods and procedures for the payment of state aid to such community colleges shall continue to be governed pursuant to the provisions of section
sixty-three hundred four of this chapter and any rule or regulation promulgated pursuant thereto. Notwithstanding any inconsistent provision of law, for the purposes of this section, any reference contained in section sixty-three hundred four of this chapter to the approval of the state university trustees for such state aid purposes shall, in lieu thereof, be deemed to mean and refer to the approval of the board and any reference to a community college in such section shall be deemed to mean and refer to a community college as defined in section sixty-two hundred one of this chapter; provided however, that any rule or regulation approved by the board of higher education, for such state aid purposes, shall be the same as any rule or regulation promulgated by the state university trustees, as approved by the state director of the budget.

3. For each city fiscal year, the chancellor of the city university shall prepare a proposed operating budget for all approved programs and services. The form and content of such proposed operating budget shall be the same as that approved by the state director of the budget for the community colleges of the state university of New York; provided, however, that such proposed operating budget shall be submitted, in accordance with subdivision one-b of section sixty-three hundred four of this chapter and shall also set forth the separate operating budgets of each community college.

4. Such proposed operating budget, after approval by the board of higher education, shall be submitted to the mayor of the city of New York for his review and approval. Not later than October first of the calendar year preceding the city fiscal year, the mayor shall submit to the state budget director, in the form and content required by subdivision three hereof, the amount of expenditures that he will recommend in his executive budget for the following fiscal year for such approved programs and services.

§ 5. Section five of such chapter is hereby repealed and a new section five is hereby added to such chapter to read as follows:

§ 5. Such law is hereby amended by adding thereto a new section to be section sixty-two hundred twenty-two to read as follows:

§ 6222. City university of New York senior college budget process. 1. For the purposes of this section the term "approved programs and services" shall mean and include all programs and services provided by the senior colleges except for campus schools or other elementary or secondary schools which receive state aid under other provisions of law, provided that all such programs have been approved as a part of the master plan of the city university and as a part of the regents' plan for higher education or general revision thereof pursuant to section two hundred thirty-seven of this chapter.

2. For each city fiscal year, the chancellor of the city university shall prepare a proposed operating budget for all approved programs and services of the senior
colleges with such information and in such form as shall be required by the state director of the budget. Such proposed operating budget, after approval by the board of higher education, shall be submitted to the governor by the first day of October of each year, with copies at such time to the state director of the budget, the legislative fiscal committees and the director of the office of management and budget of the city of New York.

3. The governor shall submit his recommendations with respect to such city university of New York senior college operating budget to the legislature as part of the state purposes portion of the executive budget.

4. The city university shall submit, in such form as may be required jointly by the state director of the budget and the director of the office of management and budget of the city of New York, monthly expenditure and revenue reports and a detailed annual financial report within one hundred twenty days of the end of its fiscal year to the state director of the budget and the director of the office of management and budget of the city of New York, with copies to the legislative fiscal committees at such time.

5. The state comptroller shall annually audit the senior college annual financial report and shall make a report as soon as practicable thereon to the governor, the temporary president of the senate, the speaker of the assembly and the mayor of the city of New York.

§ 6. Section eight of such chapter of the laws of nineteen hundred seventy-six is hereby amended to read as follows:

§ 8. a. The board of higher education in the city of New York shall submit to the New York state emergency financial control board; the director of the budget for the state and the director of the office of management and budget of the city of New York a detailed financial plan of its projected expenditures and revenues for such university's nineteen hundred seventy-six-seventy-seven fiscal year, in such form and at such time as such control board, in consultation with the state director of the budget, shall require. The special deputy comptroller for the city of New York shall audit the implementation of such plan on a continuing basis and submit monthly reports thereon to such control board, the director of the budget for the state and the director of the office of management and budget of the city of New York, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

With respect to such financial plan, the board of higher education in the city of New York shall neither authorize nor permit the expenditure of funds under its control at a rate which will exhaust the amount appropriated prior to the conclusion of the period or the completion of the purpose for which such funds were appropriated.
b. The board of higher education in the city of New York is hereby prohibited from closing or restructuring any constituent college or campus school of such university during its nineteen hundred seventy-six-seventy-seven fiscal year; (a) in the event that either house of the legislature disapproves of such closing or restructuring or (b) unless such closing or restructuring is pursuant to a resolution adopted prior to April thirtieth, nineteen hundred seventy-six. While the legislature is in session, such disapproval shall be evidenced by the passage in either house of the legislature of a resolution disapproving such closing. After the legislature has adjourned sine die, such disapproval shall be evidenced by the disapproval of the chairman of either of the fiscal committees. Consent will be assumed unless such disapprovals occur within thirty days after submission of the statement of closing or restructuring to the legislature by the city university.

§ 7. Section ten of such chapter is hereby repealed and a new section ten is hereby inserted therein, in lieu thereof, to read as follows:

§ 10. The city of New York is hereby authorized to establish and implement a supplemental postsecondary school tuition assistance program for residents of such city who are matriculated students. The amount of such assistance shall be excluded in computing tuition assistance program awards pursuant to section six hundred sixty-seven of the education law.

§ 8. Section fourteen of such chapter of the laws of nineteen hundred seventy-six is hereby repealed, and a new section fourteen is hereby inserted therein, in lieu thereof, to read as follows:

§ 14. a. A temporary state commission is hereby created to be known as the temporary commission on the future of postsecondary education in New York state. The commission shall consist of five members appointed by the governor, one of whom he shall designate as chairman.

b. It shall be the duty of the commission to conduct a comprehensive study of postsecondary education in New York state. The study shall include, but not be limited to, the following subjects: the appropriate governance and financing structures of the state and city universities and the community colleges; the allocation of public resources to the independent sector of postsecondary education through direct grants, contracts and student tuition subsidies; the role of the board of regents in postsecondary education; and the implications for public policy of emerging trends in college attendance, manpower requirements and other societal needs. The commission shall further particularly consider the structure, mission and scope of the city university; the relationship of such university to the city and state of New York and to other institutions of public and private postsecondary education in the state, with special emphasis on the continuation of its special mission to the communities and con-
stituencies of New York city; the criteria for determining parity of funding between
the city university of New York and the state university of New York; and the
funding mechanism for payment of city university of New York debt service for
capital construction. The commission shall recommend a detailed plan of action em-
bodying the findings of its studies.

c. For the accomplishment of its purposes, the commission shall be authorized and
empowered to undertake any studies, inquiries, surveys or analyses it may deem
relevant through its own personnel, or in cooperation with any public or private agen-
cies including educational, civic and research organizations, colleges, universities, in-
stitutes or foundations.

d. The commission may employ and at pleasure remove such personnel as it may
demn necessary for the performance of its functions and fix their compensation within
the amounts made available by appropriation therefor. The commission may meet
within and without the state and shall have all the powers of a legislative committee
under the legislative law.

e. No member of the commission shall be disqualified from holding any other
public office or employment including that as a member of the legislature nor shall he
forfeit any such office or employment by reason of his appointment hereunder
notwithstanding the provisions of any general, special or local law to the contrary.

f. The members of the commission shall receive no compensation for their services
but shall be allowed their actual and necessary expenses incurred in the performance
of their duties hereunder.

g. The commission may request and shall receive from any department, division,
board, bureau, commission or other agency of the state or any municipal corporation
or institution of higher education chartered by the regents of the state of New York,
such assistance and data as will enable it to properly carry out its powers and duties
hereunder.

h. The commission is hereby authorized and empowered to make and sign any
agreements, and to do and perform any acts that may be necessary, desirable or proper
to carry out the purposes and objectives of this act.

i. The commission shall make a preliminary report of its activities hereunder to
the governor and the legislature on or before October fifteenth, nineteen hundred
seventy-six; and a final report on or before March first, nineteen hundred seventy-
seven. The commission shall also make recommendations for any changes in law it
may deem necessary or desirable.

§ 9. Section sixteen of such chapter is hereby repealed and a new section, to
be section sixteen, is hereby inserted therein, to read as follows:
§ 16. This act shall take effect immediately, except that sections four and five shall take effect on September first, nineteen hundred seventy-six and sections six and twelve shall take effect July first, nineteen hundred seventy-six.

§ 10. Separability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 11. This act shall take effect immediately.
IN ASSEMBLY

February 11, 1976

Introduced by Mr. LANDES—read once and referred to the Committee on Higher Education—reported from said committee with amendments, ordered reprinted as amended and placed on the order of second reading, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT

to amend chapter fifty-three of the laws of nineteen hundred seventy-six, entitled "An Act (LOCAL ASSISTANCE BUDGET)", in relation to state aid for the city university of New York; requiring a fixed level of financial support of such university by the city of New York for certain years; to amend the education law, in relation to the budgetary processes for the city university; to amend the education law, in relation to the admission of non-residents of the city of New York to the city university; continuing programs of full opportunity and educational opportunity; requiring submission of a detailed financial plan for such university; directing the state budget director to develop a plan for a uniform system of accounting for the state and city universities of New York; authorizing the city of New York to establish a supplemental tuition assistance program; terminating the term of office of the present members of the board of higher education; to amend the education law, in relation to the membership of the board of higher education and providing for the appointment of members to such board; to repeal sections sixty-two hundred two, sixty-two hundred fifteen and sixty-two hundred sixteen of the education law relating, respectively, to the board of higher education, the

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.
budget processes for the city university of New York community colleges and
the budget processes for the city university of New York senior colleges; and
creating a temporary state commission on the future of post secondary
education in New York state and prescribing its powers and duties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature hereby recognizes the unique
functions and mission of the city university of New York. In close relationship
to the demands of its urban setting and to the lasting benefit of the city of New
York and the state of New York, it has made and continues to make an in-
dispensable contribution to the people of the city and state of New York.

The legislature further recognizes that the fiscal crisis in the city of New York
has led this great university system to the brink of academic and fiscal collapse.
The resulting instability of the city university of New York threatens its very
existence unless responsible leadership is exercised at state, city and university
levels.

Accordingly, the legislature hereby declares that the continuation of open
access to the City University of New York, and prevention of the erosion of the
scope and quality of education at this great educational institution is a vital ob-
jective of public policy.

The legislature further declares that a comprehensive plan and course of
action are required to restore stability and direction to the university.

The legislature finds that the state must assume the responsibility for public
post-secondary education in the city of New York beyond the associate degree,
as it does elsewhere in the state. The legislature further finds that the immediate
withdrawal of the city of New York from the financing of the senior colleges in
nineteen hundred seventy-seven—seventy-eight would seriously affect the
viability of these institutions and calls upon the city to reduce its support in
three equal installments ending in nineteen hundred seventy-eight—seventy-
nine, thereby allowing the state by nineteen hundred seventy-nine—eighty to
replace current city funding thereby avoiding unnecessary harm to the univer-
sity.

The legislature hereby pledges its commitment to equity in funding for the
city university of New York consonant with its funding for the state university
for comparable programmatic offerings, levels of service and scope of mission,
with full parity to be achieved at such time as the city of New York no longer
funds the senior colleges of the city university of New York.

The legislature further finds that in view of the emerging state role in the city
university of New York, a special study of the structure, mission, scope and
financing of city university, and its role in the total complex of public and
private post-secondary education in the state should be undertaken.

§ 2. That part, entitled “City of New York—City University” of chapter
fifty-three of the laws of nineteen hundred seventy-six, entitled “An Act
(LOCAL ASSISTANCE BUDGET)”, is hereby amended by deleting the items
set forth herein in brackets and adding thereto the items set forth in italics, to
read as follows:

CITY OF NEW YORK
CITY UNIVERSITY

State aid to the city of New York for operating aid for the city
university of New York not to exceed $190,000,000 for the
nineteen hundred seventy-six—seventy-seven city fiscal year, of
which up to $24,000,000, pursuant to a schedule approved by the
state director of the budget, may be used for the nineteen hundred
seventy-five—seventy-six city fiscal year. Total state aid for
operating expenses of the city university for the city fiscal years
nineteen hundred seventy-five—seventy-six and nineteen hundred
seventy-six—seventy-seven shall not exceed $388,000,000 in
aggregate.

The amount of any item or items in the following schedule, not-
withstanding any other provision of law, may be increased or
decreased by interchange with any other item or items in the
schedule with the approval of the director of the budget ...... 187,758,400

State aid to the city of New York for operating expenses of
the senior colleges of the city university of New York in ac-
cordance with sections 6215 and 6216 of the education law,
including expenses of baccalaureate programs at Medgar Evers
College in (a) nursing, (b) medical sciences (pre-medical), (c)
accounting and business, (d) competency based public ad-
ministration, and (e) competency based teacher education,
notwithstanding the provisions of [subparagraph] "sub-
paragraphs (a) and (c) of paragraph A of subdivision 2 of section 6216. .................................................. 117,300,000

For state financial assistance for operating expenses for the nineteen seventy-five-seventy-six college fiscal year for the community colleges of the city university of New York in the manner provided by article 126 of the education law and chapter 332 of the laws of 1975, including expenses of non-credit remedial, vocational preparation, community service and continuing education programs heretofore or presently undertaken. As regulations adopted by the board of higher education of the city of New York pursuant to chapter 332 of the laws of 1975 and approved by the director of the budget provide for aid for students in technical programs, the total state aid paid for the balance of the nineteen hundred seventy-five-seventy-six college fiscal year may exceed the statutory limitations of one-third or two-fifths of operating costs of the colleges only if the amount of aid for students in technical programs would cause the statutory limitation to be exceeded. The amount that the total state aid may exceed the statutory limitations in such case shall not be greater than the amount of aid approved for students in technical programs .............................................. 14,800,000

For state financial assistance for operating expenses for the community colleges of the city university of New York including expenses of such non-credit programs as the board of higher education of the city of New York may determine eligible for state aid in the same manner as the state university board of trustees may determine such programs of the community colleges under its jurisdiction eligible for state aid, and as provided for by article 126 of the education law and chapter 332 of the laws of 1975, not to exceed $59,100,000 for the nineteen hundred seventy-six-seventy-seven college fiscal year and for which payments in the nineteen hundred seventy-six-seventy-seven state fiscal year shall not
exceed $44,300,000. As regulations adopted by the board of
higher education of the city of New York pursuant to
chapter 332 of the laws of 1975 and approved by the director
of the budget provide for aid for students in technical
programs, the total state aid paid may exceed the statutory
limitations of one-third or two-fifths of operating costs of the
colleges only if the amount of aid for students in technical
programs would cause the statutory limitation to be ex-
ceeded. The amount that the total state aid may exceed the
statutory limitation in such case shall not be greater than the
amount of aid approved for students in technical programs

State aid to the city of New York for services and expenses of
programs to expand opportunities in the senior colleges of
the city university for the educationally and economically
disadvantaged in accordance with chapter 917 of the laws of
1970 and to be made available to the comptroller of the city
of New York to match, dollar for dollar, funds made
available to the city university of New York by the city of
New York from monies in the city treasury raised by real es-
te taxes and general fund revenues of the city of New York
for the purposes included in and in accordance with chapter
917 of the laws of 1970. The monies hereby appropriated are
to be available for payment of liabilities heretofore accrued
or hereafter to accrue. In order to be eligible to receive such
supplemental financial assistance under educational oppor-
tunity programs in accordance with chapter 917 of the laws
of 1970, a student in such program may, as prescribed by
rules and regulations approved by the state budget director,
be required to file an application, if eligible, with the
appropriate agency of the Federal government for a basic
educational opportunity grant

State aid to the city of New York for services and expenses of
programs to expand opportunities in the community colleges
of the city university for the educationally and economically
disadvantaged in accordance with chapter 917 of the laws of
1970. Such funds shall be for matching, dollar for dollar, funds made available for such programs by the sponsor or sponsors of the community college. In order to be eligible to receive such supplemental financial assistance under educational opportunity programs in accordance with chapter 917 of the laws of 1970, a student in such programs may, as prescribed by rules and regulations approved by the state budget director, be required to file an application, if eligible, with the appropriate agency of the Federal government for a basic educational opportunity grant 758,400

Total of schedule 187,768,400

State aid to the city of New York for certain educational programs related to particular educational needs of minority students, and including bilingual educational programs at the South Bronx facility of the Eugenio Maria de Hostos educational unit, pursuant to a schedule approved by the state director of the budget 3,000,000

State aid to the City of New York for the conduct of a poverty research and training program at the Baruch college of the City University of New York in accordance with the provisions of chapter 1024 of the laws of 1974 150,000

§ 3. The city of New York shall provide in its expense budget and allocate to the account of the city university of New York as operating aid during its nineteen hundred seventy-six—seventy-seven fiscal year from its own funds not less than the sum of one hundred sixty million five hundred thousand dollars ($160,500,000); provided, however, such sum shall be exclusive of monies payable by such city for campus schools and for the payment of debt service on bonds attributable to such university. Such allocations shall be made in accordance with a schedule promulgated by the state director of the budget prior to July first, nineteen hundred seventy-six. In the event of the failure of the city of New York to timely allocate any such monies to the account of the city university pursuant to such schedule, such university shall forthwith make and deliver to the comptroller of the state of New York a certificate stating the sum, if any, actually allocated by such city to such university with respect to such amount due to be allocated and such sum actually allocated. After the state comptroller
shall have given written notice to the director of the office of management and
budget of the city of New York, such difference shall be paid to the comptroller
of the city of New York for the account of such university by the state com-
troller out of the next succeeding payment of state aid apportioned to the city
of New York as per capita aid for the support of local government pursuant to
section fifty-four of the state finance law during such city fiscal year. The
amount so paid over to such city comptroller shall be deducted from the cor-
responding apportionment of such per capita state aid otherwise payable to the
city of New York, and shall not obligate the state to make or entitle the city of
New York to receive any additional apportionment or payment of per capita
state aid; provided, however, that such per capita state aid payments to be so
paid over pursuant to the provisions of this section shall be subject to all prior
statutory liens.

§ 4. Section sixty-two hundred fifteen of the education law is hereby
repealed, and a new section sixty-two hundred fifteen is hereby inserted therein,
in lieu thereof, to read as follows:

§ 6215. City university of New York community college budget process. 1. For
the purposes of this section, the term “approved programs and services” shall mean
and include all programs and services provided by the community colleges, except for
campus schools or other elementary or secondary schools which receive state aid under
other provisions of law, provided that all such programs have been approved as a part
of the master plan of the city university and as a part of the regents plan for higher
education or general revision thereof pursuant to section two hundred thirty-seven of
this chapter.

2. The amount, methods and procedures for the payment of state aid to such com-
community colleges shall continue to be governed pursuant to the provisions of section
sixty-three hundred four of this chapter and any rule or regulation promulgated pur-
suant thereto. Notwithstanding any inconsistent provision of law, for the purposes of
this section, any reference contained in section sixty-three hundred four of this
chapter to the approval of the state university trustees for such state aid purposes
shall, in lieu thereof, be deemed to mean and refer to the approval of the board and
any reference to a community college in such section shall be deemed to mean and
refer to a community college as defined in section sixty-two hundred one of this
chapter, provided however, that any rule or regulation approved by the board of
higher education, for such state aid purposes, shall be the same as any rule or
regulation promulgated by the state university trustees, as approved by the state direc-
tor of the budget.
3. For each city fiscal year, the chancellor of the city university shall prepare a proposed operating budget for all approved programs and services. The form and content of such proposed operating budget shall be the same as that approved by the state director of the budget for the community colleges of the state university of New York; provided, however, that such proposed operating budget shall be submitted in accordance with subdivision one-b of section sixty-three hundred four of this chapter and shall also set forth the separate operating budgets of each community college.

4. Such proposed operating budget, after approval by the board of higher education, shall be submitted to the mayor of the city of New York for his review and approval. Not later than October first of the calendar year preceding the city fiscal year, the mayor shall submit to the state budget director, in the form and content required by subdivision three hereof, the amount of expenditures that he will recommends in his executive budget for the following fiscal year for such approved programs and services.

§ 5. Section sixty-two hundred sixteen of such law is hereby repealed and a new section, to be section sixty-two hundred sixteen is hereby inserted therein, in lieu thereof, to read as follows:

§ 6216. City university of New York senior college budget process. 1. For the purposes of this section the term “approved programs and services” shall mean and include all programs and services provided by the senior colleges except for campus schools or other elementary or secondary schools which receive state aid under other provisions of law, provided that all such programs have been approved as a part of the master plan of the city university and as a part of the regents plan for higher education or general revision thereof pursuant to section two hundred thirty-seven of this chapter.

2. For each city fiscal year, the chancellor of the city university shall prepare a proposed operating budget for all approved programs and services of the senior colleges with such information and in such form as shall be required by the state director of the budget. Such proposed operating budget, after approval by the board of higher education, shall be submitted to the governor by the first day of October of each year, with copies at such time to the state director of the budget, the legislative fiscal committees and the director of the office of management and budget of the city of New York.

3. The governor shall submit his recommendations with respect to such city university of New York senior college operating budget to the legislature as part of the state purposes portion of the executive budget.
4. The city university of New York senior colleges shall receive as state aid during each state fiscal year such sum as may be appropriated therefor by the legislature. Such appropriation shall be paid, pursuant to its terms, in quarterly installments.

5. The city university shall submit, in such form as may be required jointly by the state director of the budget and the director of the office of management and budget of the city of New York, monthly expenditure and revenue reports and a detailed annual financial report within one hundred twenty days of the end of its fiscal year to the state director of the budget and the director of the office of management and budget of the city of New York, with copies to the legislative fiscal committees at such time.

6. The state comptroller shall annually audit the senior college annual financial report and shall make a report as soon as practicable thereon to the governor, the temporary president of the senate, the speaker of the assembly and the mayor of the city of New York.

§ 6. Sections sixty-two hundred seventeen and sixty-two hundred eighteen of such law are hereby renumbered to be sections sixty-two hundred nineteen and sixty-two hundred twenty, and two new sections, to be sections sixty-two hundred seventeen and sixty-two hundred eighteen, are hereby inserted therein, to read, respectively, as follows:

§ 6817. Admission of non-residents of New York city to city university of New York community colleges. 1. In addition to admitting residents of New York city, each city university of New York community college shall, in accordance with the provisions of this section, admit non-residents of New York city as students.

2. The methods and procedures for the admission of such non-resident students to the city university of New York community colleges shall be in accordance with the provisions of section sixty-three hundred five of this chapter. Notwithstanding any inconsistent provision of law, any reference contained in such section sixty-three hundred five to the state university trustees or to the chancellor of the state university of New York shall, for the purposes of this section, be deemed to mean and refer to the board of higher education of the city of New York and the chancellor of the city university of New York, respectively.

§ 6818. Admission of non-residents of New York city to city university of New York senior colleges; provision for payment of tuition and fees. 1. In addition to admitting residents of New York city, each city university of New York senior college shall, subject to conditions prescribed by the board, admit as students non-residents of New York city.

2. The board may charge city university of New York senior college students who are not residents of New York city sufficient tuition and fees to cover up to two-thirds
of the operating costs per student; provided, however, that for the nineteen hundred seventy-six-seventy-seven fiscal year of the city university such tuition and fees shall not exceed those payable by such non-resident students for the nineteen hundred seventy-five-seventy-six fiscal year.

Counties in which such senior college students reside may elect to pay all or a portion of such tuition and fees on behalf of such students. Where such an election has been made, the board may charge to and collect from each county within the state that has issued a certificate or certificates of residence pursuant to subdivision three of this section the amount so elected by such county.

3. The chief fiscal officer, as defined in section 2.00 of the local finance law, of each county that has elected to pay such tuition and fees shall, upon application and submission to him of satisfactory evidence, issue to any person desiring to enroll in a city university of New York senior college as a non-resident student, a certificate of residence showing that said person is a resident of said county. If the chief fiscal officer of a county refuses to issue such a certificate on the ground that the person applying therefor is not a resident of such county, the person applying may appeal to the secretary of state. The secretary of state shall make a determination after a hearing, upon ten days' notice to such chief fiscal officer of the county, and such determination shall be final and binding on the county. Such person shall, upon his registration for each college year, file with the college such certificate of residence issued not earlier than two months prior thereto, and such certificate of residence shall be valid for a period of one year from the date of issuance.

4. If, pursuant to subdivision two of this section, the board elects to charge to and collect up to two-thirds of the operating costs per student from each non-resident student, the president of each city university of New York senior college shall, within thirty-five days after the commencement of each college term, submit to the chancellor of the city university a list of non-resident students attending such senior college as of the twenty-fifth day after the commencement of the college term who have submitted certificates of residence and, on the basis of the portion of the tuition and fees which the counties specified in such certificates have elected to share, a statement of the amount due and payable by each county. The chancellor of the city university shall bill the chief fiscal officer of each county for the amount due and payable by such county as set forth in such statement. The amount billed to the chief fiscal officer of each county shall be paid to the board by the billed county no later than sixty days after the county receives said billing.

5. Amounts payable to the board by a county pursuant to this subdivision shall be a general county charge; provided, however, that with respect to the amounts paid to
the board a county may charge back such amounts in whole or in part to the cities and
towns in the county in proportion to the number of city university of New York
senior college students who, on the basis of certificates of residence issued by such
county, were attending a city university of New York senior college as non-residents
of the city of New York during the terms for which the county has been charged, and
who were residents of each such city or town at the beginning of such terms.

§ 7. a. For the nineteen hundred seventy-six-seventy-seven fiscal year of the
city university of New York, such university shall continue to implement a
program of full opportunity in the community colleges in accordance with
paragraph a of subdivision one of section sixty-three hundred four of the
education law.

b. For the nineteen hundred seventy-six-seventy-seven fiscal year of the city
university of New York, notwithstanding the provisions of this act or any other
law to the contrary, programs to expand opportunities in the senior colleges and
community colleges of the city university of New York for the educationally and
economically disadvantaged, in accordance with chapter nine hundred
seventeen of the laws of nineteen hundred seventy, shall be maintained at the
level supported by the state appropriation therefor, as set forth in section two of
this act and in accordance with the provisions thereof.

§ 8. a. The board of higher education of the city of New York shall submit to
the New York state emergency financial control board, the director of the
budget for the state and the director of the office of management and budget of
the city of New York a detailed financial plan of its projected expenditures and
revenues for such university's nineteen hundred seventy-six-seventy-seven
fiscal year, in such form and at such time as such control board, in consultation
with the state director of the budget, shall require. The special deputy compt-
troller for the city of New York shall audit the implementation of such plan on
a continuing basis and submit monthly reports thereon to such control board,
the director of the budget for the state and the director of the office of
management and budget of the city of New York, the chairman of the senate
finance committee and the chairman of the assembly ways and means com-
mittee.

b. The board of higher education in the city of New York is hereby prohibited
from closing or restructuring any constituent college or campus school of such
university during its nineteen hundred seventy-six-seventy-seven fiscal year:
(a) in the event that either house of the legislature disapproves of such closing or
restructuring or (b) unless such closing or restructuring is pursuant to a
resolution adopted prior to April thirtieth, nineteen hundred seventy-six. While
the legislature is in session, such disapproval shall be evidenced by the passage
in either house of the legislature of a resolution disapproving such closing. After
the legislature has adjourned sine die, such disapproval shall be evidenced by
the disapproval of the chairman of either of the fiscal committees. Consent will
be assumed unless such disapprovals occur within thirty days after submission
of the statement of closing or restructuring to the legislature by the city univer-
sity.

§ 9. The state director of the budget in consultation with the comptroller of
the state and city of New York, the state commissioner of education, the
chancellor of the state and city universities of New York, the director of the off-

cice of management and budget of the city of New York, the chairmen of the
senate finance and higher education committees and the chairmen of the
assembly ways and means and higher education committees, shall develop a
plan for the state and city universities of New York for a uniform system of ac-
counting, cash flow analysis, expenditure control and other management infor-

mation systems including but not limited to data on enrollment, admissions,
retention, faculty productivity, personnel and collective negotiation practices.
The state director of the budget is hereby authorized to direct such universities
to implement such plan at the earliest practicable time, but not later than July
first, nineteen hundred seventy-seven; provided, however, the state director of
the budget shall require the furnishing of preliminary data with respect to the
foregoing management information for the nineteen hundred seventy-
six-seventy-seven academic year not later than February first, nineteen
hundred seventy-seven.

§ 10. The city of New York is hereby authorized to establish and implement
a supplemental tuition assistance program for residents of such city who are
matriculated students at the city university of New York. The amount of such
assistance shall be excluded in computing tuition assistance program awards
pursuant to section six hundred sixty-seven of the education law.

§ 11. Notwithstanding any inconsistent provision of law, general, special, or
local, the terms of the present members of the board of higher education in the
city of New York in office on the effective date of this section shall expire on the
thirtieth day of June, nineteen hundred seventy-six.

§ 12. Section sixty-two hundred two of the education law is hereby repealed
and a new section sixty-two hundred two is hereby inserted therein, in lieu
thereof to read as follows:
§ 6902. Board of higher education. The board of higher education in the city of New York is hereby continued. Such board of higher education shall govern and administer the city university of New York. Such board shall consist of fifteen members, seven of whom shall be appointed by the governor with the advice and consent of the senate and seven of whom shall be appointed by the mayor of the city of New York. Such fourteen members shall appoint one additional member. The chairpersons of the university student senate and the university faculty senate of the city university of New York shall serve as ex officio non-voting members of the board. Except as to the authority to cast votes such non-voting members shall be afforded the same parliamentary privileges as are conferred upon voting members. Such ex officio non-voting members shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the voting members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. A chairman and vice chairman shall be selected by the appointed members of the board from among its voting membership. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, a successor shall be chosen in the same manner as was the member whose office became vacant, to serve for the balance of the term.

Any member of the board appointed by the governor or by the board may be removed by the governor, and any member appointed by the mayor may be removed by the mayor, in all cases upon proof either of official misconduct or neglect of official duties or of any conduct in any manner connected with his official duties or otherwise which tends to discredit his office, or the school system, or for mental or physical incapacity to perform his duties, but before such removal he shall receive due and timely notice in writing of the charges and a copy thereof and shall be entitled to a hearing on like notice before the governor or the mayor, as the case may be, and to the assistance of counsel on such hearing. The terms of office of each such member shall expire on June thirtieth, nineteen hundred seventy-nine.

§ 13. Notwithstanding the provisions of section thirty-nine of the public officers law or any other provision of law to the contrary, an appointment to the board of higher education in the city of New York, created by section twelve of this act, made by the governor during calendar year nineteen hundred seventy-six shall be deemed to have been made while the senate is not in session.

§ 14. A temporary state commission is hereby created to be known as the temporary commission on the future of postsecondary education in New York state. The commission shall consist of nineteen members appointed as follows:
seven by the governor; three each by the temporary president of the senate and
speaker of the assembly; and two each by the senate and assembly minority
leaders, and the mayor of the city of New York. Vacancies shall be filled in the
same manner as the original appointment. The governor shall designate a
chairman and a vice chairman from among the members of the commission.

b. It shall be the duty of the commission to conduct a comprehensive study
of: the structure, mission and scope of the city university, the relationship of
such university to the city and state of New York and to other institutions of
public and private postsecondary education in the state, with special emphasis
on the continuance of its special mission to the communities and constituencies
of New York city; the criteria for determining parity of funding between the
city university of New York and the state university of New York; and the
funding mechanism for payment of city university of New York debt service for
capital construction.

The commission shall further conduct a comprehensive study of the structure
and scope of public and private postsecondary education in the state, with
special emphasis on the financing of public and private education and the in-
terdependent relationship between the two sectors. The commission shall
recommend a detailed plan of action embodying the findings of its studies.

c. For the accomplishment of its purposes, the commission shall be authori-
zed and empowered, to undertake any studies, inquiries, surveys or analyses it
may deem relevant through its own personnel, or in cooperation with any public
or private agencies including educational, civic and research organizations,
colleges, universities, institutes or foundations.

d. The commission may employ and at pleasure remove such personnel as it
may deem necessary for the performance of its functions and fix their compen-
sation within the amounts made available by appropriation therefor. The com-
mission may meet within and without the state and shall have all the powers of a
legislative committee under the legislative law.

e. No member of the commission shall be disqualified from holding any other
public office or employment including that as a member of the legislature nor
shall he forfeit any such office or employment by reason of his appointment
hereunder notwithstanding the provisions of any general, special or local law to
the contrary.

f. The members of the commission shall receive no compensation for their ser-
ices but shall be allowed their actual and necessary expenses incurred in the
performance of their duties hereunder.
g. The commission may request and shall receive from any department, division, board, bureau, commission or other agency of the state or any municipal corporation or institution of higher education chartered by the regents of the state of New York, such assistance and data as will enable it to properly carry out its powers and duties hereunder.

h. The commission is hereby authorized and empowered to make and sign any agreements, and to do and perform any acts that may be necessary, desirable or proper to carry out the purposes and objectives of this act.

i. The commission shall make a preliminary report of its activities hereunder to the governor and the legislature on or before December fifteenth, nineteen hundred seventy-six; and a final report on or before September first, nineteen hundred seventy-seven. The commission shall also make recommendations for any changes in law it may deem necessary or desirable.

§ 15. Separability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 16. This act shall take effect immediately, except that sections four and five shall take effect on September first, nineteen hundred seventy-six and sections six and twelve shall take effect July first, nineteen hundred seventy-six; provided, however, that notwithstanding the repeal of sections sixty-two hundred fifteen and sixty-two hundred sixteen of the education law by sections four and five of this act, such sections shall continue in full force and effect for all purposes in connection with the appropriations to the city of New York for operating expenses of the city university of New York made by chapter fifty-three of the laws of nineteen hundred seventy-six entitled "AN ACT (Local Assistance Budget)," as amended by this act.
Open Meetings (Sunshine) Law of 1976
Chapter 511
MEMORANDUM

15 February 1977

TO:    Felix G. Rohatyn

FROM:  Marilyn F. Friedman

RE:    Sunshine Law - Red Alert

Annexed hereto is a Report to the Legislature on the Open Meetings Law, issued by the Committee on Public Access to Records of the State of New York. In the report, the Committee proposes that the State Legislature amend the Sunshine Law in various respects. The following proposed amendments might affect MAC:

1. A "meeting," presently defined as "the formal convening of a public body for the purpose of officially transacting public business" would be defined as "the convening of a public body for the purpose of discussing public business." The purpose of this amendment is to preclude "gatherings" by a Board of Directors in the absence of the public.

2. A provision would be included in the Sunshine Law to the effect that "a public body shall vote only during an open meeting." The purpose of this amendment is to assure that a Board, permitted to consider certain subjects in executive session, must conduct voting thereon in public. It should be noted that no provision is made for exceptions under this proposal so that decisions by the Board with respect to litigation tactics or the terms of a proposed underwriting or an exchange offer might have to be made public.

We will continue to monitor the Committee's activities. Please advise as to whether you wish us to take any action with regard to the Committee's proposals.

MFF/ mp
Attachment
The enactment of the Open Meetings Law in 1976 represented a major step forward in opening the deliberative processes of public bodies to the people they serve and represent. Although the statute is new and will have been in effect for only one month at the date of submission of this report, numerous problems have arisen regarding the interpretation of the Law.

In view of these difficulties in interpreting the Law, the Committee believes that the Legislature should act to improve the Law in a manner that would give effect to the remedies the Law seeks to accomplish and would avoid the necessity of clarifying the Law by means of judicial review. As such, the Committee urges the Legislature to enact the reforms that are described below.

PROBLEMS AND SOLUTIONS

Section 92 - Definitions
Subdivision 1

Problem:

The Law defines "meeting" as "the formal convening of a public body for the purpose of officially transacting public business." Numerous questions have arisen regarding this definition, particularly with respect to the phrases "formal convening" and "officially transacting public business." Many reports indicate that the two phrases

*It is the statutory responsibility of the Committee on Public Access to Records to review the implementation and operation of the Open Meetings Law no later than February 1.
have been used by public bodies as a means of circumventing the Law. Several public bodies have adopted practices whereby they meet as a body in closed "work sessions," "agenda sessions," "organizational meetings" and the like, during which they discuss public business but take no action. It is during these "work sessions" that the true deliberative process which is at the heart of the Open Meetings Law occurs. Stated simply, if work sessions and the like are closed to the public, the Open Meetings Law may in many cases be all but meaningless.

It is the opinion of the Committee that "meeting" should currently be construed to include any situation wherein each member of a public body is given reasonable notice that the body will meet at a specific time and place and that, following notification, at least a quorum of the body convenes for the purpose of discussing public business. As such, the Committee believes that "work sessions" and similar gatherings are meetings within the scope of the Law. However, the Law should be amended in order that inclusion of such gatherings are without question subject to the Law.

Solution:

"Meeting" should be amended to mean "the convening of a public body for the purpose of discussing public business."

This definition would avoid problems of interpreting the nature of a "formal" convening and construction of the term "transact," which, according to an ordinary dictionary definition, means merely to discuss.

Subdivision 2

Problem:

Questions have arisen under the definition of "public body" with respect to status of advisory bodies and the quorum requirement contained in the definition.
It is the Committee's opinion that advisory bodies are subject to the Open Meetings Law, but that the definition should be amended to remove any lack of clarity. Additionally, there is no necessity that reference be made to the requirement of a quorum, since "quorum" is clearly defined by the General Construction Law, Section 41*.

Solution:

"Public body" should be amended to mean "any entity consisting of three or more members which performs a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-six of the General Construction Law."

Section 94 - Public Notice

Although the public notice provisions lack specific standards, it is probable that specificity would be inappropriate. The Law includes several thousand public bodies within its scope. Since these bodies have varying sizes, constituencies and problems of implementation, the reasonable standards set forth in Section 94 should remain in effect until there is evidence that they are unworkable.

*"Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of the whole number of such persons or officers, at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, shall constitute a quorum and not less than a majority of the whole number may perform and exercise such power, authority or duty. For the purpose of this provision the words "whole number" shall be construed to mean the total number which the board, commission, body or other group of persons or officers would have were there no vacancies and were none of the persons or officers disqualified from acting."
Section 95 - Executive Sessions
Subdivision 1

Problem:

Executive sessions may be conducted to discuss any of the subjects listed in paragraphs (a) through (h) of the subdivision. However, once a public body has entered into executive session, it may vote in executive session, unless the vote pertains to an appropriation of public monies.


Among the subjects that may be considered in executive session, paragraph (f) has resulted in substantial difficulties in interpretation. That paragraph states that a public body may enter into executive session to discuss:

"f. the medical, financial, credit or employment history of any person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of any person or corporation ..."

The quoted provision pertains to the private details concerning a person or corporation. The Committee believes that the privacy aspects concerning individuals and corporations should be distinguished. As such, this provision should be modified by removing the reference to corporation in paragraph (f) and by adding an additional subject that may be considered in executive session pertaining to disclosures regarding corporations.
Solution:

Section 95 should be amended as follows:

1. "(U)pon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only...

   (f) the medical, financial, credit or employment history of any person, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of any person;...

   (i) matters pertaining to investments or to the financial or credit history of a corporation, but only when premature disclosure would adversely affect the financial status of a corporation...

3. A public body shall vote only during an open meeting."

Section 96 - Minutes

Problem:

Due to the amendments contained in Section 95, the provisions pertaining to minutes must be amended accordingly.

In addition, the amendments offered would solve problems arising under the existing Law. For example, under the existing provision, minutes of meetings of public bodies must be made available "in accordance with, and to the same extent and in the same manner as is authorized for governing bodies" by the Freedom of Information Law. The Freedom of Information Law provides access to minutes of meetings of governing bodies [Public Officers Law, Section 88(1)(c)]. However,
it is clear that the definition of "public body" in the Open Meetings Law [Section 92(2)] includes governing bodies as well as committees and subcommittees (see Transcript of Assembly proceedings, May 20, 1976, pages 6268 to 6270). Therefore, there are more public bodies subject to the Open Meetings Law than there are governing bodies subject to the Freedom of Information Law. As such, there is a conflict between the two statutes.

Moreover, the voting record required to be compiled as proposed in subdivision (2) below clarifies the requirement that has existed under the Freedom of Information Law, Section 88(5), since enactment of that statute.

Solution:

Section 96 should be amended as follows:

"1. Minutes shall be taken at all meetings of a public body which shall consist of a record or summary of all motions, proposals, resolutions and any other matter voted upon;

2. A voting record consisting of a record of votes of each member of a public body in any action in which the member votes and minutes shall be maintained and made available within one week of a meeting."

Section 97 - Enforcement
Subdivision 1

Problem:

The second paragraph of subdivision 1 states that:

"(A)n unintentional failure to fully comply with the notice provisions...shall not alone be grounds for invalidating any action taken at a meeting of a public body."

Under the terms of the quoted provision, it would be all but impossible to prove that a failure to provide notice was "unintentional."
REPORT TO THE LEGISLATURE
February 1, 1977
Page -7-

Solution:

Delete "unintentional" from the second paragraph of subdivision (1) of Section 97.

Section 98 - Exemptions
Subdivision 1

Problem:

The existing section states that the Open Meetings Law does not apply to three areas of discussion. One of the areas to which the Law does not apply is "judicial or quasi-judicial proceedings." What is quasi-judicial is unclear and in some instances, the functions of a public body overlap in such a manner that it is difficult to distinguish among quasi-judicial, quasi-legislative and administrative functions.

It is the Committee's belief that the exemption for quasi-judicial proceedings was written to permit closed sessions when the rights of individuals are involved.

Solution:

Subdivision 1 of Section 98 should be amended as follows:

"1. judicial proceedings or quasi-judicial proceedings in which a public body hears or determines controversies concerning the rights of an individual pursuant to the requirements of due process of law..."
Law. This factor has resulted in problems of interpretation because Section 98, which pertains to exemptions, is also exclusionary. That section states that none of the provisions of the Open Meetings Law are applicable with respect to the three areas of discussion. As such, there is a conflict between Sections 98 and 100(2). One specific instance in which this conflict has arisen pertains to town and village zoning boards of appeals. It is likely that zoning boards of appeals in some respects perform quasi-judicial functions. Therefore, in those respects it would appear that such proceedings would fall outside of the scope of the Open Meetings Law. However, existing provisions of both the Town Law (Section 267) and the Village Law (Section 7-712) provide that meetings of zoning boards of appeals shall be open to the public.

Solution:

Section 100 should be amended by adding a new subdivision stating that:

"(4) Conflicts of laws shall be construed in favor of the openness of meetings of public bodies."

REACTION TO THE OPEN MEETINGS LAW

Shortly after the enactment of the Open Meetings Law, governmental entities subject to the Law, the public and the news media demonstrated considerable interest in the Law. This interest has grown from month to month.

Since September 1, 1976, the Committee has received approximately 150 items of written correspondence relative to the Open Meetings Law. In addition to written correspondence, there have been numerous oral inquiries concerning the interpretation of the Law. Between December 1, 1976, and January 20, 1977, there were approximately 350 telephone inquiries regarding the Open Meetings Law directed to the Committee. It is anticipated that interest in the Law will increase as growing numbers of the public realize that there is a right of access to meetings of public bodies.
COMMITTEE ACTIVITY

The Committee's initial action with respect to implementation of the Open Meetings Law involved mailing copies of the Law appended to an introductory memorandum in which the Committee offered its services to public bodies throughout the state. This initial communication was sent to more than 6500 public bodies in the state. Among the public bodies that received copies of the Law and the memorandum were:

-- public bodies operating within state government;
-- public bodies operating within New York City government;
-- county executives, managers and clerks of legislatures;
-- county planning boards;
-- mayors of cities and city managers, council presidents, and administrators, city planning boards and zoning boards;
-- town planning boards and zoning commissions;
-- village mayors, deputy mayors and managers;
-- village planning and zoning boards;
-- chairmen of county fire advisory boards;
-- boards of fire commissioners (fire districts);
-- New York State Fire Safety Advisory Board;
-- firemen's associations;
-- superintendents of city and village schools; and
-- district superintendent of schools.
The executive director of the Committee has made several addresses and conducted numerous workshops on the Open Meetings Law. These presentations have been given to various interest groups throughout the state, including associations of governmental officials, the public and the news media. The groups addressed or soon to be addressed include:

-- County Officers' Association;
-- training school for municipal clerks and fiscal officers conducted concurrently by the New York State Conference of Mayors and the New York State Department of Audit and Control;
-- New York State School Boards Association;
-- New York State Bar Association;
-- central New York news media;
-- Westchester County Municipal Information Services;
-- Albany Law School;
-- Common Cause (Schenectady and Buffalo Chapters);
-- League of Women Voters (Buffalo Chapter); and
-- Sigma Delta Chi, Western New York Chapter (Society of Professional Journalists).

Pursuant to the Committee's authority to render advisory opinions, the executive director has prepared approximately thirty advisory opinions at the request of government officials, the public and the news media. The advisory opinions have considered the following topics:

-- the status of work sessions, planning sessions and the like;
-- discussions concerning handicapped children by boards of education and boards of cooperative education services;
definitions of "meeting," "public body," and "executive session;"

-- the extent to which libraries are subject to the Law;

-- the definition of public body with regard to entities performing quasi-judicial functions;

-- public notice;

-- minutes;

-- collective bargaining negotiations;

-- disciplinary action; and

-- corporate investments.

COMMITTEE PLANS FOR THE FUTURE

Owing to the vagueness of several provisions in the Open Meetings Law, it is likely that the Committee will itself hold open meetings to consider problems relative to those provisions and publicly resolve the manner in which the Law should be interpreted.

As stated at the outset, the Open Meetings Law has been in effect for only one month. The Committee has opted to provide public bodies with a reasonable amount of time to become familiar with the Law before issuing the model rules pertaining to public notice (Section 94) that are required to be prepared pursuant to Section 99(3) of the Law. The Committee recognizes that the scope of the Law includes thousands of public bodies having different sizes, different constituencies and different problems of implementation. The most appropriate means by which notice is provided by a public body having statewide authority may be very different from the means by which a public body with limited authority can provide the requisite notice. For example, there are communities in rural districts that must provide notice to the news media, even though there may be no newspaper of general circulation or broadcast medium within fifty miles of the seat of the public body.
In order to prepare model regulations pertaining to public notice that would have reasonable applicability to all public bodies throughout the state, information will be gathered from public bodies to determine the most appropriate model or models. As such, after the Law has been in effect for a reasonable period of time, a questionnaire will be sent to public bodies of varying sizes, authority and location to determine the means by which public notice has been provided and to learn the problems and needs of bodies subject to the Law.
MEMORANDUM

February 2, 1977

To: All New York State Public Authorities

From: Barbara G. Kaplan, General Counsel, NYSERDA

Re: NYSERDA 1977 Legislative Proposal #1

Proposed Amendment to the Public Authorities Law in Relation to Permitting Personal Attendance at Authority Meetings by Electronic Means

Comments received on NYSERDA's proposed addition to the Public Authorities Law to permit attendance at Authority meetings by electronic means indicate a preference for limiting such attendance to special meetings only. The consensus appears to be in favor of requiring physical attendance at regular Authority meetings and reserving telephone participation for meetings called on short notice.

Therefore, I am submitting an amended proposal to this effect, a copy of which is enclosed herewith.

BGK:mvp
Enclos.

cc: Janice Corr
    F. William Valentino
    Cita Simian
AN ACT to amend the public authorities law in relation to action by a public authority or a public benefit corporation.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public authorities law, title two of article eight thereof, is hereby amended by adding thereto a new section, to be section two thousand five hundred twenty-eight to read as follows:

When authorized by the by-laws, any one or more members of a public authority or other public benefit corporation may participate in any special meeting duly held by such authority or corporation by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. The proceedings at a meeting of members of a public authority or other public benefit corporation in which one or more members participate by conference telephone or similar communications equipment shall be electronically amplified at the premises in which such meeting is held. Participation of a member by such means shall constitute presence in person at a meeting.

2. This act shall take effect immediately.

EXPLANATION--Matter underscored is new.
To Members of the Public:

New York State's Open Meetings Law, signed by Governor Carey on July 30, 1976, provides a significant opportunity to bring government closer to the people it serves.

As of January 1, 1977, the meetings of public bodies in New York are open to the general public. As a result, citizens can observe the conduct of public business and can attend and listen to the deliberations that result in the making of public policy.

Under the provisions of the Open Meetings Law, members of the general public are entitled to attend and observe official meetings, but the Law does not entitle the general public to participate in a meeting or to address the public officials in attendance. However, if public bodies have adopted by-laws or rules of procedure for the conduct of their business, those by-laws or rules are available for inspection by members of the public.

The Committee on Public Access to Records is charged with reviewing the implementation and operation of the Open Meetings Law. As a member of the Committee, let me invite your observations and suggestions so that the Committee will have the benefit of public comment on these matters.

Written inquiries as to the operation of the Open Meetings Law may be addressed to the Committee on Public Access to Records, 162 Washington Avenue, Albany, New York 12231.

MARIO M. CUOMO
SECRETARY OF STATE
January 10, 1977

Mr. Eugene Keilin  
Executive Director  
Municipal Assistance Corporation  
Two World Trade Center  
Room 4540  
New York, New York 10047  

Dear Gene:

Thank you for sending me the memorandum (together with attachments) dated December 29, 1976 from Barbara G. Kaplan, General Counsel, NYSERDA, addressed to all New York State Public Authorities. I believe that the proposal for attendance and participation by members of public authorities by means of telephonic communication, is a useful clarification of present law. Accordingly, I think that the proposed statute should be acceptable to MAC. I note, however, that in special circumstances members of the MAC Board have participated in certain meetings by means of telephonic communication in the past.

Please let me know if you have any questions.

Sincerely,

[Signature]

Allen L. Thomas
AN ACT

To amend the Public Officers Law, in relation to open meetings of public bodies performing governmental functions for the State or a public corporation.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article seven and sections ninety-nine, ninety-one, and ninety-two of the Public Officers Law, such article having been renumbered by chapter five hundred seventy-eight of the laws of nineteen hundred seventy-four, are hereby renumbered as article eight and sections one hundred five, one hundred six and one hundred seven, respectively, and a new article seven is hereby inserted therein, to read as follows:

ARTICLE 7
OPEN MEETINGS LAW

Section 90. Legislative declaration. It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the governmental will prosper and enable the governmental process to operate for the benefit of those who created it.

§ 91. Short title. This article shall be known and may be cited as "Open Meetings Law".

§ 92. Definitions. As used in this article, "Meeting" means the formal act of a public body for the purpose of officially transacting public business.
2. "Public body" means any entity, for which a quorum is required in order to transact public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-five of the general construction law.

3. "Executive session" means that portion of a meeting not open to the general public.

§ 93. Open meetings and executive sessions. Every meeting of a public body shall be open to the general public, except that an executive session of such body may be called and business transacted thereof in accordance with section ninety-five of this article.

§ 94. Public notice. 1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the public and news media at least seventy-two hours before such meeting.

2. Public notice of the time and place of every other meeting shall be given, to the extent practicable, to the public and news media at a reasonable time prior thereto.

3. The public notice provided for by this section shall not be construed to require publication as a legal notice.

§ 95. Conduct of executive sessions. 1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken in appropriate public manner:

a. matters which would imperil the public safety if disclosed;

b. any matter which may disclose the identity of a law enforcement agent or informer;

c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;

d. discussions regarding proposed, pending or current litigation;

e. collective negotiations pursuant to article fourteen of the civil service law;

f. the medical, financial, credit or employment history of any person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of any person or corporation;

g. the preparation, grading or administration of examinations; and

h. the proposed acquisition, sale or lease of real property, but only when publicity would substantially affect the value of the property.

2. Attendance at an executive session shall be permitted to any member of the public body and any other person authorized by the public body.

§ 96. Minutes. 1. Minutes shall be taken at all open meetings of a public body.
which shall consist of a record or summary of all actions, proceedings, resolutions and any other matter formally voted upon and the vote thereon.

3. Minutes shall be taken at executive sessions of any action that is taken by formal vote which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary shall not include any matter which is not required to be made public by the provisions of information law as added by article six of this chapter.

4. Minutes of meetings of all public bodies shall be available to the public in accordance with, and to the same extent and in the same manner as is authorized for governing bodies by the provisions of the freedom of information law as added by article six of this chapter, except that minutes taken pursuant to subdivision two of this section shall be available to the public within one week from the date of the executive session.

§ 97. Enforcement. 1. Any aggrieved person shall have standing to enforce the provisions of this article against a public body by the commencement of a proceeding pursuant to article seventy-eight of the civil practice law and rules, and/or an action for declaratory judgment and injunctive relief. In any such action or proceeding, the court shall have the power, in its discretion, upon cause shown, to declare any action or part thereof taken in violation of this article void in whole or in part.

An unintentional failure to fully comply with the matters provisions required by this article shall not alone be grounds for invalidating any action taken at a meeting of a public body. The provisions of this article shall not affect the validity of the authorization, acquisition, execution or disposition of a bond issue or notes.

2. In any proceeding brought pursuant to this section, costs and reasonable attorney fees may be awarded by the court, in its discretion, to the successful party.

3. The statute of limitations in an article seventy-eight proceeding with respect to an action taken at executive session shall commence to run from the date the minutes of such executive session have been made available to the public.

§ 98. Exemptions. Nothing contained in this article shall be construed as extending the provisions thereof:

1. judicial or quasi-judicial proceedings;
2. deliberations of political committees, conferences and caucuses; and
3. any matter made confidential by federal or state law.

§ 99. Committee on public access to records. The committee on public access to records, created by paragraph a of subdivision nine of section eighty-eight of this chapter, shall:

1. issue advisory opinions from time to time as, in its discretion, may be required to inform public bodies and persons of the interpretations of the provisions of the open meetings law; and


2. Review the implementation and operation of this article and report thereon not
later than February first of each year to the legislature together with such recommen-
dations as the committee deems advisable.

3. Prepare model rules, regulations, resolutions, ordinances or local laws which
may be adopted by public bodies for giving public notice of meetings to the public and
renew media in accordance with the provisions of section ninety-four of this article.

§ 100. Construction with other laws. 1. Any provision of a charter, administrative
code, local law, ordinance, or rule or regulation affecting a public body which is more
restrictive with respect to public access than this article shall be deemed superseded
hereby to the extent that such provision is more restrictive than this article.

2. Any provision of general, special or local law or charter, administrative code,
ordinance, or rule or regulation less restrictive with respect to public access than this
article shall not be deemed superseded hereby.

3. Notwithstanding any provision of this article to the contrary, a public body may
adopt provisions less restrictive with respect to public access than this article.

§ 101. Severability. If any provision of this article or the application thereof to
any person or circumstance is adjudged invalid by a court of competent jurisdiction,
such judgment shall not affect the validity of the other provisions of the arti-
cle or the application thereof to other persons and circumstances.

§ 2. This act shall take effect January first, nineteen hundred seventy-seven.
INDEX

ARTICLE 2—CONSTRUCTION; LAW REPEALED

§ 2 of this chapter; I, 1924, A & T

1924 Amendment.

WEATHER TO THE EFFECT

§ 8, 9, 10 of this chapter; I, 1924, A & T

Add § 1924, A & T.

§ 8, 9, 10 of this chapter; I, 1924, A & T

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Add § 1924, A & T.

§ 8, 9, 10 of this chapter; I, 1924, A & T

Add § 1924, A & T.
Stavisky-Goodman Education Bill

1976
TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 9035-A, entitled:

"AN ACT to amend the education law, in relation to minimum appropriations under austerity conditions for city school district purposes in cities having a population of one million or more"

NOT APPROVED

This bill would require the City of New York to allocate a minimum percentage of its expense budget funds to its Board of Education. At the request of the Board of Education the City would be required to make available the same percentage of its expense budget as the average percentage made available during the immediately preceding three years. The bill would apply during the City's current fiscal year from February 1, 1976, and prospectively thereafter.

During the past few years the ability of the City's educational system to provide quality services has been affected by the economies that the City's financial emergency has made necessary. It is the objective of this bill to protect the quality of the education available to the children of the City of New York from further erosion during this emergency. I also share this concern. The establishment and maintenance of the highest quality educational services possible is a common goal. However, mandating a minimum level of funding based upon historical budgetary precedent does not address the underlying problems besetting the City's educational system. It does not assure that a greater proportion of the funds available will be expended at the classroom level where they can be most effective. If we have learned anything during the past decade, it is that the mere availability of resources does not solve problems or result in quality programs. The way in which money is expended is as significant as the amount expended.

As we move further in time away from the crisis of last summer and fall there is a temptation to understate the City's financial emergency. However, the difficult and often unpopular steps that this state has taken is evidence of the severity of the emergency and of the seriousness, understanding and determination the Legislature brought to its resolution. These efforts encouraged and induced others to lend assistance, including the agreement of the federal government to extend $2.3 billion in loans to the City. This assistance was, and continues to be, conditioned upon the best efforts and good faith of the City and the State to do everything necessary to achieve a balanced City budget.

(more)
While education is appropriately a matter of state concern, we have traditionally provided a system of financing education that relies greatly upon local discretion. The necessity of preserving these local prerogatives has never been greater than at the present time. To be successful the City must continue to have the flexibility to allocate cuts. The Mayor of the City of New York, in expressing his opposition to this bill, has stated that it "would circumscribe the decision and budget-making powers of the Mayor, the City Council and the Board of Estimate." Indeed, the Emergency Financial Control Board, in a resolution, has warned that the bill "would have the effect of requiring the City to make further drastic cuts in other essential services" and that the "flexibility afforded the City...in determining the priorities and allocating aggregate expenditures in the three year financial plan is a critical element...in the attainment" of a balanced City budget.

At best this bill, as well intentioned as it may be, does little more than hold out false hopes to children, parents and educators. At worst, it risks the ability to achieve the fiscal goals that have been set for the City and breaks faith with those who have assisted in our efforts in reliance upon our good faith.

The impact of the City's financial circumstance on education, hopefully, can be lessened by the higher level of state aid to be made available this year. In approving a local assistance budget restoring $116 million to education aid, the City will be receiving approximately $37.5 million more than had previously been anticipated during the state's fiscal year.

Because the bill threatens to undermine the integrity of the City's financial plan, it may be detrimental to the cause of education. A strong, viable and revitalized New York City is essential if education is to prosper. It would be little benefit to assure the Board of Education of a fixed percentage of an ever shrinking budget.

Disapproval has been recommended by the Mayor of the City of New York, the Emergency Financial Control Board for the City of New York, the Citizens Budget Commission, Inc., the Citizens Union of the City of New York, the Citizens' Committee for Children of New York, Inc., the New York Chamber of Commerce and Industry, the New York State Catholic Conference, and the State Division of the Budget.

This bill is disapproved.

(Signed) HUGH L. CAREY
Governor Hugh L. Carey said today he has vetoed the Stavisky bill which would mandate New York City to allocate a minimum percentage of its expense budget to the Board of Education.

In signing the veto, the Governor declared that while the bill is "well-intentioned," it nonetheless "risks the ability to achieve the fiscal goals that have been set for the City."

"The establishment and maintenance of the highest quality educational services possible is a common goal," the Governor said further. "However, mandating a minimum level of funding based upon historical budgetary precedent does not address the underlying problems besetting the City's educational system."

The Governor noted that Mayor Abraham D. Beame opposed the Stavisky bill in the strongest possible language in a letter sent yesterday (March 17).

The Mayor said the bill "would circumscribe the Mayor, the City Council and the Board of Estimate."

In vetoing the bill, the Governor said he has asked Stephen Berger, newly appointed Executive Director of the Emergency Financial Control Board, to meet with Albert Shanker, President of the United Federation of Teachers and one of the strongest supporters of the proposal.

The Governor said that he has instructed Mr. Berger to meet with Mr. Shanker to discuss with him possible steps that can be taken, either in new legislation or through executive and management actions, to achieve the overall goal of the Stavisky bill; that is, the Governor said, the maintenance of quality education in the New York school system despite the pressures caused by recent heavy budget cuts necessitated by the city's current financial crisis.

The Governor said: "Albert Shanker as the leader of the teachers' union is uniquely prepared to recommend ways of maintaining and improving the level of quality education. Mr. Berger is particularly well suited by training and experience to make recommendations to the EFGB on ways to increase the quality of services in the City."

"These two, working in close association with Mayor Beame's administration and the Board of Education, can, I am confident, achieve the goals of the Stavisky bill to which we are all committed."

Following is the text of the Governor's veto message and of Mayor Beame's March 17 letter:
March 17, 1976

Honorable Hugh L. Carey,
Governor of the State of New York
Executive Chamber
State House
Albany, New York 12224

Dear Governor Carey:

I am writing to urge you to veto the Stavisky bill on education appropriations now before you (A9035A).

This bill requires that a fixed percentage of the City's total budget be allocated to the Board of Education. The approach is unrealistic because other required expenses are taking an increasing share of our decreasing resources. If we provide the Board of Education with this cloak of immunity, the burden of our necessary budget reductions would have to fall on police, fire, sanitation and other crucial services. The legislation grants home rule and would tie our hands when we face the greatest fiscal crisis in the City’s history.

As you know, the City has re-examined its anticipated level of required expenditures and its projected resources and, on that basis, amended the financial plan to show an increased deficit. When this bill was framed, it was assumed that the City would have to cut its budget and/or increase revenues by $724 million in three years. Now, we are faced with the task of saving $821 million in two years to achieve a balanced budget in fiscal 1977-78.

In this context, the bill would provide the Board of Education with more than $180 million annually beyond the amount currently contemplated in the financial plan. It would also have the devastating effect of increasing our $821 million deficit by more than $150 million.

I share the concern of the sponsors of this measure. I believe the legislation is well-intentioned, but it is also misguided. It imposes rigorous new demands without new resources in a time of retrenchment and austerity. This can only lead to the gravest inequities and dislocations that would seriously hurt the City, its institutions and its people.

Sincerely,

Abraham D. Beame
Mayor
CONTACT:   David Seeley 354 6100
FOR RELEASE:  AM's Friday, February 27, 1976

STAVISKY BILL NOT NEEDED ACCORDING TO PEA REPORT

The Public Education Association today released a position paper which analyzes the background of the controversial Stavisky education bill and concludes that the bill resulted from a "Garbage on the Streets" strategy, whereby an agency cuts where it hurts in order to stir up public support for new money. Labeling this strategy "irresponsible," PEA says that "from now on we have to cut where it will hurt the least, not where it will hurt the most."

The Stavisky-Goodman bill, passed overwhelmingly by both the State Assembly and the Senate, is threatened with a veto by Governor Carey. The teacher's union has threatened in turn a massive campaign to override a veto.

The PEA report points out that the recent disruptive classroom cuts, which provided the pressure for passage of the Stavisky bill, saved only $7 million. This amount could be found without the Stavisky bill by making further, long overdue, headquarters cuts, or by enforcing the wage freeze enacted by the Legislature last September.

The Emergency Financial Control Board is held partly to blame for the bill by not acting vigorously enough in enforcing the wage freeze and in following up on its rejection of the UFT contract last fall.

The report refers to a "credibility gap" regarding the claim that schools were cut more than other agencies, citing conflicting figures put out by the city and the Board on this point.

The report emphasizes that protection of the city's educational interests should be approached by guaranteeing a level of educational services rather than a level of funding, since "as we have learned through bitter experience this year, providing money to the Board of Education does not guarantee services to children, or jobs for teachers."
HUMAN NEEDS AND FISCAL CONTROL
BEFORE AND AFTER THE STAVISKY BILL

People in New York City—in Victor Gotbaum's phrase, "the people beneath the bottom line"—are being hurt. Both those providing human services and those receiving them are suffering from the city's fiscal retrenchment. Most New Yorkers resent the national priorities that result in billions for munitions, subsidies for mismanaged corporations—and the back of the hand for the nation's largest city. Yet New Yorkers also realize that the city has asked for some of what it's getting. It has spent money it does not have, and its leaders have made promises to citizens and employees that cannot be kept.

New York must restore order to the areas of the city's management over which it has control if it is to win general support for fair and reasonable solutions to its fiscal problems. This effort will call for sacrifices. But to some of us the sacrifices chosen by our city fathers have caused more human suffering than necessary, and have endangered institutions that are themselves essential to the city's recovery.

Some of the cuts made in our school system are examples—especially those made in the classroom and other direct pupil services. We feel they are unnecessary in terms of financial responsibility, inhumane in terms of the human suffering they have caused, and counterproductive in terms of the city's ultimate recovery. In our view, all responsible officials—the city administration, the Board of Education, the Governor and the Emergency Financial Control Board, the Legislature—have contributed to the schools' problems through delays, evasion of responsibility, and misguided decisions and actions.

Two main needs have to be filled if the city is to preserve its essential services: (1) to get enough funds to pay for these services—through such means as a federal takeover of welfare costs and a fairer state education aid formula—and (2) to make productive use of the money we do get. How well is the city meeting these needs?
The Stavisky-Goodman Bill Was Not a Solution

To take the latest effort first—the recent Stavisky-Goodman bill, pushed so hard by the Board of Education and the teachers union, would have accomplished neither of these purposes. Advocated by some as "a stopgap measure," it would have amended state law to guarantee the Board of Education at least as large a portion of the city's budget as it had over the previous three years. It would have brought no extra money to the city—merely required a shifting of funds from other city expenses—and it would not have required better use of the funds.

The immediate purpose of the bill was to stop the most recent round of classroom cuts, put into effect by the Board of Education for February 1. It was clear to most of us concerned with public education that, after the devastations our schools had already suffered this year, further classroom cuts were senseless in both human and financial terms. They saved little money—approximately $7 million out of a total budget of $2.8 billion—and they seriously endangered the future of public education in the city. The system can take only so much buffeting and chaos before the damage becomes irreparable.

The Stavisky-Goodman bill was a well-intentioned effort on the part of concerned legislators to respond to pressure, primarily from the Board of Education and the teachers union, who themselves offered no way to stop the February cuts except the customary demand for more money. Parents, teachers, and citizens were determined to stop the classroom cuts; the Board and the union went all-out for the legislation; and a bandwagon developed behind the bill. Almost no legislator could vote against it. It offered a focal point for mobilizing all those who wanted to fight for the public schools, and for the first time in a year of many defeats people were led into false hopes that at last there might be a victory for children.

It didn't work

But the effort failed. The cuts went through anyway. Whatever can be said about the bill's merits or faults, it didn't work. The children suffered again. And more teachers lost their jobs.

It couldn't work

Furthermore the approach was no real solution. As we have learned through bitter experience this year, providing money to the Board of Education does not guarantee services to children or jobs for teachers. The Board of Education, by its own figures, received almost the same amount of money in this year's "crisis" budget "for direct educational programs" as it had last year ($2,216,426,695 in 1974-1975 compared to $2,204,942,241 in the "crisis" budget); yet it claims it laid off over 10,000 teachers over the summer, and more in the fall. Part of this was due to unavoidable inflation, but much of it is due to an increase of over $175 million in funds for pensions, fringe benefits, and salary increments (again by the Board's own figures).
The choice this year was clear between (1) more jobs for more people to provide more services for children, and (2) more money for fewer people who could provide fewer services for children. This has been the bottom line for many people in the public schools this year, and the Board of Education and the union, despite their rhetoric about "putting children's interest first," have in fact put their power and their money behind increased benefits for fewer teachers at the expense of increased layoffs and devastating cuts in educational services to children.

Secret negotiations are now again under way for the Board of Education to pay further increases next year under a so-called "deferral agreement," that will again have to be paid for by more layoffs and service cutbacks. The proposed Board of Education budget for next year shows every sign of proceeding down the same disastrous path as its budgeting for this year, with no sign of giving priority to the preservation of an effective public school system. Guaranteeing money to the Board of Education is no answer.

It shouldn't work

Not only would the Stavisky-Goodman bill not accomplish its presumed purpose of guaranteeing a level of services for children, it would wreak havoc on the city's efforts to restore its financial health, and therefore could well end by actually hurting children. The Governor and the Mayor had to oppose the bill. If enacted, the bill would require the city to take $60 million away from police, fire, or other city agencies and give it to the Board of Education for the rest of this year, and to shift over $150 million on an annual basis. It would set the precedent that any agency unwilling to face up to hard priorities within its own budget could raise enough fuss to upset the city's financial plan and demand more for itself. Other city services and interest groups would obviously follow the Board's example and go to the Legislature to demand similar extra funding for themselves—from funds that don't exist. The Governor's strong opposition was a necessary signal to all city agencies that this is not a way to solve their problems.

The basic formula of the bill is faulty in any case. It sounds equitable to ensure that education retain the same percentage of the city's budget as it had over the previous three years, but if parts of the city budget such as debt service or welfare payments increase, as they have in New York City, then the only way education can retain its portion of the total budget is for police, fire, or other agencies to receive a smaller portion. Such proportions should not be determined by fixed formulas adopted in Albany without regard to the needs and costs in the various agencies.

Credibility Gap on "Unequal" Education Cuts

Furthermore, as the debate on the Stavisky bill proceeded, a credibility gap developed regarding the claim that the schools
had been cut more than other city services—a credibility gap that can only hurt education's cause. There are serious discrepancies in the information provided by the city and that provided by the Board of Education and the union.

School Dollar Cuts. According to city budget figures, the Board of Education has been cut less than most other city agencies in terms of the percentage of its budget. Official city figures indicate that over the past two years the education budget has been cut by less than 10%, whereas police, fire, and City University have suffered cuts averaging more than 12%.

The Board of Education complains that its dollar budget cuts are unfairly reported because the school budget has to pay for light and heat and the Fashion Institute of Technology, so that percentage comparisons are misleading. But city officials claim that even correcting for these factors, the Board of Education has suffered fewer dollar cuts than other agencies.

School Staff Cuts. The Board of Education and the union largely ignored the dollar question. Instead, most of the information supporting the claim that education had been cut more than other services is cast in terms of heavier staff cuts. This raises two questions: (1) Is the claim true? and (2) Why were such heavy staff cuts made?

A comparison of agency staff cuts is hard to come by. On February 13, the Daily News published a chart which showed the staff cuts in various agencies between December, 1974, and December, 1975. This chart indicated that the schools suffered fewer staff cuts than other agencies: Schools 10%, Hospitals 17%, Police 13%, Welfare 12%, Sanitation 16%, Fire 12%, Transportation 16%, Health Services 17%, Parks 22%, Correction 15%, and Housing 15%. The only service listed with fewer staff cuts than schools was higher education, with 9%, which is ironic, since CUNY's dollar cuts were among the most severe. The Board of Education says that the Daily News figures are "out of date" and fail to show many new layoffs, but other agencies say the same thing.

If the schools have suffered greater staff cuts, it is in large part because the Board of Education has increased its staff costs (cost per staff member) more than other agencies, so that the money available was able to pay for fewer staff. Some agencies, often with support from their unions, have put a higher priority on saving jobs and maintaining services.

The "Garbage On the Streets" Ploy

Looked at in retrospect, the Board and union effort to promote the Stavisky-Goodman bill was what we hope will be the "last hurrah" for a wornout and irresponsible ploy: When cuts are necessary, "cut where it hurts"; then stir up public support to get more money to restore the cuts. This "worked" from time to time before the city's fiscal crisis (if something that helped create the crisis can be said to have "worked"), but when the Board tried it last summer, it was a disastrous failure. The
Board made disproportionate classroom cuts under the "crisis" budget, hoping funds would be restored. They weren't, and thousands of low-seniority teachers lost their jobs.

Then the Board and the union tried it again in the strike settlement. One high Board of Education official said that the shortening of the school day would be the school system's "garbage on the streets"—meaning that by taking away visible services to children instead of something less harmful to the school system, the public would rise up and demand more money to restore the services—as they do when sanitationmen strike and there are mountains of garbage on the streets. The money wasn't forthcoming, and the children and the school system suffered.

The Stavisky bill represents the latest failure of this tired strategy. When the city had to make a further $200 million cut in annual expenses to balance the 1976 budget, it asked the Board in December to cut $39 million as its share. Since at that point only half a year's expenses had to be saved, less than $20 million had to be cut from this year's expenses. The Board, claiming to be hamstrung by city policy, made $7 million of these savings by further classroom cuts. To make such a choice in a budget of $2.8 billion means either of two things: (1) the city puts a very low priority on classroom services and the preservation of school stability, or (2) it was hoped once again, by "cutting where it hurts," to create political pressure to restore the funds. Tremendous pressure was developed for the Stavisky bill, which if enacted would not only have restored the $7 million in classroom cuts, but $53 million to permit the Board to restore headquarters cuts, teacher sabbaticals, transportation cuts, and other savings in the system. The ploy certainly "worked" in terms of creating the political pressure—so much so that legislators who knew the bill was wrong had to vote for it anyway. But it didn't work for the kids, or for the teachers who got laid off. The Board cut classroom teachers who never had to be cut, disrupted children's education once again, and risked the future of the school system for a political strategy that is as bankrupt as the city's treasury.

Where Do We Find $7 Million?

When we strip away the propaganda, we find that all the turmoil of this latest round of classroom cuts has come from the Board's unwillingness to cut $7 million from someplace other than classroom teachers. It is too late now to save us from the disruptions these unnecessary cuts have already caused, but it may not be too late to repair some of the damage.

The $7 million could have been found, and still could be found, from two main sources: (1) further cuts in headquarters staff, which were cut less than classroom teachers last summer and which should have been cut sharply over the past five years under decentralization and (2) enforcement of the wage freeze and collective bargaining restraints that were enacted by
the Legislature in September but which still remain unimplemented through bureaucratic inertia and behind-the-scenes political deals.

There are at least $50 million in dubious headquarters expenditures--some would argue there is much more--from which $7 million could be extracted. Whatever one's views of the central bureaucracy, it is hard to argue that all of its costs are of higher priority than preserving stability in the classrooms for the rest of this year.

There are also at least $30 million in this year's budget for salary increments ($1,000 for each teacher below the top step), cost-of-living increases ($300 per teacher), and increases in fringe benefits (including a $50 per teacher increase in the welfare fund), which the Board and the union still hope will be confirmed for payment to teachers this year by the Emergency Financial Control Board, despite the wage freeze. Final decisions on these increases have yet to be made, but some of this money could be used to restore classroom services. Most of the public had assumed that these funds would not be paid anyway, and many teachers either were already expecting them to be frozen or would prefer to see the funds used to save their schools rather than used for salary and benefit increases.

It is a hardship to stay on a level salary in a time of inflation, but many in private industry have had to do so. Furthermore many other city workers have had to make this kind of sacrifice. In the case of the city's largest union, District Council 37, only those earning under $15,000, were given small concessions to the hardships of inflation: less than $400 increases for those earning under $10,000 and less than $300 for those earning between $10,000 and $15,000. These were very modest increases, considering that people at these salary levels have much less margin for absorbing the costs of inflation and that many are earning very low salaries anyway.

Teachers, however, are in a different situation. Very few earn less than $15,000, and many are already at salaries $2,000 or $3,000 above their counterparts in the suburbs. (About half earn over $25,000 a year in salary and benefits.) It is very hard to justify a priority for raising these salaries further when the money has to come from laying off other teachers and making dangerous cuts in school services.

The Control Board Must Do Its Job

The Board of Education's job would be easier if the Emergency Financial Control Board would act more vigorously in carrying out its responsibilities. Without any further delay it should require the Board of Education to enforce the wage freeze, as provided in section 10 of the Financial Emergency Act, instead of letting city and union officials get away with endless discussions that postpone the day of tough decisions. While the discussions go on, the Board of Education has already started
paying out some of the increments ($500 for most teachers in the
fall), and is holding the remainder of the increase money un-
available for classroom services pending a new round of $500 in-
creases due on March 1 and final decisions on the other increases.

The Control Board should also follow up on the initiative it took
back in October, when it received the proposed new UFT contract
under section 7 of the Financial Emergency Act and rejected it
because it "gravely violates" the city's plans for fiscal recovery.
The Board of Education and the union have done nothing in response
to the Control Board's action, claiming that they are awaiting
more definitive instructions. Time is slipping by, and now not
only this year's budget but those of years to come are being
affected by the delay. The Board of Education is now negotiating
a "deferral agreement" under section 10 of the Financial Emergency
Act to determine which salary increases will be paid this year
and which next year and thereafter. The deal reported to be under
way in these secret negotiations would result in senior teachers
being able to retire after next year with $1,000-per-year increases
in their pension payments, to be paid every year for the rest of
their lives, even while additional low-seniority teachers are laid
off, and others denied all increments for two years, to pay for
the new salary increases of senior teachers. Money is already
tentatively being tucked away in the city's financial plan to pay
for this deal although city officials insist that these figures
represent no final decisions on the increases.

The Board of Education has complained bitterly this year that it
was forced to lay off large numbers of teachers in part because
a large portion of its budget is tied up in "obligations not
controlled by the Board." These obligations have more than
doubled in three years—from $460 million in 1973 to $973 million
this year. More than three-quarters of this increase, however,
represents increases for "pensions," "fringe benefits," and
collective bargaining. It is just these obligations that will
be increased further by the kind of "deferral agreement" being
worked out behind the scenes. And it is just this kind of deal
that the Control Board was set up to control. At a minimum,
the Control Board should immediately order a moratorium on any
deferral agreement until the whole matter can be looked into.
Anything that will increase the "obligations not controlled by
the Board" must be looked at with special care, and should be
allowed only if enough revenue is available to maintain necessary
services.

Protecting Educational Services in the Future

The sponsors of the Stavisky bill had hold of an important idea
in trying to protect educational services in the city. While
the Public Education Association could not support the specific
bill introduced by Mr. Stavisky, it applauded his initiative in
raising the issue in the Legislature. The PEA had helped to
bring together the city's major civic and educational groups in
November to impress the same point upon the Board of Regents:
"The state cannot stand by and see the constitutional rights of

PEA REPORTS 6:12
over one million children suspended because of the city's financial troubles.\textsuperscript{2} We called upon the Regents to assume responsibility for assuring that education did not deteriorate "below acceptable levels" in the state's largest school system, serving almost one-third of the state's public school students.

While the Stavisky bill was not an appropriate means for accomplishing this important goal, we suggest the following as an outline of the key elements of a proper approach:

1. Pass legislation to guarantee a level of services, rather than a level of funding, since funding does not guarantee services.

2. Restructure state aid so that New York City will get a fair share of state tax revenues to fund an adequate level of services. (See the Fleischmann Commission Report, Vol. I, and PEA REPORTS 4:20. Many of the ideas in the PEA report are now incorporated in a lawsuit to challenge the present formula.)

3. Increase the level of federal support for education, particularly in the cities, as part of a more responsible over-all federal urban policy.

4. Control the costs of education so that available funds can be devoted as fully as possible to educational services. This involves two important reforms: (1) reduce administrative overhead--the overhead ratio in New York State is one of the largest in the country (see Fleischmann Commission Report, Chapter 1) and (2) keep collective bargaining within reason--with increases in New York City salaries and benefits being held back until they are more in line with the New York metropolitan area (see Fleischmann Report, Chapters 1 and 13).

5. Rule out the "garbage on the streets" strategy as immoral and irresponsible. It will only hurt the service it is designed to help and undermine the city's chances for recovery. The ruling principle must be "priorities," priorities for preserving services--including education--which the city needs for survival. From now on we have to cut where it will hurt the least, not where it will hurt the most, and officials who play by the old rules must be held accountable and removed if they don't learn the new rules fast.
The Honorable Hugh L. Carey  
Governor  
State of New York  
State Capitol  
Albany, New York 12224  

Dear Governor Carey:

The press reports that the Stavisky bill faces "a near-certain veto" and that the Emergency Financial Control Board has opposed the bill because it would upset the city's financial plan and jeopardize the city's financial recovery.

There is a competing logic: there must be no further devastation of our educational system. Our children have suffered unfairly already. But there is another reason, more relevant to the financial crisis. At a meeting of leading business representatives of the city at the Regional Plan Association a strong school system was listed among the top priorities for holding businesses in the city. These further cuts, on top of all the others this year, seriously jeopardize the future of the school system, threaten the city's economic future, erode its tax base, and jeopardize the city's financial recovery.

You will see that both formulas have the same bottom line: Signing the Stavisky bill will jeopardize the city's financial future, but not signing it does too.

There must be a way to avoid this dilemma, if you must veto the bill. The Board of Education must reorder its priorities. That is its job. But it will need some legislative help in cutting back on a number of unnecessary expensive (and even counter-productive) centralized functions. It also needs support in holding down costs. If there is "no money" to save the schools from these most recent cuts, we certainly assume that we will not hear from the Control Board when it finally finishes reviewing the UFT contract, that somehow or other it has found money to pay for increased contract obligations. In fact, if there had not been such a long delay in enforcing the wage freeze, enacted back in September but still not enforced in February, there would be no need for these latest classroom cuts. The Board of Education is still re-reserving at least $17 million to pay salary increments during this fiscal year, pending final determination by the Control Board of the implementation of the wage freeze.
If you feel you must veto the Stavisky bill, it is unconscionable to leave the school system with no answer but further classroom cuts. We look to you for both leadership and appropriate action to facilitate the changes needed to ensure against the destruction of public education in the city.

Sincerely,

David Seeley
Director

DS/11
The Stavisky-Goodman Bill would mandate that the City appropriate to education a fixed percentage (the average of the prior three years—22.15%) of the total City Expense Budget.

The bill would require an increase in the annual Board of Education Budget of more than $180 million (actually $198.9 m.) over its current financial plan level ($2,718.7 million).

As the bill is effective February 1, 5/12 of the increase or $75 million is required for the remainder of the fiscal year.

These funds must be generated immediately from further sharp cuts in other services.

The City has consistently given education the highest priority for funding.

The Board was least affected of all agencies by $200 million Financial Plan cut. Although the City imposed a 4 1/2 percent tax levy cut on the Board (compared to 3 percent for Police, Fire and Sanitation), a substantial portion of the Board's Budget is comprised of state aid which is not affected by the cuts. Thus the reduction in the total controllable budget for Board was only 1.8 percent (compared to 3 percent at Police and Fire, etc).

Indeed, since the beginning of the financial emergency, the Board has been cut back less than other key agencies.

The percent change in controllable budgets from 1974-75 to the 1975-76 Financial Plan level is as follows:

<table>
<thead>
<tr>
<th>EDUCATION</th>
<th>EPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>-7.9 %</td>
</tr>
<tr>
<td>T.L.</td>
<td>-8.7 %</td>
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<thead>
<tr>
<th>HIGHER ED</th>
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<tbody>
<tr>
<td>Total</td>
<td>-12.6 %</td>
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<tr>
<td>T.L.</td>
<td>-43.1 %</td>
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<tr>
<th>POLICE</th>
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<tr>
<td>Total</td>
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</tr>
<tr>
<td>T.L.</td>
<td>-13.8 %</td>
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<tr>
<th>FIRE</th>
<th></th>
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<tbody>
<tr>
<td>Total</td>
<td>-11.9 %</td>
</tr>
<tr>
<td>T.L.</td>
<td>-12.1 %</td>
</tr>
</tbody>
</table>
### IMPACT OF STAVISKY BILL

<table>
<thead>
<tr>
<th>FY</th>
<th>Total City Budget</th>
<th>Education</th>
<th>Per Cent</th>
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</thead>
<tbody>
<tr>
<td>1972-73</td>
<td>$10,085,731,113</td>
<td>$2,166,084,697</td>
<td>21.47672462%</td>
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<tr>
<td>1973-74</td>
<td>11,107,314,896</td>
<td>2,562,951,357</td>
<td>23.07444581</td>
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<tr>
<td>1974-75</td>
<td>13,084,795,149</td>
<td>2,866,280,827</td>
<td>21.90543141</td>
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**THREE YEAR AVERAGE**

<table>
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<tr>
<th>FY</th>
<th>Total City Budget</th>
<th>Education</th>
<th>Per Cent</th>
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<tbody>
<tr>
<td>1975-76</td>
<td>$13,170,700,000</td>
<td>$2,718,700,000</td>
<td>20.64203118%</td>
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**Financial Plan**

- Proposed: $2,917,600,000
- Increase: $198,900,000

### 1975-76 Education Budget
- As Adopted: $2,780,200,000
- Financial Plan: $2,718,700,000
- Decrease: $61,500,000

### 1975-76 Total City Budget
- As Adopted: $13,232,500,000
- Financial Plan: $13,170,700,000
- Decrease: $61,800,000
Stavisky Bill – Items for Discussion

Disproportionate Cuts

1. Gifford Exaggerates cuts
   Timespan – Gifford implies cuts take place between now and June, 1976. They actually span June, 1975 to June, 1976. Where Gifford shows drop of 11,000 teachers, 6,000 para-professionals, and 1,000 school guards, Comptrollers books show a total drop of 9,000 for the entire Board of Education.
   2. Dr. Gifford does not mention the $800m. in State aid which is totally unaffected by reductions.

Controllable Tax Levy

   Gifford claims that the base upon which cuts are determined is unfairly calculated— that it includes many items over which he has little control.

   1. The same items, such as heat, light and power, are included in controllable tax levy for all agencies.
   2. Though he claims to have little control he has cut cuts against several of these items and could take cuts against others.

It could be argued that the Stavisky bill would perpetuate disproportionate favoring of the schools over other city services rather than ameliorate unfair and unequal cuts.

Gifford complains that he will be forced to close 60 schools by 1977. This is an economy that should be taken under any fiscal circumstances as the register never justified building the number of schools that were built. Closing the schools will incur savings in heat, light and power, building maintenance, custodial costs and "breakage" for a slight increase, possibly, in transportation. "Breakage" savings are achieved when several unusually small classes in different schools can be combined in fewer classes in one or two schools. Money can be better spent than on maintaining an excessive number of schools.
<table>
<thead>
<tr>
<th>Date</th>
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<th>NON-ANNUAL</th>
<th>WREP &amp; BEA</th>
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<td>54,670</td>
<td>202</td>
</tr>
<tr>
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<td></td>
<td>Not Available</td>
<td></td>
</tr>
<tr>
<td>2/28/75</td>
<td></td>
<td>Not Available</td>
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<td>11/30/75</td>
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<tr>
<td>12/31/75</td>
<td>71,536</td>
<td>47,950</td>
<td>1,514</td>
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</table>
21/2/76

J. J. Keating

1. For known problem of president + top of city’s business
2. But is this analysis apparent difficult in several aspects
   & Chandler, 27th, 27th, & 28th receive authorities
   about $5 and virtually all costs in the last three

MAC State Notes - 3 chambers - 27th, 28th, 27th

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<thead>
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Length

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\text{Per Sc } - 2
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\[
386 \quad \text{MA c per day}
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275 \quad \text{habit for private on note}
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+275 \\quad \text{55 minutes in MA c}
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+55 \quad \text{716 per sec}
\]

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\text{Per PB } - 1
\]

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677 \quad \text{Friday A-MA}
\]

\[
51 \quad 1-4
\]

\[
51 \quad 10/12/47 - 25\text{ Approx date attended}
\]

\[
-6 \quad \text{expenses}
\]

697
1. Misunderstanding of Plan—further cuts required throughout City.

2. Debt service—who decides to make constant new facilities, etc.—bed of ed. like rest of City, must live with it to own—$100M (up $40M in 5 yrs). (94, 74/2146, 2146)

3. School lunch—who negotiated new large increase of
   food, teacher, union + others $500M (up about $300M in 5 yrs)

4. School lunch—of course a school lunch program is mandated by Fed law, but not the school lunch program of Bed of Ed—may exceed Fed mandate by
   $1M (up $275M in 5 yrs)

5. Custodial maintenance—was certainly, if not Bed of Ed?
   (up $40M in 5 yrs)

6. Heat, heat, power—became the Bed of Ed in a certain
   autonomous entity, it bears this expenditure, whereas
   largely general expenses are in the Municipal budget. Any Northern difference does not deal
   with the substantive issue first within the Bed of Ed, the City, the State, and the Federal government
   would control the sharp increase in our nation’s energy bill. But in the present emergency, the bond fact
   is that the Bed of Ed, the City, and the State itself
   must pay these increases and must offset their
   impact through raising in other areas.
IN ASSEMBLY

(Prefiled)

January 7, 1976

Introduced by M. STAVISKY—Multi-Sponsored by—Mr. ABRAMSON, Miss AMATUCCI, Messrs. BARBARO, BIANCHI, BLUMENTHAL, BROWN, CINCOTTA, Mrs. CONNELLY, Messrs. CONNOR, COOPERMAN, CULHANE, DEARIE, DELLI BOVI, Del TORO, DeSALVIO, DIALCO, ESPOSITO, EVE, FARRELL, FERRIS, FINK, FLACK, PLANAGAN, FORTUNE, FREAMING, FREY, Miss GADSON, Messrs. GAZZARA, GOTTFRIED, GRANNIS, GRIFFITH, HALEY, HARENBERG, HECHT, HINCHEY, HOCHBERG, HOCHBRUECKNER, IZARD, KOPPELL, KREMNER, LANDES, LASHIER, LEHNER, LEWIS, LISA, LOPRESTO, MARCHISELLI, Mccabe, MEGA, G. W. MILLER, M. H. MILLER, MIRTO, MOLINARI, MONTANO, NICOLOSI, NINE, ORAZIO, PASSANANTE, PESCE, S. P. POSNER, ROSS, Mrs. RUNYON, Messrs. SCHMIDT, SCHUMER, SERRANO, SHAROFF, SIEGEL, SILVERMAN, STEINGUT, STREIZIN, THORP, VANN, VELELLA, VIRGILIO, WALSH, WEPRIN, YEVOLI—read once and referred to the Committee on Education—reported from said committee with amendments, ordered reprinted as amended and placed on the order of second reading.

AN ACT

to amend the education law, in relation to minimum appropriations under austerity conditions for city school district purposes in cities having a population of one million or more

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision five of section twenty-five hundred seventy-six of the education law, as amended by chapter five hundred seventy-six of the laws of nineteen hundred sixty-four, is hereby amended to read as follows:

2 5. In a city which had, according to the federal census of nineteen hundred forty, a population of one million or more such estimate shall be filed with the mayor. If the total amount requested in such estimate shall be equivalent to or

EXPLANATION.—Matter in italic is new; matter in brackets [ ] is old law to be omitted.
December 8, 1975

Hon. Hugh L. Carey
Governor
State of New York
1350 Avenue of the Americas
New York, New York

Dear Governor Carey:

At the request of 73 members of the New York State Assembly, a substantial number of State Senators and every major educational organization in the City of New York, I am asking that you place on the agenda of the December, 1975 special session of the Legislature, the following measure, a copy of which is enclosed:

AN ACT to amend the education law, in relation to minimum appropriations under austerity conditions for city school district purposes in cities having a population of one million or more.

Unless this legislation or a comparable remedy is acted upon by the Legislature, the New York City school system may be compelled to undertake a fourth reorganization of classes later this year. Such a step would destroy all continuity of instruction for the one million school children. Excessing, transfer, bumping, and dismissal of educational personnel will erode all semblance of morale within the city's school system.

I am not seeking special protection for the schools, although education is a constitutionally mandated state obligation. What this bill seems to achieve is a guarantee that in any budgetary reduction, the school system will not be treated proportionally better or worse than other services funded in the municipal budget.

Under the Constitution, you have the sole authority to decide the agenda of a special session which you have convened. The New York City school system needs this minimal protection in order to survive. I ask for your cooperation in placing this issue on the agenda.
In seeking to achieve the equivalent of a contingency or austerity budget for the New York City school district, a protection afforded to other school districts throughout the state, I am joined in this request by the leadership of the United Parents Association, the United Federation of Teachers, the New York City School Boards Association, the Public Education Association, the Council of Supervisors and Administrators, and the Association of Community Superintendents.

Your favorable consideration of this request will be deeply appreciated.

Sincerely yours,

Leonard P. Stavisky
MEMORANDUM

November 20, 1975

TO: Members of the Board of Education
   Irving Anker
   Chancellor

FROM: Bernard R. Gifford
      Deputy Chancellor

SUBJECT: ASSEMBLYMAN STAVISKY'S PROPOSED BILL ON CITY FUNDS FOR EDUCATION

Assemblyman Stavisky's proposed amendment to Section 2576, subdivision 5 of the State Education Law would change the basis for requiring the City to appropriate for education a minimum budget.

I. PRESENT LAW: MINIMUM MILLAGE ON ASSESSED VALUE

The present state law requires at least "four and nine-tenths mills on every dollar of assessed valuation of real property" for education. The table below shows the minimum city tax levy the Board of Education could receive under this law and the actual tax levy for education. Note that the actual effective education millage has been increasing.

<table>
<thead>
<tr>
<th>FISCAL YEAR</th>
<th>ASSESSED VALUATION*</th>
<th>MINIMUM EDUCATION TAX LEVY AT 4.9 MILLS</th>
<th>ACTUAL EDUCATION TAX LEVY</th>
<th>ACTUAL EFFECTIVE EDUCATION MILLAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972-1973</td>
<td>$38,065,347,473</td>
<td>$186,520,203</td>
<td>$1,182,582,208</td>
<td>31.1 Mills</td>
</tr>
<tr>
<td>1973-1974</td>
<td>38,730,166,716</td>
<td>189,777,817</td>
<td>1,359,573,525</td>
<td>35.1 Mills</td>
</tr>
<tr>
<td>1974-1975</td>
<td>39,604,009,742</td>
<td>194,059,648</td>
<td>1,366,966,255</td>
<td>34.5 Mills</td>
</tr>
</tbody>
</table>

2. STAVISKY PROPOSAL: MINIMUM PERCENT OF CITY’S TOTAL EXPENSE BUDGET

Assemblyman Stavisky’s bill proposes that the Board of Education’s budget be at least "an amount equal to the average proportion of the total expense budget ... appropriated for the ... city school district ... in the three fiscal years ... immediately preceding." The table below shows the consequences of this proposal for 1975-1976.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Total City Expense Budget*</th>
<th>Total Board of Education Appropriation**</th>
<th>Percent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972-1973</td>
<td>$10,085,731,113</td>
<td>$2,166,084,697</td>
<td>21.47672462 %</td>
</tr>
<tr>
<td>1973-1974</td>
<td>11,107,314,896</td>
<td>2,562,951,357</td>
<td>23.07444581 %</td>
</tr>
<tr>
<td>1974-1975</td>
<td>13,084,795,149</td>
<td>2,866,280,827</td>
<td>21.90543141 %</td>
</tr>
<tr>
<td>1975-1976</td>
<td>13,232,522,609</td>
<td>2,780,206,951</td>
<td>21.01040771 %</td>
</tr>
<tr>
<td>Proposed</td>
<td></td>
<td>$2,931,294,954</td>
<td>22.15220061 %</td>
</tr>
<tr>
<td>Increase</td>
<td></td>
<td>$ 151,088,003</td>
<td></td>
</tr>
</tbody>
</table>

There are several definitions of "total expense budget" depending on which items are included and which sources of funding are included. The definition used in the table above is the most all-inclusive definition. From a layman's careful reading of the present law and the proposed amendment, the "all-inclusive" definition is probably the wrong one. The correct one is probably total city tax levy expense budget. The consequences of this definition are discussed in the next section.


3. ALTERNATIVE PROPOSAL: MINIMUM PERCENT OF CITY'S TOTAL TAX LEVY

The Stavisky proposal allows the city to reduce education's city tax levy whenever non-tax levy funds increase; e.g., state aid or reimbursable grants. The following proposal would place a floor on city tax levy support for education:

The Board of Education's city tax levy support be at least an amount equal to the average proportion of the total city tax levy appropriated for the city school district in the immediately preceding three fiscal years.

The table below shows the consequences of this proposal for 1975-1976.

<table>
<thead>
<tr>
<th>FISCAL YEAR</th>
<th>TOTAL CITY TAX LEVY</th>
<th>BOARD OF EDUCATION TAX LEVY</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972-1973</td>
<td>$5,494,338,333</td>
<td>$1,182,582,208</td>
<td>21.52365101 %</td>
</tr>
<tr>
<td>1973-1974</td>
<td>6,120,545,793</td>
<td>1,359,573,525</td>
<td>22.21327266</td>
</tr>
<tr>
<td>1974-1975</td>
<td>6,687,992,686</td>
<td>1,366,966,255</td>
<td>20.43911109</td>
</tr>
<tr>
<td>1975-1976</td>
<td>7,240,611,475</td>
<td>1,409,525,506</td>
<td>19.46694020</td>
</tr>
<tr>
<td>Proposed</td>
<td>--</td>
<td>$1,548,912,446</td>
<td>21.39201159 %</td>
</tr>
<tr>
<td>1975-1976</td>
<td>--</td>
<td>$ 139,386,940</td>
<td>--</td>
</tr>
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</table>

A large portion of education's tax levy supports debt service payments and pension contributions. These two items are "uncontrollable" (the Mayor's definition) expenses, and they are rising rapidly every year. In 1975-1976, the education tax levy allocated to these two items rose over $53 million, which is greater than the increase in education's total tax levy. This means that the remaining tax levy for educational programs went down. The following proposal establishes a floor on the tax levy for educational programs.
4. **ALTERNATIVE PROPOSAL: MINIMUM MILLAGE FOR EDUCATION TAX LEVY, LESS DEBT SERVICE AND PENSION**

The table below shows the amount of education's tax levy for debt service, pensions and the amount remaining for educational programs.

<table>
<thead>
<tr>
<th>FISCAL YEAR</th>
<th>TOTAL</th>
<th>DEBT SERVICE (MILLIONS)</th>
<th>PENSION (MILLIONS)</th>
<th>REMAINING (MILLIONS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972-1973</td>
<td>$1,182,582,208</td>
<td>$196.02</td>
<td>$76.28*</td>
<td>$910.28*</td>
</tr>
<tr>
<td>1973-1974</td>
<td>$1,359,573,525</td>
<td>$210.36</td>
<td>$223.35*</td>
<td>$925.86*</td>
</tr>
<tr>
<td>1974-1975</td>
<td>$1,366,966,255</td>
<td>$231.35</td>
<td>$264.56</td>
<td>$871.06</td>
</tr>
<tr>
<td>1975-1976</td>
<td>$1,409,525,506</td>
<td>$255.99</td>
<td>$293.00</td>
<td>$860.54</td>
</tr>
</tbody>
</table>

The following proposal would place a floor on city tax levy support for direct educational programs:

The Board of Education's city tax levy support, less tax levy for debt service and pensions, be at least an amount equal to the average millage on every dollar of assessed valuation of the real property in such city liable to taxation appropriated for the city school district in the immediately preceeding three fiscal years.

*Estimated amount based on 1974-1975 and 1975-1976 information:

**TAX LEVY FOR PENSIONS — TOTAL PENSION BUDGET = PERCENT TAX LEVY SUPPORT**

1974-1975: $264.56 M —— $331.19 M = 79.9%
1975-1976: $293.00 M —— $359.33 M = 81.5%
The table below shows the consequences of this proposal for 1975-1976.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Assessed Valuation (Millions)</th>
<th>Education Tax Levy Less Debt and Pension (Millions)</th>
<th>Actual Effective Millage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972-1973</td>
<td>$38,065.35</td>
<td>$910.28*</td>
<td>23.9 Mills</td>
</tr>
<tr>
<td>1973-1974</td>
<td>38,730.17</td>
<td>925.86*</td>
<td>23.9 Mills</td>
</tr>
<tr>
<td>1974-1975</td>
<td>39,604.01</td>
<td>871.06</td>
<td>22.0 Mills</td>
</tr>
<tr>
<td>1975-1976</td>
<td>39,854.41</td>
<td>860.54</td>
<td>21.6 Mills</td>
</tr>
<tr>
<td>Proposed 1975-1976</td>
<td>--</td>
<td>$928.61</td>
<td>23.3 Mills</td>
</tr>
<tr>
<td>Increase</td>
<td>--</td>
<td>$68.07</td>
<td>--</td>
</tr>
</tbody>
</table>

*Estimated amount based on 1974-1975 and 1975-1976 information:

TAX LEVY FOR PENSIONS ÷ TOTAL PENSION BUDGET = PERCENT TAX LEVY SUPPORT

1974-1975: $264.56 M ÷ $331.19 M = 79.9%
1975-1976: $293.00 M ÷ $359.33 M = 81.5%

BRG:MR

cc: H. Siegal
    G. Sousa
    J. Kovalcik
Yonkers Board Ordinance

1976
obligations shall not exceed the rate of interest per annum stated therein as payable on the principal sum at its maturity.

(K) Notwithstanding the provisions or limitations of the charter of the city or any other law, general, special or local, upon delivery of and payment for the first current account bonds or capital account bonds, any funds which by law are not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created shall not thereafter be used or temporarily diverted for the purposes for which an issue of the city of any bonds including notes issued in anticipation of the sale thereof, capital notes or urban renewal notes have been authorized.

(L) In the event of any inconsistencies or conflicts with the charter of the city of Yonkers or any other law, general, special or local, the provisions of this act shall be followed and no law shall hereafter be enacted inconsistent, less stringent or less restrictive than the provisions of this act.

(M) The provisions of sections seven, eight, nine and ten of this act shall not apply with respect to the budget for the budget year nineteen hundred seventy-six—nineteen hundred seventy-seven and no provisions set forth under section eleven hereof shall apply until the debt service fund shall have been established.

§ 15. Special city covenants to secure bonds and performance of act. In the discretion of the city any bonds or issue of bonds or bond anticipation notes, tax anticipation notes, revenue anticipation notes, urban renewal notes or budget notes may be authorized under ordinances or resolutions of the city which provide for or contain covenants of the city to protect and safeguard the security and rights of the holders of such obligations of the city, and without limiting the generality of the foregoing, such ordinance or resolution may contain covenants as to (a) establishment and maintenance of the special debt service fund, its requirements and the obligations in which the proceeds of such fund may be invested pending their use in accordance with this act and subject to such limitations as to investment of public funds otherwise provided by law; (b) the appointment, rights, powers and duties of the fiscal agent including limiting or abrogating the right of the holders to appoint a trustee pursuant to the provisions of section 16 of this act and vesting in the fiscal agent all or any of such rights, duties and powers, in trust; (c) the execution of a credit agreement with the fiscal agent for the benefit of holders of such obligations so authorized and for the benefit of any other holders of bonds of the city now outstanding, provided, however, that such benefit conferred on such holders of such bonds shall not be deemed to restrict, preclude or otherwise impair any rights that such holders currently may assert; (d) filings, review and correction of budgets, justifications, documents, annual reports, audits and other matters of financial record; (e) compliance with the provisions of the act and other laws applicable to the city including the local finance law, and with further restrictions on the powers, rights and duties of the city; (f) management of its financial affairs which the city determines will assure prompt payment when due of its debt and operating obligations; and (g) conditions which would give rise to an event of default under the terms of such ordinance or resolution and actions and remedies which the fiscal agent may take or assert on behalf of the holders of such obligations.

§ 16. Rights and remedies of certain holders of certain obligations of the city. The holders of current account bonds, capital account bonds and bonds, any bond anticipation notes, tax anticipation notes, revenue

Deleted by strikethrough.
July 14, 1978

Municipal Assistance Corporation for the City of New York
Our file number M78/01

Linda Seale, Esq.
Municipal Assistance Corporation for the City of New York
Two World Trade Center
New York, New York

hand delivery

Dear Ms. Seale,

Following our conversation and pursuant to your request, I am pleased to hand you herewith one xerox copy of the Bond Ordinance adopted by the City of Yonkers in connection with its special $83,660,000 bond issue of 1976. May I ask that you contact Dick Sigal or myself at your convenience if we may provide any further assistance to you or other members of your staff.

With kindest regards, I am

Very truly yours,

Martin A. Geiger

MAG/86
Encl:
CITY OF YONKERS


SUPPLEMENTAL ORDINANCE OF THE CITY OF YONKERS, NEW YORK, ADOPTED OCTOBER 5, 1976, DETERMINING CERTAIN MATTERS WITH RESPECT TO THE GENERAL OBLIGATION SERIAL BONDS — 1976 (SPECIAL FINANCE AND BUDGET ACT ISSUE), AND AWARDED THE BONDS TO SMITH BARNEY, HARRIS UPHAM & CO., INCORPORATED AND ASSOCIATES.
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Supplemental Ordinance

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF YONKERS, IN THE COUNTY OF WESTCHESTER, NEW YORK (by the favorable vote of not less than two-thirds of all the members of said Council), AS FOLLOWS:

ARTICLE I
DEFINITIONS AND INTERPRETATIONS

SECTION 101. Definitions. In the Ordinance, unless a different meaning clearly appears from the context:

(1) "Accountant's Certificate" means an opinion signed by any certified public accountant duly licensed by the State, including the accountant or a member of the firm of accountants who regularly audit the books and accounts of the City;

(2) "Act" means the Act of the Legislature of the State, entitled: "An Act in relation to the finances of the city of Yonkers, to imposing certain requirements and restrictions with respect to the types of obligations which may be issued by such city, the specified objects and purposes therefor, and the sale and proceeds thereof, to prescribing and limiting procedures with respect to budgetary appropriations and receipts, to providing for the rights of holders of the obligations of such city and, generally, to providing for the payment and orderly reduction of the debts of such city", approved June 30, 1976 and constituting chapter 488 of the Laws of 1976 of the State, and the acts amendatory thereof or supplemental thereto heretofore adopted;

(3) "Added Debt Service Percentage" means, with respect to a fiscal year, the percentage obtained by dividing the total amount of interest payable during such fiscal year on revenue anticipation notes, budget notes and urban
renewal notes of the City issued during such fiscal year by the balance obtained by subtracting the amount of the appropriation for such year for a reserve for uncollected taxes from the total amount of City Taxes levied and assessed for such year and then remaining uncollected;

(4) "Authorized Newspaper" means a newspaper of general circulation, printed in the English language and which is customarily published in the City of New York, at least once a day for at least five days (other than legal holidays) in each calendar week, or a newspaper printed in the English language and devoted primarily to financial or municipal bond news and published at least once a day for at least five days (other than legal holidays) in each calendar week;

(5) "Bond" means any of the General Obligation Serial Bonds—1976 (Special Finance and Budget Act Issue) authorized to be sold pursuant to Section 207;

(6) "Bondholder" means the Holder of any Bond;

(7) "budget year" or "fiscal year" means a fiscal year of the City for or with respect to which a budget is required or is adopted pursuant to law;

(8) "Capital Account Bond" means any of the $45,910,000 principal amount of bonds authorized by Section 203 and issued pursuant to Section 301;

(9) "Capital Completion Account" means the special and separate bank account referred to in Section 304;

(10) "Capital Completion Bill" means the "Capital completion bill", as defined and referred to in the Act, with regard to the current fiscal year, the items of which are set forth and recited in Subsection (A) of Section 204;

(11) "City" means the City of Yonkers, a municipal corporation of the State situated in the County of Westchester;

(12) "City Taxes" means all taxes on real property levied and assessed by the City based on the valuation thereof, but not any rent, rate, fee, special assessment or other charge based on benefit or use;

(13) "Comptroller's Certificate" means a certificate signed by the City Comptroller;

(14) "Control Board" means the Emergency Financial Control Board for the City of Yonkers created and established by the New York State Financial Emergency Act for the City of Yonkers, constituting chapter 871 of the Laws of 1975 of the State;
(15) "Counsel’s Opinion" means an opinion signed by the Corporation Counsel of the City, or by any attorney or firm of attorneys (who may be counsel or of counsel to the City or an attorney or firm of attorneys retained by it in other matters) licensed to practice in the State, selected by the City and accepted by the Fiscal Agent;

(16) "Current Account Bond" means any of the $37,750,000 principal amount of bonds authorized by Section 201 and issued pursuant to Section 301;

(17) "Debt Service Fund" means the special debt service fund established by Section 407;

(18) "Debt Service Percentage" means, with respect to a fiscal year, the percentage obtained by dividing the total appropriation in the budget for such year for Special Debt Service by the balance obtained by subtracting the amount of the appropriation for such year for a reserve for uncollected taxes from the total amount of City Taxes levied and assessed for such year;

(19) "Depositary" means any bank, trust company or national banking association having the qualifications of a Paying Agent under Section 701 and maintaining an office in the City selected by the Fiscal Agent as a depositary of moneys or securities held under the provisions of the Ordinance;

(20) "Event of Default" shall have the meaning ascribed to such term in Section 602;

(21) "Fiduciary" means the Fiscal Agent or a Paying Agent;

(22) "Fiscal Agent" means the State Comptroller or any bank, trust company or national banking association appointed pursuant to Section 709;

(23) "Fund" means the Debt Service Fund, the General Deficiency Account or the Capital Completion Account;

(24) "General Deficiency Account" means the special and separate bank account referred to in Section 303;

(25) "General Deficiency Bill" means the "General deficiency bill", as defined and referred to in the Act, the items of which are set forth and recited in Subsection (A) of Section 202;

(26) "Holder" or "holder" or any similar term, when used with reference to a Bond or Obligation, means any person who shall be the bearer of any Bond or Obligation registered to bearer or not registered, or the registered owner of any Bond or Obligation which shall at the time be registered other than to bearer;
(27) "Investment Obligation" means any of the following securities legal for the investment of City funds at the time of purchase thereof:

(A) Direct obligations of or obligations guaranteed by the United States of America;

(B) Any bond, debenture, note, participation or other similar obligation issued by any of the following agencies: Government National Mortgage Association, Federal Land Banks, Federal Home Loan Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Tennessee Valley Authority, United States Postal Service, Farmers' Home Administration, Export-Import Bank and Federal Financing Bank;

(C) Any bond, debenture, note, participation or other similar obligation issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by a federal agency backed by the full faith and credit of the United States of America other than as provided in (A) hereof;

(D) Any other obligation of the United States of America or any federal agency which may then be purchased with funds belonging to the State or which are legal investments for savings banks in the State;

(E) Public Housing Bonds issued by Public Housing Authorities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an Annual Contributions Contract or Contracts with the United States of America; or Project Notes issued by Public Housing Authorities or Project Notes issued by Local Public Agencies, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America; and

(F) Deposits in interest-bearing time deposits or certificates of deposit fully secured by obligations described in (A), (B), (C), (D) or (E) hereof.

(28) "Justification Document" means a Comptroller's Certificate approved by the City Council, or a certificate of the City Council, setting forth facts determined and actions completed forming an existing basis for a reasonable expectation that (a) in the case of receipts, a stated amount thereof will actually be collected or otherwise realized in cash during a Budget Year, or (b) in the case of appropriations, that the stated amount thereof will be sufficient for all expenditures by the City for the purpose thereof during a
Budget Year, accompanied by certified copies of all proceedings necessary to 
evidence the completion of all such actions.

(29) “Obligations” means bonds, bond anticipation notes, tax ant- 
ticipation notes, revenue anticipation notes, capital notes, budget notes, urban 
renewal notes and all other securities of the City now outstanding or here- 
after issued;

(30) “Ordinance” means this ordinance as the same may from time to 
time be amended or supplemented;

(31) “outstanding” when used with reference to Bonds, means, as 
of any date, all Bonds theretofore or thereupon being authenticated and de-
ivered under the Ordinance except:

(1) any Bond cancelled by the Fiscal Agent or the City at or prior 
to such date;

(2) any Bond for the payment or redemption of which either:

(a) moneys in an amount sufficient to effect payment at the 
maturity or applicable Redemption Price thereof, together with 
accrued interest on such Bond to the date of its redemption, which 
moneys shall be held by any Fiduciary in a separate account in trust 
and with irrevocable instructions from the City solely for such 
purpose, or

(b) direct obligations of United States of America or the 
State, in such principal amounts, of such maturities, bearing such 
interest, and otherwise having such terms and qualifications, as shall 
be necessary to provide moneys in an amount sufficient to effect 
payment of the principal or applicable Redemption Price of such 
Bond, together with interest accrued on such Bond to maturity or 
the date of its redemption, which obligations shall be held by such 
Fiduciary in a separate account in trust and with irrevocable in-
structions from the City solely for such purpose, or

(c) any combination of (a) and (b) above;

(32) “Paying Agent” means any paying agent for the Bonds appointed 
pursuant to Section 701, and its successor or successors and any other bank, 
trust company or national banking association which may at any time be 
substituted in its place pursuant to Article VII;
(33) "Principal Office", when used with respect to a Fiduciary, means the principal or head or corporate trust or principal trust office of such Fiduciary;

(34) "Redemption Price" means the principal amount of any Bond plus the applicable premium, if any, payable upon redemption thereof;

(35) "Registration Agent" means the City Comptroller or any Paying Agent designated by the City in accordance with the provisions of Section 701 as an agent for the registration and conversion of Bonds;

(36) "Sales Tax" means the additional one percent sales and use tax authorized to be imposed by the City pursuant to section twelve hundred ten of the tax law of the State, and so long as any sales and use tax is authorized to be imposed and is imposed by the City pursuant to State law, the amount of such tax up to and including one percent;

(37) "Special Debt Service" means, with respect to a fiscal year, the amount required for the punctual payment of (a) all principal due or becoming due and payable in said year with respect to any serial bonds (including the Bonds) tax anticipation notes, revenue anticipation notes, capital notes or budget notes of the City, and all principal amortization for said year required by law with respect to bond anticipation notes or urban renewal notes or other securities of the City and (b) all interest due or becoming due and payable in said year with respect to any Obligations of the City;

(38) "State" means the State of New York;

(39) "State Comptroller" means the duly elected or appointed Comptroller of the State or any deputy State Comptroller;

(40) "Supplemental Ordinance" means any ordinance of the City supplementing, amending or modifying the Ordinance and becoming effective in accordance with the provisions of Article VIII;

SECTION 102. Interpretations. (1) Words importing the masculine gender include every other gender. Words importing the maturity or payment of a Bond do not include or connote the becoming due of such Bond upon redemption thereof prior to maturity pursuant to the Ordinance or the payment of the Redemption Price thereof. Words importing persons include firms, partnerships, associations and corporations. Words importing the redemption or redeeming or calling for redemption of a Bond do not include or connote the payment of such Bond at its stated maturity or the purchase
of such Bond. Words importing the singular number include the plural, and vice versa.

(2) The terms “herein”, “hereunder”, “hereby”, “hereto”, “her eof” and any similar terms, refer to the Ordinance; and the term “hereafter” means after the date of issuance of any Bond; and

(3) Articles, Sections and Subsections mentioned by number only are the respective Articles, Sections and Subsections of the Ordinance so numbered;

SECTION 103. Parties Interested Herein. Nothing in the Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person, other than the City, the Fiduciaries and the Holders of the Bonds and the coupons thereunto appertaining, any right, remedy or claim under or by reason of the Ordinance or any covenant, stipulation, obligation, agreement or condition therein. All the covenants, stipulations, obligations, promises and agreements in the Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Fiduciaries and the Holders of the Bonds and the coupons thereunto appertaining.

SECTION 104. Severability of Invalid Provisions. If any one or more of the provisions, covenants or agreements in the Ordinance on the part of the City or any Fiduciary to be performed should be contrary to law, then such provision or provisions, covenant or covenants, agreement or agreements, shall be deemed separable from the remaining provisions, covenants and agreements, and shall in no way affect the validity of the other provisions of the Ordinance or of the Bonds.

ARTICLE II

AUTHORIZATION, TERMS AND EXECUTION OF BONDS

SECTION 201. Authorization of Current Account Bonds. In accordance with Section 3 of the Act and for the purpose of paying the $45,183,091 General Deficiency Bill, there is hereby appropriated the sum of $45,183,091, and bonds of the City are hereby authorized to be issued in the principal amount of not exceeding $37,750,000 to fund in part said appropriation.

SECTION 202. Statements and Recitals as to Current Account Bonds. It is hereby determined, declared, stated and recited as follows:

(A) The specific object or purpose for which the Current Account Bonds are to be issued is the funding of part of the General Deficiency
Bill. Each item of said object or purpose, and the estimated maximum cost, if any, of each such item, are as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimate of Maximum Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) any tax anticipation notes, revenue anticipation notes or budget notes of the City outstanding at any time during the fiscal year commencing July 1, 1976 whether issued for or on account of said fiscal year or some prior period and whether original or renewal and whether due or to become due</td>
<td>$ 0</td>
</tr>
<tr>
<td>(2) any bond anticipation notes of the City outstanding at any time during said fiscal year issued pursuant to chapter one hundred twenty-four of the laws of nineteen hundred sixty-nine, chapter twelve hundred one of the laws of nineteen hundred seventy-one or chapter eight hundred seventy-one of the laws of nineteen hundred seventy-five, whether issued for or on account of said fiscal year or some prior period and whether original or renewal and whether due or to become due</td>
<td>$ 5,935,000</td>
</tr>
<tr>
<td>(3) any sums of money (a) at any time received by the City from the State as an advance of moneys to become subsequently payable to the City pursuant to any provisions of the State finance law, and (b) not previously in or before said fiscal year repaid by the City or otherwise reimbursed to the State or the appropriation from which said sums were expended and so advanced</td>
<td>$ 0</td>
</tr>
<tr>
<td>(4) any unpaid amounts payable, on account of or before or during such fiscal year, by or on behalf of the City or its collecting officer for or on account of State or county taxes</td>
<td>$ 0</td>
</tr>
<tr>
<td>(5) any items of current expenses, including items of reserves, of the City properly attributable to any prior period paid, provided for or to be provided for by application, whether direct or indirect, (a) of current revenues of the City properly</td>
<td></td>
</tr>
</tbody>
</table>
attributable to said fiscal year or borrowings in anticipation thereof, including notes referred to in paragraph one of this Subsection, or (b) of proceeds of bonds or notes of the City other than bonds or notes referred to in paragraph two of this Subsection (A) authorized or issued under any act cited in said paragraph two

$22,974,112

(6) any items of current expense properly attributable to the fiscal year or any prior period not otherwise provided for in the budget of said fiscal year including such items as salaries and pension payments and reserves for refunds required to be paid by the City on account of certiorari proceedings with respect to State, county or City taxes

$14,627,986

(7) any items of capital expenses of the City properly attributable to said fiscal year or any prior period not otherwise accounted for in computing the capital completion bill and paid or provided for by application of the proceeds of notes of the City referred to in paragraphs one or two of this Subsection, for the payment of which there is no bond authorization or bond ordinance (including bonds or notes issued thereunder) and for which contract claims are outstanding and unpaid or for which contract claims have been paid, provided for or to be provided for by application whether direct or indirect of current revenues of the City properly attributable to said fiscal year or borrowings in anticipation thereof, including notes referred to in paragraphs one or two of this Subsection; and

$  0  

(8) any costs, based on estimates, of authorization and issuance of Current Account Bonds, including printing, engraving, advertising, financial, accounting and legal fees and expenses, initial fees and expenses of the Fiscal Agent, and any discount incurred upon issuance

$ 1,645,993
(B) The plan for the financing of the $45,183,091 total cost of all the items of such specific object or purpose includes the application and expenditure of amounts aggregating $7,433,091 available therefor by virtue of current appropriations and the issuance of $37,750,000 serial bonds hereby authorized and the levy and collection of a tax upon all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

(C) The amount of bonds to be issued for such specific object or purpose is $37,750,000, and said bonds are to be serial bonds.

(D) The period of probable usefulness of such specific object or purpose is fifteen (15) years.

(E) The amount of the General Deficiency Bill to be funded by the Current Account Bonds is $37,750,000.

(F) The Current Account Bonds shall mature in the principal amount of $1,890,000 on April 15, 1978, $1,900,000 on April 15, 1979, and $2,830,000 on April 15 in each of the years 1980 to 1991, both inclusive.

(G) The principal of and interest on the Current Account Bonds shall be raised by taxation and paid as directed pursuant to the Act, and the amount thereof shall be charged against the operating tax limit of the City as provided in the Act, and the amount of taxes assessed, levied on and collected from taxable real estate in the City in any fiscal year shall be a charge against, and be deducted from, the limitation provided by the constitution on the amount to be raised in such year by the tax on real estate in the City.

Section 203. Authorization of Capital Account Bonds. In accordance with Section 4 of the Act and for the purpose of paying the $47,394,993 Capital Completion Bill, there is hereby appropriated the sum of $47,394,993, and bonds of the City are hereby authorized to be issued in the principal amount of not exceeding $45,910,000 to fund in part said appropriation.

Section 204. Statements and Recitals as to Capital Account Bonds. It is hereby determined, declared, stated and recited as follows:

(A) The specific object or purpose for which the Capital Account Bonds are to be issued is the funding of part of the Capital Completion
Bill. Each item of said object or purpose, and the estimated maximum cost, if any, of each such item, are as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimate of Maximum Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) any items of contract indebtedness unpaid and due or to become due during or at any date after the fiscal year commencing July 1, 1976 incurred and approved by or on behalf of the City on account of capital projects whether or not (a) in excess of the amount of existing appropriations therefor, (b) in excess of the amount of bond authorizations or bond ordinances for the financing thereof or balances thereof, or (c) there is an existing bond authorization or bond ordinance for the financing thereof</td>
<td>$ 3,495,684</td>
</tr>
<tr>
<td>(2) any items of capital expenses on account of capital projects properly attributable to said fiscal year or any prior period paid or provided for by the application of current revenues properly attributable to said fiscal year or any prior period, including the application of the proceeds of notes of the City referred to as items (1) and (2) in Subsection (A) of Section 202</td>
<td>$ -0-</td>
</tr>
<tr>
<td>(3) any bond anticipation notes of the City, other than the bond anticipation notes mentioned as item (2) in Subsection (A) of Section 202, outstanding at any time during said fiscal year, whether or not the proceeds thereof were used for the specific object or purpose or the class of objects or purposes for which the bonds in anticipation of which such notes were issued, were authorized pursuant to the bond authorization or bond ordinance; and</td>
<td>$41,897,951</td>
</tr>
<tr>
<td>(4) any costs, based on estimates, of authorization and issuance of Capital Account Bonds, including printing, engraving, advertising, financial accounting and legal fees and expenses, initial fees and expenses of the Fiscal Agent, and any discount incurred upon the issuance</td>
<td>$ 2,001,358</td>
</tr>
</tbody>
</table>
(B) The plan for the financing of the $47,394,993 total cost of all the items of such specific object or purpose includes the application and expenditure of amounts aggregating $1,484,993 available therefor by virtue of current appropriations and the issuance of $45,910,000 serial bonds hereby authorized and the levy and collection of a tax upon all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

(C) The amount of bonds to be issued for such specific object or purpose is $45,910,000, and said bonds are to be serial bonds.

(D) The period of probable usefulness of such specific object or purpose is twenty (20) years.

(E) The amount of the Capital Completion Bill to be funded by the Capital Account Bonds is $45,910,000.

(F) The Capital Account Bonds shall mature in the principal amount of $1,700,000 on April 15 in each of the years 1978 and 1979, $1,710,000 on April 15, 1980, and $2,550,000 on April 15 in each of the years 1981 to 1996, both inclusive.

(G) The principal of and interest on the Capital Account Bonds shall be raised by taxation and paid as directed pursuant to the Act.

SECTION 205. Statements and Recitals as to Bonds:

(A) The Bonds are authorized under the Act and the Local Finance Law.

(B) This Ordinance shall constitute the special contract and credit agreement with the Bondholders authorized by the City Council in accordance with the Act.

(C) The issuance of the Bonds is in the public interest and affords increased assurance that the City can continue operating independently as a municipal corporation of the State.

SECTION 206. Recital of Validity and Pledge of Faith and Credit. Each of the Bonds shall contain the recital of validity prescribed by Section 52.00 of the Local Finance Law and the Bonds shall be general obligations of the City, payable as to both principal and interest by a general tax upon all the taxable real property within the City without limitation of rate or amount. The faith and credit of the City are hereby irrevocably pledged to the pune-
tual payment of the principal of and interest on the Bonds, and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the Bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 207. Combination for Purpose of Sale. The Current Account Bonds and the Capital Account Bonds shall be combined for the purpose of sale into a single issue of serial bonds in the aggregate principal amount of $83,660,000, and each of said bonds shall be designated "General Obligation Serial Bond—1976 (Special Finance and Budget Act Issue)".

Section 208. Terms of Bonds. The Bonds shall be dated October 15, 1976 and shall mature in the principal amount of $3,590,000 on April 15, 1978, $3,600,000 on April 15, 1979, $4,540,000 on April 15, 1980, $5,380,000 on April 15 in each of the years 1981 to 1991, both inclusive, and $2,550,000 on April 15 in each of the years 1992 to 1996, both inclusive.

The Bonds shall bear interest from their date, payable on October 15, 1977 and semi-annually thereafter on April 15 and October 15 in each year until maturity, at such rate or rates of interest as shall be fixed by the Supplemental Ordinance of the City referred to in paragraph (b) of Section 302. The Bonds shall be of the denomination of $5,000 each, shall be numbered from one upwards in order of maturity, shall be payable as to principal, interest and redemption premium, if any, at the Principal Office of the Paying Agent, or at the respective Principal Offices of two or more Paying Agents, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts and shall be issued in the form of a bond payable to bearer with coupons payable to bearer attached for the several installments of interest thereon due at or prior to its maturity.

Section 209. Redemption of Bonds. None of the Bonds maturing on or before April 15, 1986 shall be subject to redemption prior to maturity. All of the Bonds maturing on and after April 15, 1987 shall be subject to redemption prior to maturity at the option of the City on and after October 15, 1986, as a whole at any time, or in part on any interest payment date and in inverse order of maturity, upon notice published at least three times in a financial newspaper published and circulating in the City of New York, and
in the official newspaper of, or a newspaper having general circulation in, the City, the first such publication to be at least thirty days prior to the date set for such redemption, and at a redemption price equal to the principal amount of each such bond to be redeemed plus, if any bond is to be redeemed in any period shown in the following table, the redemption premium (if any), expressed as a percentage of such principal amount, set opposite such period, together with interest accrued to the redemption date:

<table>
<thead>
<tr>
<th>Period</th>
<th>Redemption Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 15, 1986 to October 14, 1988</td>
<td>3%</td>
</tr>
<tr>
<td>October 15, 1988 to October 14, 1990</td>
<td>2</td>
</tr>
<tr>
<td>October 15, 1990 to October 14, 1992</td>
<td>1</td>
</tr>
<tr>
<td>October 15, 1992 and thereafter</td>
<td>None</td>
</tr>
</tbody>
</table>

Section 210. Execution of Bonds. Unless otherwise provided by subsequent resolution of the City Council adopted prior to the issuance of the Bonds, each Bond shall be executed in the name of the City by the manual or facsimile signature of its Mayor and the manual signature of its City Comptroller and its corporate seal or facsimile thereof shall be thereunto affixed, impressed, imprinted or otherwise reproduced thereon and attested by the City Clerk. The coupons appurtenant and to be attached to each Bond shall bear and be authenticated by the facsimile signature of the City Comptroller of the City.

Section 211. Authentication of Bonds. The Bonds shall bear thereon a certificate of authentication, substantially in the form set forth in this Article, duly executed by the Fiscal Agent. Only such Bonds as shall bear thereon such certificate of authentication, duly executed, shall be entitled to any right or benefit under the Ordinance. No Bond and no coupon appurtenant thereto shall be valid or obligatory for any purpose unless such certificate of authentication upon such Bond shall have been duly executed by the Fiscal Agent, and such certificate of authentication by the Fiscal Agent upon any Bond executed on behalf of the City shall be conclusive and the only evidence that the Bond so authenticated has been duly authenticated and delivered under the Ordinance and that the holder thereof and of any coupons appurtenant thereto is entitled to the benefits of the Ordinance.

Section 212. Negotiability and Transfer of Bonds. The Bonds shall be negotiable instruments and title to any Bond shall pass by delivery merely, unless such Bond be then in registered form. Any Bond payable to bearer may
be converted into a registered Bond and any registered Bond may be reconverted into a Bond payable to bearer in accordance with the provisions of Sections 70.00 to 75.00 of the Local Finance Law, upon presentation thereof at the office of the Registration Agent. The City shall maintain and keep, at such office, books for the registration and transfer of Bonds. The City shall also make all necessary provision for the conversion or reconversion of Bonds at the office of the Registration Agent.

SECTION 213. Ownership of Bonds and Effect of Registration. The City and any Fiduciary may treat and consider the bearer of any Bond which shall not at the time be registered otherwise than to bearer as the holder and absolute owner thereof, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal or Redemption Price thereof, and for all other purposes whatsoever except for the purpose of receiving payment of coupons. The City and any Fiduciary may treat and consider the bearer of any coupon appurtenant to a Bond as the holder and absolute owner thereof, whether such coupon or such Bond shall be overdue or not, for the purpose of receiving payment thereof and for all other purposes whatsoever. The City and any Fiduciary may treat and consider the person in whose name any Bond for the time being shall be registered upon the books of the City as the holder and absolute owner thereof, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal or Redemption Price thereof or interest thereon and for all other purposes whatsoever; and payment of, or on account of, the principal or Redemption Price of or interest on such Bond shall be made only to, or upon the order of, such registered owner.

SECTION 214. Form of Bonds, Coupons and Fiscal Agent's Certificate. Subject to the provisions of the Ordinance, each Bond, the coupons to be attached thereto, the certificate of authentication by the Fiscal Agent and the provisions for registration to be endorsed thereon shall be, respectively, in substantially the following form, with such omissions, insertions, endorsements and variations as to redemption or other provisions or as to recitals of fact as may be required by the circumstances and be required or permitted by the Ordinance or as may be consistent with the Ordinance and necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto:
No. ........ $........

UNITED STATES OF AMERICA
STATE OF NEW YORK
COUNTY OF WESTCHESTER
CITY OF YONKERS
GENERAL OBLIGATION SERIAL BOND—1976
(SPECIAL FINANCE AND BUDGET ACT ISSUE)

The City of Yonkers, in the County of Westchester, a municipal corporation of the State of New York, hereby acknowledges itself indebted and for value received promises to pay to the bearer of this bond, or if it be registered to the person in whose name it is registered, on the fifteenth day of April, 19 , the sum of Five Thousand Dollars ($5,000) and to pay interest on such sum from the date of this bond until the City's obligation with respect to the payment of such sum shall be discharged at the rate of per centum ( %) per annum, payable October 15, 1977 and semi-annually thereafter on the fifteenth days of April and October in each year but only, in the case of interest due at or before maturity of this bond, according to the tenor of the respective coupons therefor annexed hereto and upon presentation and surrender of said coupons as they severally mature, or, if this bond be registered, to the registered holder. Both principal and redemption premium (if any) of and interest on this bond will be paid in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, at the principal office of , in the Borough of Manhattan, City and State of New York [, or at the option of the holder, at the principal office of , in the Borough of Manhattan, City and State of New York].

This bond may be converted into a registered bond in accordance with the provisions of the Local Finance Law.

This bond is one of an authorized issue of General Obligation Serial Bonds—1976 (Special Finance and Budget Act Issue) (the "Bonds"), the aggregate principal amount of which is $83,660,000, all of which are of like tenor except as to number, maturity, (denomination), (interest rate) (and option of redemption). The Bonds are authorized in accordance with the provisions of the Special Local Finance and Budget Act of the City of Yonkers, constituting chapter 488 of the Laws of 1976 of the State of New York, as
amended, (the "Act") and pursuant to a bond ordinance of the City adopted by the City Council and entitled: "Bond Ordinance of the City of Yonkers, New York, Adopted September 17, 1976, Stating the Amount of the Capital Completion Bill and the Amount of the General Deficiency Bill of the City, Appropriating $92,578,084 to Pay Said Bills, Authorizing the Issuance of $83,660,000 Serial Bonds of the City to Finance a Portion of Said Appropriation, Determining Certain Terms and Details of Said Bonds, and Providing for the Rights of Holders of Said Bonds and Other Obligations of the City", as supplemented, (the "Ordinance"), and are issued in accordance with the Act and certain provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of New York, for the purposes of funding or paying all or any part of the general deficiency bill and funding or paying all or any part of the capital completion bill of the City, as defined in the Act. A copy of the Ordinance is on file at the office of the City Clerk and at the office of the State Comptroller of the State of New York (the "Fiscal Agent"), in the City of Albany, New York.

The Bonds are entitled to the benefits of the Act and the Ordinance, including certain covenants of the City authorized by the Act and set forth in the Ordinance. Reference to the Ordinance, and any and all modifications thereof, and to the Act is made for a description of the nature and extent of such covenants of the City, the nature and extent and manner of enforcement of such covenants, the rights and remedies of the holders or registered owners of the Bonds with respect thereto, the terms and conditions upon which the Bonds are issued, and a statement of the rights, duties and obligations of the City and of the Fiscal Agent.

To the extent and in the respects permitted by the Ordinance, the provisions of the Ordinance may be modified or amended by action on behalf of the City taken in the manner and subject to the conditions and exceptions prescribed in the Ordinance. The obligations of the City may be discharged at or prior to the maturity or redemption of the Bonds upon the making of provision for the payment thereof on the terms and conditions set forth in the Ordinance.

The Bonds maturing on or before April 15, 1986 are not subject to redemption prior to maturity. The Bonds maturing on or after April 15, 1987 are subject to redemption by or on behalf of the City prior to maturity and upon published notice as hereinafter set forth, on and after October 15, 1986 as a whole at any time, or in part on any interest payment date and in inverse order of maturity, at a redemption price equal to the principal amount of each Bond to be redeemed plus, if such Bond is to be redeemed in any period shown
in the following table, the redemption premium (if any), expressed as a percentage of such principal amount and applicable upon such redemption, set opposite such period:

<table>
<thead>
<tr>
<th>Period (Both Dates Inclusive)</th>
<th>Redemption Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 15, 1986 to October 14, 1988</td>
<td>3%</td>
</tr>
<tr>
<td>October 15, 1988 to October 14, 1990</td>
<td>2</td>
</tr>
<tr>
<td>October 15, 1990 to October 14, 1992</td>
<td>1</td>
</tr>
<tr>
<td>October 15, 1992 and thereafter</td>
<td>None</td>
</tr>
</tbody>
</table>

If less than all of the Bonds of like maturity are to be redeemed, the particular Bonds to be redeemed shall be selected by lot. Notice of redemption shall be published at least three times in a financial newspaper published and circulating in the City of New York, and in the official newspaper of, or in any newspaper having general circulation in, the City of Yonkers, the first such publication to be at least thirty days prior to the date set for such redemption. If notice of redemption shall have been published as aforesaid, the Bonds specified in such notice shall become due and payable at the applicable redemption price on the redemption date therein designated, and if, on the redemption date, moneys for payment of the redemption price of all the Bonds to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such Bonds shall cease to accrue and become payable to the holders or registered owners entitled to payment thereof on such redemption, and the coupons for interest appertaining thereto maturing subsequent to the redemption date shall be void in the hands of such holders or registered owners or their transferees.

The faith and credit of such City of Yonkers are hereby irrevocably pledged for the punctual payment of the principal of and interest on this bond according to its terms.

Neither this Bond nor any coupon for interest hereon shall be valid or obligatory for any purpose unless the Certificate of Authentication hereon has been duly executed by the Fiscal Agent.

It is hereby certified and recited that all conditions, acts and things required by the Constitution and statutes of the State of New York to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the issue of bonds of which this is one, together with all other indebtedness of such City of Yonkers is within every debt and other limit prescribed by the Constitution and laws of such State.
IN WITNESS WHEREOF, the CITY OF YONKERS has caused this bond to be executed in its name by [the manual or facsimile signature of its Mayor and] the manual signature of its City Comptroller and its corporate seal to be hereunto affixed, impressed, imprinted or otherwise reproduced hereto and attested by its City Clerk and the coupons hereeto attached to be authenticated by the facsimile signature of its City Comptroller and this bond to be dated as of the fifteenth day of October, 1976.

CERTIFICATE OF AUTHENTICATION

This bond is one of the issue of General Obligation Serial Bonds—1976 (Special Finance and Budget Act Issue) described in the within mentioned Ordinance.

By ........................................
Mayor

By ........................................
City Comptroller

........................................
Fiscal Agent

[SEAL]

By ........................................
Authorized Officer

Attest:

........................................
City Clerk

[FORM OF COUPON]

No. ...........

$ ...........

Unless the within bond shall have been called for prior redemption and payment thereof duly made or provided for, on the fifteenth day of , 19 , the CITY OF YONKERS, in the County of Westchester, a municipal corporation of the State of New York, will pay to the bearer the sum of Dollars ($ ), in any coin or currency of the United States of America which at the time of payment is legal tender
for the payment of public and private debts, at the principal office of
, in the Borough of Manhattan,
City and State of New York [or, at the option of the holder, at the prin-
cipal office of
, in the Borough of Manhattan, City
and State of New York.] being [six] [twelve] months' interest then due on
its GENERAL OBLIGATION SERIAL BOND—1976 (Special Finance and Budget
Act Issue) dated October 15, 1976, and bearing No.

City Comptroller

[FORM OF REVERSE OF BOND]

CONVERSION CERTIFICATE

It is hereby certified that upon the presentation of the within bond
with a written request by the holder thereof for its conversion into a bond
registered as to both principal and interest, there have been this day cut
off and destroyed

| Coupons attached |
| hereto, of the aggregate amount and value of |
| Dollars ($ ) |

being all the coupons for interest on the within
bond payable after the date of this certificate, and that the interest at the
rate and on the dates stated in the within bond and as was provided by the
coupons, as well as the principal, is to be paid to the registered holder, his
legal representatives, successors or transferees at the places stated in the
within bond and as was stated in the coupons. This bond shall hereafter be
transferable only upon presentation of the same with a written transfer of
title. Such transfer shall be dated, and signed by the registered holder, or his
legal representatives, and it shall be duly acknowledged or proved, or in
the alternative the signature thereto shall be certified as to its genuineness by
an officer of a bank or trust company located and authorized to do business
in this state.

Dated: , 19

Registration Agent
REGISTRATION CERTIFICATE

It is hereby certified that the within bond has been registered as follows:

<table>
<thead>
<tr>
<th>Date of Registration</th>
<th>Name of Registered Holder</th>
<th>Registered By</th>
</tr>
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<tbody>
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</table>

ARTICLE III

ISSUANCE OF BONDS AND APPLICATION OF PROCEEDS

SECTION 301. Issuance of Bonds. The $83,660,000 aggregate principal amount of General Obligation Serial Bonds—1976 (Special Finance and Budget Act Issue) consisting of the $37,750,000 aggregate principal amount of Current Account Bonds and the $45,910,000 aggregate principal amount of Capital Account Bonds shall be executed by or on behalf of the City and delivered to the Fiscal Agent for authentication by it and delivery to the City or upon its order.

SECTION 302. Conditions Precedent to Authentication of Bonds. The Fiscal Agent shall not authenticate or deliver to the City or upon its order any of the Bonds unless theretofore or simultaneously therewith there shall have been delivered or paid to the Fiscal Agent the following:

(a) A copy of the Ordinance certified by the City Clerk, with the approval of the Control Board endorsed thereon;

(b) A copy of a Supplemental Ordinance, certified by the City Clerk, fixing the rate or rates of interest on the Bonds and all other terms and details of the Bonds not determined by the Ordinance including the appointment of a Paying Agent or Paying Agents, with the approval of the Control Board endorsed thereon;

(c) An Accountant's Certificate as referred to in paragraph (C) of Section 3 of the Act, stating the amount of the General Deficiency Bill as of June 30, 1976, setting forth in separate clauses the items thereof in the order and as listed in subparagraphs one to seven, inclusive, of paragraph (O) of Section 2 of the Act, and further stating that, in the opinion of the signer, there is no item accounted for under any one such clause which is also accounted for under another of such clauses or in the Capital Completion Bill;
(d) A Justification Document stating the amount of the General Deficiency Bill not funded or to be funded by proceeds of sale of the Current Account Bonds and setting forth the sources of payment of such unfunded amount;

(e) An Accountant’s Certificate, as referred to in paragraph (C) of Section 4 of the Act, stating the amount of the Capital Completion Bill as of June 30, 1976, setting forth in separate clauses the items thereof included in the computation of the Capital Completion Bill, and further stating that in the opinion of the signer there is no item accounted for in such bill under any one clause thereof which is also accounted for under another such clause of such bill or under the General Deficiency Bill;

(f) A Justification Document stating the amount of the Capital Completion Bill not funded or to be funded by the proceeds of sale of the Capital Account Bonds and setting forth the sources of payment of such unfunded amount;

(g) A resolution or certificate of the Control Board certifying that it is reasonable for the City to assume that (i) the revenues from the sources of payment of the unfunded amount of the General Deficiency Bill set forth in the Justification Document referred to in paragraph (d) of this Section 302 and (ii) the revenues from the sources of payment of the unfunded amount of the Capital Completion Bill set forth in the Justification Document referred to in paragraph (f) of this Section 302 will be available on or before July 1, 1977 to pay such unfunded amounts respectively;

(h) The written acceptance by the State Comptroller of his appointment as the Fiscal Agent under the Act and the Ordinance, and of the powers, duties and obligations of such Fiscal Agent;

(i) The written order of the City as to the delivery of the Bonds, signed by the City Comptroller and stating the amount of the proceeds of sale of the Current Account Bonds and the amount of the proceeds of sale of the Capital Account Bonds;

(j) A Comptroller’s Certificate setting forth all outstanding Obligations of the City and stating, as to each issue of such Obligations (i) the principal amount thereof outstanding, (ii) the designation thereof; (iii) the maturity date or dates thereof, (iv) the rate or rates of interest borne thereby and the dates of payment of such interest and (v) the
place or places at which such Obligations and the interest thereon are payable;

(k) The amount of the proceeds of sale of the Current Account Bonds, including interest accrued to the date of delivery thereof, for deposit into the General Deficiency Account; and

(l) The amount of the proceeds of sale of the Capital Account Bonds, including interest accrued to the date of delivery thereof, for deposit into the Capital Completion Account.

SECTION 303. Application of Proceeds of Current Account Bonds. Such proceeds of sale of the Current Account Bonds shall be deposited by the Fiscal Agent in a special and separate bank account to be designated the “General Deficiency Account”.

SECTION 304. Application of Proceeds of Capital Account Bonds. Such proceeds of sale of the Capital Account Bonds shall be deposited by the Fiscal Agent in a special and separate bank account to be designated the “Capital Completion Account”.

SECTION 305. Payments from General Deficiency Account and Capital Completion Account. No moneys shall be withdrawn from the General Deficiency Account or the Capital Completion Account unless there is filed with the Fiscal Agent a written requisition of the City Council or the properly authorized delegate of the City, who shall be the chief fiscal officer of the City or his authorized deputy, setting forth (a) the item number of the requisition; (b) the Account to be charged; (c) the name of the person (including an appropriate fund of the City and the holder of a note payable to bearer) to whom payment is due; (d) the amount to be paid (including the amount due by deposit with the paying agent designated on any such note); and (e) a statement to the effect that the obligation in the stated amount has been incurred by the City and is a proper charge against such Account. The Fiscal Agent shall not make any such withdrawal from the General Deficiency Account unless the item or obligation for which moneys have been requisitioned is accounted for in the Accountant’s Certificate referred to in paragraph (c) of Section 302, or amendment thereof most recently filed with the Fiscal Agent. The Fiscal Agent shall not make any such withdrawal from the Capital Completion Account unless the item or obligation for which moneys have been requisitioned is accounted for in the Accountant’s Certificate referred to in paragraph (e) of Section 302, or amendment thereof most recently filed with the Fiscal Agent.
SECTION 306. Investment of Moneys in Accounts. Pending such withdrawals, moneys in the General Deficiency Account and moneys in the Capital Completion Account shall be invested in Investment Obligations maturing at such times and in such amounts as shall provide available moneys to make payments from the General Deficiency Account and the Capital Completion Account when required. Such investments shall be made for and on behalf of the City by the Fiscal Agent upon written instructions from the chief fiscal officer of the City or his authorized deputy in the manner provided by Subdivision (b) of Section 165.00 of the Local Finance Law.

SECTION 307. Unexpended Bond Proceeds. Any moneys remaining in the General Deficiency Account and the Capital Completion Account after satisfying the specific objects or purposes for which Current Account Bonds and Capital Account Bonds were respectively issued shall be applied in accordance with the provisions of Section 165.00 of the Local Finance Law.

ARTICLE IV

COVENANTS OF THE CITY AND DEBT SERVICE FUND

SECTION 401. General. The City hereby covenants and agrees with the Fiscal Agent and with the holders from time to time of the Bonds that it will comply in all respects with the provisions of the Act and the Ordinance.

SECTION 402. Payment of Bonds. The City shall duly and punctually pay or cause to be paid the principal of every Bond and the interest thereon, at the dates and place or places and in the manner set forth in the Bonds and in the coupons thereto appertaining, according to the true intent and meaning thereof.

SECTION 403. Covenants as to Budgetary Procedures of the City. (1) As used in this Section 403, “current year” means the fiscal year in which the budget is required to be adopted, being the fiscal year next preceding the budget year and “base year” means the fiscal year next preceding the fiscal year in which the budget is required to be prepared and adopted, being the second fiscal year next preceding the budget year.

(2) The City hereby particularly covenants with the Fiscal Agent and with the holders from time to time of the Bonds to the following purpose and effect: (A) There shall be included and made in the budget of the city for or with respect to each budget year not less than the following appropriations estimated and computed in accordance with this section:

(i) All appropriations required to fund expenditures required by law for the budget year;
(ii) Appropriations of the amounts required for the budget year to pay Special Debt Service outstanding at the beginning of such year;

(iii) Appropriations of the amounts required for the payment of any judgments or settled claims against the City unpaid at the beginning of such budget year together with interest thereon until paid, and amounts properly attributable as a reserve for any judgments or settled claims against the City during the budget year together with interest, if any, thereon;

(iv) Appropriations of the amounts estimated to be required for the payment when due of the interest on tax anticipation notes and revenue anticipation notes to be issued during the budget year and paid prior to the expiration of such year;

(v) Appropriation of the amounts required for all other expenditures to be made during the budget year, or properly attributable to such year, for the general support and current expenses of the government of the City to be paid from taxes or special assessments or other current revenues of the City for such year;

(vi) An appropriation for a reserve for uncollected taxes of not less than the amount determined as stated below for the required provision for uncollected taxes for such budget year; and

(vii) An appropriation for liquidation of prior deficits of the City of not less than the amount determined as stated below for the required provision for deficits of prior years for such budget year.

(B) Unless the exact amount of the expenditure for any item of such an appropriation for a budget year is known and stated at the time of making and adopting the budget for or with respect to such year, the amount thereof shall be estimated by ordinance of the City Council; provided, however, that the estimate for such item shall not be less in amount that the amount for such item of expenditure paid or incurred for or with respect to the base year, or less in amount than the appropriation made or included for such item in the budget for the current year, whichever is less, unless there shall have been previously filed with the Fiscal Agent a Justification Document of the City Council with respect to such estimate.

(C) The required provision for uncollected taxes for or with respect to a budget year shall be not less than the amount determined by (a) ascertaining
the amount of City, State, County of Westchester or other taxes levied or assessed upon real property in the City for the base year and payable during such year to the City or its collecting officer or agent which were not collected or otherwise realized in cash by the City or its collecting officer or agent prior to the end of such base year; (b) dividing the amount so ascertained by the balance obtained by subtracting the said amount so ascertained from the total amount of City Taxes levied or assessed upon real property in the City for the base year (whether or not subsequently abated, remitted or cancelled) and payable during such year to the City or its collecting officer or agent, and stating the result as a percentage; and (c) multiplying said percentage so stated by the total amount of City Taxes levied or assessed or to be levied or assessed upon taxable real property in the City for the budget year and payable during such year to the City or its collecting officer or agent, except and excluding the portion thereof included as the aforesaid reserve or provision for uncollected taxes.

(D) The required provision for deficit of prior years for or with respect to a budget year shall be the amount of the aggregate of the deficits of the various operating funds of the City as of the end of the base year.

(E) With respect to the appropriation referred to in paragraph four of Subsection (A) and subject to the limitations set forth in Subsection (B) of this Section, there shall be attached to and made a part of each budget of the City a schedule of cash expenditures and cash receipts for the budget year on a monthly basis in as much detail as the City Council shall consider appropriate for the determination of the estimated need for the issuance of tax and/or revenue anticipation notes. In addition, with respect to each budget subsequent to the second budget effective under the Act, there shall be attached to such schedule the certificate of the chief fiscal officer of the City setting forth the actual cash expenditures and actual cash receipts on a monthly basis for the base year. In the event there shall be substantial variation between the schedule attached to the budget and the certificate, there shall be filed with the Fiscal Agent a Justification Document.

(F) In computing or stating the amount of City Taxes assessed or levied or to be assessed or levied upon real property in the City pursuant to the budget for any budget year, there shall not be deducted from the total of the appropriations included and made in such budget, and the receipt or availability shall not be estimated or anticipated in such budget of, any sum or sums of money which the City Council does not by resolution declare will be collected or otherwise realized in cash by or for the account of the City prior to the
expiration of such year, or, in any event, any sum or sums of money other
than or in excess of the following:

(1) Operating surpluses of prior years not in excess of the amount
of the aggregate of the fund balances of the various operating funds of
the City as of the end of the base year;

(2) As State or federal aid under any program thereof continuing
fully in effect until the end of said budget year, a sum or sums of
money not in the aggregate exceeding the amount received or otherwise
realized in cash by the City for or on account of said program during
the base year, or any such larger amount as may be certified by an
officer, board, commission or other agency of the State or the United
States of America as received or receivable in cash, for or on account of
said program and under legislation and appropriations then fully effec-
tive and sufficient, by the City from such officer, board, commission or
agency or from the State or the United States of America, free from
any setoff or counterclaim, during any period of twelve consecutive
months ending not later than the end of such budget year or more
than six months prior to the beginning of said year;

(3) Collection or other realization in cash of real property taxes
unpaid and remaining payable to the City or its collecting officer on the
first day of such budget year, not in excess of the amount determined
by (a) ascertaining (i) the amount of delinquent real property taxes
unpaid and remaining payable to the City or its collecting officer on the
first day of the base year (whether or not subsequently abated, remitted
or cancelled) and (ii) the amount of such delinquent real property taxes
which were collected or otherwise realized in cash during such base
year, (b) dividing the amount ascertained pursuant to (a) (ii) above
by the amount ascertained pursuant to (a) (i) above and stating the
result as a percentage, and (c) multiplying such percentage by the
amount of delinquent real property taxes (including taxes for such base
year) unpaid and remaining payable to the City or its collecting officer
on the last day of such base year;

(4) Miscellaneous revenues not in any instance or as to any item
in excess of the amount of such miscellaneous revenues collected or
otherwise realized in cash from the same source in the base year or
properly attributable to the current year;

(5) Miscellaneous revenues in excess of amounts permitted for
any items under the provisions of paragraph (4) of this Subsection, but
only if there shall have been previously filed with the Fiscal Agent a Justification Document approved by the City Council with respect to such item; and

(6) Miscellaneous revenues as to any item not mentioned in paragraph (4) of this Subsection, but only if there shall be filed a Justification Document approved by the City Council with respect to such item, not in excess of the amount of such miscellaneous revenues actually realized in cash from the same source in the current year in not less than four of the six months prior to the beginning of said budget year plus that anticipated for the remaining months of the current year estimated as accurately as may be, provided that the authority for receiving such item of miscellaneous revenues shall continue to be fully in effect until the end of said budget year.

(G) In stating in any budget the receipts pursuant to paragraphs (2) through (6) of Subsection (F) of this Section, there shall be attached to the budget an Accountant's Certificate stating that the inclusion of such receipt for such budget year is properly attributable to such budget year.

(H) For and with respect to each budget year, the City Council shall assess and levy the amount of real property taxes for each such year required under the budget including the required provisions for uncollected taxes and for deficits of prior years referred to in Section 6 of the Act, being the excess of the aggregate amount of all appropriations included and made in such budget over the aggregate amount of all receipts (except real property taxes for such year) anticipated in such budget as estimated and stated in accordance with the limitations of Subsection (A) of this Section, and the City Council shall cause to be raised the said amounts so required by tax upon real property liable therefore in the manner provided for the levy of City Taxes.

(I) The annual adopted budget of the City shall not be effective until the Fiscal Agent shall have reviewed it for compliance with the Act and the Ordinance and shall have endorsed his certificate of such approval thereon. Prior to implementation of any procedures with respect to the levy of City Taxes, the City shall file such budget, effective as aforesaid, with the itemizations of expenditure and revenue estimates in accordance with this Section together with Justification Documents, if any, required hereunder. In order that the Fiscal Agent shall have sufficient time for such review, the City shall file with the Fiscal Agent the proposed budget at the time it is filed with the City Council.
SECTION 404. Transfer of Appropriations and Emergency Appropriations. (A) No transfer shall at any time be made of any part of an appropriation referred to in paragraphs 1, 2, 3, 4, 6 or 7 of Subdivision (A) of Section 6 of the Act. No transfer of any part of an appropriation made in a budget for any purpose shall be authorized or made or shall take effect at any time unless there shall have been previously filed with the Fiscal Agent a resolution of the City Council finding that the unencumbered balance of such appropriation remaining after such transfer equals or exceeds the estimated expenditures of the City required for such purpose during the remainder of the budget year, together with a Justification Document with respect to such finding. Upon the taking effect of such transfer, the amount of the appropriation in such budget to which such transfer is made shall be deemed for all purposes of the Act to be increased by the amount of such transfer. No transfer under this Section shall be made to any appropriation for expenditures with respect to a capital project for which there is an existing bond ordinance in effect covering such capital project, unless such bond ordinance is amended to increase the estimated maximum amount of the cost of financing said capital project and provision is made to finance the appropriation for such increase with the use of such general operating funds; and

(B) No emergency appropriation, supplemental or supplementary appropriation or other increase in the amount of any appropriation made in any budget shall be authorized or made or shall take effect during the budget year, except (i) an increase by a transfer made in accordance with Section 8 of the Act or (ii) a supplemental appropriation for the payment of expenditures expected to be met in full by application of an amount not estimated or anticipated as a revenue or receipt in such budget which is certified by an officer, board, commission or other agency of the State or the United States of America to be receivable in cash by the City during such budget year from such officer, board, commission or agency or from the State or the United States of America, under legislation and appropriations then fully effective and sufficient, for the purpose of paying such expenditure, free from any setoff or counterclaim.

SECTION 405. Restrictions on Issuance of Certain Obligations. (1) The City shall not, after the date of issuance of any Bond, issue any tax receivable note as defined or referred to in Section 24.11 of the Local Finance Law.

(2) The City shall not, after the date of issuance of any Bond, issue any revenue anticipation note or any other form of indebtedness in anticipation of
the receipt of the Sales Tax, unless all proceeds of sale thereof shall be paid
to the Fiscal Agent, or to its Depository, for deposit into the Debt Service
Fund.

SECTION 406. Certification of Debt Service Percentage and Added Debt
Service Percentage. (1) Within ten (10) days following the adoption of the
budget of the City for any fiscal year commencing after the issuance of the
Bonds, but in no event later than the first day of such fiscal year, the City
shall file with the Fiscal Agent a Comptroller's Certificate stating (a) the
total appropriation in such budget for Special Debt Service, (b) the total
amount of City Taxes levied and assessed for such fiscal year, (c) the amount
of the appropriation for such fiscal year for a reserve for uncollected taxes
and (d) the Debt Service Percentage.

(2) Prior to the issuance of any revenue anticipation notes, urban
renewal notes or budget notes, the City shall file with the Fiscal Agent a
Comptroller's Certificate stating (a) the total amount of interest payable
during the then current fiscal year on such revenue anticipation notes, urban
renewal notes or budget notes, (b) the total amount of City Taxes levied and
assessed for such fiscal year and then remaining uncollected, (c) the
amount of the appropriation for such year for a reserve for uncollected taxes
and (d) the Added Debt Service Percentage computed as of the time immedi-
ately following the issuance of such revenue anticipation notes, urban renewal
notes or budget notes.

SECTION 407. Establishment of Special Debt Service Fund. There is
hereby established, and the City hereby covenants to maintain with the Fiscal
Agent a special fund which shall be known, and is herein referred to, as the
"Debt Service Fund".

SECTION 408. Payments to Fiscal Agent and Deposits into Debt Service
Fund. (1) Immediately upon receipt of any payment of or on account of
any City Taxes levied and assessed for any fiscal year commencing after the
issuance of the Bonds, the City, its collecting officer and any agent receiving
the same shall remit such payment to the Fiscal Agent or to its Depository
for deposit to the account of the Fiscal Agent. Of each payment so received,
the Fiscal Agent shall deposit and pay into the Debt Service Fund the portion
thereof equal to the sum of (i) the Debt Service Percentage of the total
payment remitted, (ii) the Added Debt Service Percentage of the total pay-
ment remitted, and (iii) the total amount of principal and interest due or
to become due on any tax anticipation notes of the City then outstanding, and shall pay over the remainder of such sum to the City Comptroller for use by the City in the manner provided by law.

(2) The proceeds of any tax anticipation notes issued by the City in anticipation of the collection of City Taxes levied for any fiscal year commencing after the issuance of the Bonds shall be paid to the Fiscal Agent or to its Depositary for deposit to the account of the Fiscal Agent. Of the proceeds so received, the Fiscal Agent shall deposit and pay into the Debt Service Fund the portion thereof equal to the Debt Service Percentage and the Added Debt Service Percentage of the total proceeds, and shall pay over the remainder of such proceeds to the City Comptroller for use by the City in the manner provided by law.

(3) The City shall cause all revenues derived by it from the imposition of the Sales Tax to be deposited directly into the Debt Service Fund by or on behalf of the State Comptroller in accordance with the Act.

(4) All revenues in anticipation of which the City has issued revenue anticipation notes shall, upon receipt by the City, be paid to the Fiscal Agent, or to its Depositary, for deposit into the Debt Service Fund.

SECTION 409. Application of Debt Service Fund. (1) Notwithstanding anything contained in the Act, no moneys shall be withdrawn from the Debt Service Fund prior to July 1, 1977. The Fiscal Agent shall hold moneys in the Debt Service Fund in trust for the benefit of the holders of all outstanding Obligations of the City, and shall apply such moneys as in this Section 409 provided.

(2) Subject to the provisions of Subsection (4) of this Section 409, the Fiscal Agent shall from time to time during each fiscal year commencing after the issuance of the Bonds withdraw from the Debt Service Fund all amounts required for the payment as the same becomes due of all Special Debt Service of such fiscal year, including the principal of and interest on tax anticipation notes and the interest on revenue anticipation notes, urban renewal notes and budget notes of the City issued during such fiscal year, and cause the amounts so withdrawn to be made available to meet such payments as and when due.

(3) If seven days prior to the due date of any Special Debt Service the amounts held in the Debt Service Fund are not sufficient to pay all of said Special Debt Service, the Fiscal Agent shall give notice to the City Comptroller of the amount of such insufficiency.
(4) The Fiscal Agent shall not, during any fiscal year, withdraw any moneys from the Debt Service Fund for the payment of either (a) the principal of any revenue anticipation note, urban renewal note or budget note issued during such fiscal year or (b) the principal of, or interest on, any bond, bond anticipation note or capital note issued during such fiscal year unless either (i) such note is a revenue anticipation note all proceeds of which were paid into the Debt Service Fund upon the issuance thereof or (ii) moneys for such payment are deposited in the Debt Service Fund in addition to the amounts required by and satisfying the requirements of paragraph (1) and paragraph (3) of Section 408.

(5) The City shall not, during any fiscal year, issue any Obligations (other than tax anticipation notes and revenue anticipation notes, or other indebtedness, in anticipation of the receipt of the Sales Tax) having a maturity of principal or interest due and payable in such fiscal year unless such Obligations provide by their terms that no such principal or interest shall be payable from the Debt Service Fund unless either (a) provision for payment in full of such principal or interest is made pursuant to paragraph (2) of Section 406 and paragraph (1) of Section 408, or (b) the City shall deposit in the Debt Service Fund moneys sufficient, in addition to the amounts required by and after satisfying the requirements of paragraph (1) and paragraph (3) of Section 408, to provide for the payment of such principal or interest.

SECTION 410. Investment of Debt Service Fund. Pending the withdrawals provided for in Section 409, moneys in the Debt Service Fund shall be invested in Investment Obligations maturing at such times and in such amounts as shall provide available moneys to make such withdrawals and payments from the Debt Service Fund when required. Such investments shall be made for and on behalf of the City by the Fiscal Agent upon instructions from the chief fiscal officer of the City or his authorized deputy in the manner provided by subdivision (b) of section one hundred sixty-five of the Local Finance Law.

SECTION 411. Amounts in Excess of Debt Service Requirements Paid Over to City. If at any time during any fiscal year commencing after the issuance of the Bonds the moneys in the Debt Service Fund exceed the total of (a) the unpaid amount of all Special Debt Service due or to become due at or prior to the first day of the next ensuing fiscal year, including the interest
on revenue anticipation notes, urban renewal notes and budget notes of the
City issued during such fiscal year, and (b) the unpaid amount of all principal
and interest payable with respect to all tax anticipation notes then outstanding,
the Fiscal Agent shall pay over to the City Comptroller the amount of such
excess for use by the City in the manner provided by law.

SECTION 412. Filing, Review and Approval of Documents. The City
shall file with the Fiscal Agent its proposed budget, adopted budget, the
Justification Documents and all other documents required to be so filed by the
Act or the Ordinance (each in this Section called a “Document”). Any Docu-
ment shall be so filed at least five business days (or such shorter period as may
be satisfactory to the Fiscal Agent) prior to the effectiveness or implementa-
tion of such Document or of any matter justified thereby. The Fiscal Agent shall
review all Documents and shall approve or disapprove each Document. Such
action shall be evidenced by the filing with the City Clerk of either a copy of
such Document with the Fiscal Agent’s approval endorsed thereon or a certi-
ficate stating the reasons for its disapproval thereof.

The Fiscal Agent shall not approve any Document unless it determines
that such Document complies with the Act and the Ordinance, and, in the case
of any Justification Document, that it sets forth facts determined and actions
completed forming an existing basis for the matters sought to be justified and
is accompanied by certified copies of all proceedings necessary to evidence the
completion of all such actions. The City shall not take any action with respect
to which any Document is required to be filed unless and until the Fiscal Agent
shall have endorsed its approval thereon.

SECTION 413. Negative Pledge. The City shall not issue any bonds or
any other evidence of indebtedness or execute other contracts secured by a
pledge of the revenues, moneys and securities in or payable to the Debt Service
Fund, and shall not create or cause to be created any lien or charge upon the
revenues, moneys and securities in or payable to the Debt Service Fund.

SECTION 414. Accounts, Reports and Certificates. The City covenants
that it will keep, or cause to be kept, proper books of record and account in
which complete and accurate entries shall be made of all its transactions
relating to all Funds and Accounts of the City. The City shall cause the books
and accounts of the City, including the Education Fund and Education
Capital Fund, to be audited annually by one or more certified public account-
ants duly licensed by the State, and such audit shall be filed by the City with
the Fiscal Agent, accompanied by an Accountant's Certificate stating that, in making such audit, no knowledge of any default in the fulfillment of any of the terms, covenants or provisions of the Ordinance was obtained, or if knowledge of any such default was obtained, a statement thereof.

ARTICLE V

ADDITIONAL BORROWING BY THE CITY

SECTION 501. Approval of Control Board. Unless the existence of the Control Board shall sooner have been terminated, no ordinance or resolution of the City authorizing the issuance of any serial bonds, bond anticipation notes, tax anticipation notes, revenue anticipation notes, capital notes, budget notes, urban renewal notes or other indebtedness (all herein collectively called "Obligations") of the City shall take effect until a copy of such ordinance or resolution, certified by the City Clerk, shall be submitted to the Control Board and until the Control Board shall approve such ordinance or resolution and cause evidence of its approval to be endorsed thereon.

SECTION 502. Authentication by Fiscal Agent. All Obligations other than bonds, bond anticipation notes and capital notes issued by the City after the date of issuance of the first Bond shall be countersigned and thus authenticated by the Fiscal Agent.

SECTION 503. Conditions Precedent to Authentication of Obligations. The Fiscal Agent shall not authenticate any Obligations issued by the City after the date of issuance of any Bond and requiring authentication under Section 502, unless at or prior to such authentication there shall have been delivered or paid to the Fiscal Agent the following:

(a) A copy of each Supplemental Ordinance of the City theretofore adopted, certified by the City Clerk, with evidence of the approval of the Control Board, unless the existence of the Control Board shall have been terminated prior to the adoption of such Supplemental Ordinance, endorsed upon such copy;

(b) A copy of each ordinance or resolution of the City authorizing the issuance of such Obligations and fixing and determining the date, maturity dates, rate or rates of interest thereon, the place or places of payment thereof, the terms and manner of redemption thereof, and all other matters necessary with respect thereto, certified by the City
Clerk, with evidence of the approval of the Control Board, unless the existence of the Control Board shall sooner have been terminated, endorsed upon such copy;

(c) The written order of the City as to the authentication and delivery of such Obligations, stating the amount of the proceeds of sale thereof and directing the application of such proceeds in accordance with the Act and the Ordinance;

(d) A certificate of the City Comptroller stating the Added Debt Service Percentage for the fiscal year in which such Obligations are issued computed as of the time immediately following the issuance of such Obligations;

(e) If such Obligations are tax anticipation notes, a certificate of the City Comptroller stating the total amount of City Taxes levied and assessed for the fiscal year in which such tax anticipation notes are issued less the amount or amounts set forth in the budget for such fiscal year as a reserve for uncollected taxes;

(f) If such Obligations are revenue anticipation notes, a Comptroller's Certificate stating the particular revenues in anticipation of which such revenue anticipation notes are to be issued;

(g) If such Obligations are budget notes, (1) a copy of the budget of the City certified by a Comptroller's Certificate as having been adopted and being then in effect, and (2) a Justification Document setting forth the facts and circumstances necessitating the issuance of such budget notes and the purpose for which the proceeds of such budget notes are to be used and stating that there are no other funds available to the City with which to pay or provide for such purpose; and

(h) If such Obligations are tax anticipation notes or the revenue anticipation notes or other indebtedness referred to in Section 508, the total proceeds thereof.

SECTION 504. Restrictions on Issuance of Tax Anticipation Notes and Budget Notes. (A) No tax anticipation notes shall be issued by the City in anticipation of the collection of taxes levied for such fiscal year in any amount which exceeds the total amount of City Taxes levied and assessed for such year, less the amount or amounts set forth in the budget for such year as a reserve for uncollected taxes.
(B) No budget notes shall be issued by the City during any fiscal year pursuant to paragraphs one and two of subdivision (a) of Section 29.00 of the Local Finance Law for the purpose of paying any wage and salary increases or increases in pension payments which take effect during such fiscal year pursuant to collective bargaining agreements executed after the adoption of any budget of the City for such fiscal year; and no budget notes shall be issued by the City during any fiscal year for any purpose which, together with all other budget notes issued by the City during such fiscal year, exceed in principal amount five per centum (5%) of the amount of the budget of the City for such fiscal year.

**Section 505. Certification of Debt Service.** Upon or prior to the issuance of any Obligations, the City shall file with the Fiscal Agent a Controller's Certificate stating with respect to said Obligations (a) the principal amount and date or dates of maturity thereof, (b) the rate or rates of interest thereon, (c) the place or places where such Obligations are payable and (d) if such Obligations are subject to redemption, the terms and conditions of such redemption. Upon calling any Obligations for redemption prior to maturity, the City shall notify the Fiscal Agent of the Obligations to be so redeemed and the date of such redemption.

**Section 506. Application and Investment of Proceeds of Sale of Bonds, Bond Anticipation Notes and Capital Notes.** (1) The proceeds of all bonds, bond anticipation notes and capital notes hereafter issued by the City shall be deposited with the Fiscal Agent or with its Depository in a special and separate bank account and held in trust and expended only for the object or purpose for which such bonds, bond anticipation notes or capital notes were issued. No moneys shall be withdrawn from such account unless there shall be filed with the Fiscal Agent a written requisition of the City Council or the properly authorized delegate of the City, who shall be the chief fiscal officer of the City or his authorized deputy, setting forth (a) the item number of the requisition; (b) the account to be charged; (c) the name of the person (including the holder of a note payable to bearer) to whom payment is due; (d) the amount to be paid (including the amount due by deposit with the paying agent designated on any such notes); and (e) a statement to the effect that the obligation in the stated amount has been incurred by the City and is a proper charge against such account.

(2) Pending such withdrawals, moneys in any such account shall be invested in Investment Obligations maturing at such times and in such
amounts as shall provide available moneys to make payments from such account when required. Such investments shall be made for and on behalf of the City by the Fiscal Agent upon instructions from the chief fiscal officer of the City or his authorized deputy in the manner provided by subdivision b of section one hundred sixty-five of the Local Finance Law.

(3) Any moneys or Investment Obligations attributable to proceeds of bonds remaining in any such account five years after the issuance of such bonds shall be deposited by the Fiscal Agent into the Debt Service Fund.

SECTION 507. Application of Proceeds of Sale of Tax Anticipation Notes. The Fiscal Agent shall deposit and pay into the Debt Service Fund the portion of the total proceeds of any tax anticipation notes equal to the sum of (i) the Debt Service Percentage and (ii) the Added Debt Service Percentage, as required by Section 408.

SECTION 508. Application of Proceeds of Sale of Certain Revenue Anticipation Notes. All proceeds of sale of any revenue anticipation note, or any other form of indebtedness issued by the City in anticipation of the receipt of the Sales Tax shall be deposited with the Fiscal Agent, or with its Depositary, for deposit into the Debt Service Fund.

ARTICLE VI

Remedies

SECTION 601. Vesting in Fiscal Agent Powers of Statutory Trustee. (1) Except as otherwise provided in this Article VI, the holders of Bonds shall be entitled to the benefits, and be subject to the provisions, of Section 16 of the Act, and the trustee referred to in said Section 16 (being the Fiscal Agent) shall have the powers provided by said Section 16, and the provisions of said Section 16 (except as to method of appointment of such trustee) shall be fully applicable to the Bonds.

(2) The right or privilege of the holders of the Bonds to appoint such trustee in the manner provided in Section 16 of the Act is hereby abrogated and all of the rights, powers and duties of such trustee shall be and are vested in the Fiscal Agent without further act on the part of such holders, and the City shall not interpose as a defense to any proceedings under Section 16 of the Act, failure of such holders to appoint a trustee in the manner provided therein.
SECTION 602. Events of Default. Each of the following shall constitute an event of default under the ordinance and is hereby called “Event of Default”, that is to say if:

1. the City shall default in the payment of principal of or interest on any issue of Bonds or Obligations whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days; or

2. the City shall fail or refuse to comply with the provisions of the Act or the Ordinance, or shall default in the performance of any contract or covenant made with the holders of any issue of Bonds or Obligations and such failure, refusal or default shall continue for a period of forty-five days after written notice thereof to the City by the Fiscal Agent or to the City and the Fiscal Agent by the holders of not less than five percent in principal amount of the Bonds outstanding; or

3. there shall be filed by the City a petition seeking a composition of indebtedness under any applicable law or statute of the United States of America or of the State, or the City shall seek application of laws then in effect under the bankruptcy provisions of the United States constitution.

SECTION 603. Enforcement by Fiscal Agent. (1) Upon the happening and continuance of any Event of Default the Fiscal Agent may, and upon written request of the holders of twenty-five percent in principal amount of such Bonds then outstanding shall, in his or its own name exercise all or any of the powers of any such holders under Section 605 and in addition (a) bring suit for any principal or interest then due with respect to such Bonds; (b) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the holders of such Bonds, including any right to require the City to assess, levy and collect taxes adequate to carry out the provisions of any agreement with the holders of such Bonds and to perform its duties under the Act or the Ordinance; (c) bring suit upon such Bonds; (d) by action or suit in equity, require the City to account as if it were the trustee of an express trust for the holders of such Bonds; (e) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such Bonds.

2. The right of the Fiscal Agent to declare all Bonds due and payable pursuant to subdivision (B) of Section 16 of the Act is hereby abrogated.
SECTION 604. Covenant as to Rights of Holders of Certain Obligations. The City hereby covenants and agrees with the Fiscal Agent and with the holders from time to time of the Bonds that it will not hereafter authorize any Obligations under ordinances or resolutions of the City (a) which do not provide for the abrogation of the right of the holders of such Obligations to appoint a trustee pursuant to the provisions of Section 16 of the Act, or (b) which provide for or confer upon the Fiscal Agent, the holders of such Obligations or any trustee, as referred to in Section 16 of the Act, the right to declare all such Obligations due and payable pursuant to subdivision (B) of Section 16 of the Act.

SECTION 605. Enforcement by Holders. Any holder of any such Bonds at any time outstanding, whether or not then due and payable or reduced to judgment and either on his own behalf or on behalf of all persons similarly situated, may (a) by mandamus, original or ancillary, mandatory or other injunction, or any other order, process or decree, or by any other suit, action or proceeding at law or in equity, enforce all contractual or other rights of such holder or holders, including any right to require the City to assess, levy, collect and apply taxes to carry out the provisions of any agreement with such holder or holders and perform its duties under the Act or the Ordinance; (b) by any action, suit or other proceeding, require the City to account as if it were the trustee of an express trust for such holder or holders; and (c) by action, suit or other proceedings, enjoin any acts or things which may be unlawful or in violation of the rights of such holder or holders.

SECTION 606. Restriction on Action by Holders. No holder of any Bond or coupon appurtenant thereto shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of any provision of the Ordinance or for the execution of any trust hereunder or for any other remedy hereunder, unless either (a) such holder previously shall have given to the City and the Fiscal Agent written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted requesting the Fiscal Agent to institute such suit, action or proceeding, and the Fiscal Agent shall have refused or neglected to comply with such request within a reasonable time, or (b) such holder previously shall have obtained the written consent of the Fiscal Agent to the institution of such suit, action or proceeding, and such suit, action or proceeding is brought for the ratable benefit of all holders of all Bonds and coupons.

SECTION 607. Limitation on Powers of Fiscal Agent. Nothing in the Ordinance contained shall be deemed to give power to the Fiscal Agent, either
as such or as attorney-in-fact of the holders of the Bonds or the holders of coupons to vote the claims of such holders in any bankruptcy proceeding or to accept or consent to any plan or reorganization, readjustment, arrangement or composition or other like plan, or by other action of any character to waive or change any right of any such holder or to give consent on behalf of any such holder to any modification or amendment of the Ordinance requiring such consent pursuant to the provisions of Article VIII.

SECTION 608. Right to Enforce Payment of Bonds Unimpaired. Nothing in this Article contained shall affect or impair the right of the holder of any Bond to enforce the payment of the principal of and interest on his Bond, or the obligation of the City to pay the principal of and interest on each Bond to the holder thereof at the time and place or places in said Bond and the appurtenant coupons, if any, expressed.

ARTICLE VII

THE FIDUCIARIES

SECTION 701. Paying Agent. The City shall appoint one or more Paying Agents for the Bonds by Supplemental Ordinance or resolution adopted by the City Council prior to their authentication and delivery. Each Paying Agent shall be a bank, trust company or national banking association, doing business and having its Principal Office in the Borough of Manhattan, City and State of New York, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Ordinance. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by the Ordinance by executing and delivering to the City and the Fiscal Agent a written acceptance thereof. Any Fiscal Agent, other than the State Comptroller, may be designated and may act as Paying Agent, and any Fiscal Agent, other than the State Comptroller, and any Paying Agent may be designated and may act as the Depository. Any Paying Agent may be designated and may act as the Registration Agent for the Bonds in accordance with the provisions of Sections 70.00 to 75.00 of the Local Finance Law.

SECTION 702. Responsibilities of Fiduciaries. The recitals of fact herein and in the Bonds contained shall be taken as the statements of the City and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or sufficiency
of the Ordinance or of any Bonds or coupons issued thereunder or in respect to the security afforded by the Ordinance, and no Fiduciary shall incur any responsibility in respect thereof. The Fiscal Agent shall, however, be responsible for its representation contained in its certificate of authentication on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the issuance of the Bonds for value or the application of the proceeds thereof except the Fiscal Agent to the extent such proceeds are paid to the Fiscal Agent in its capacity as Fiscal Agent, or the application of any moneys paid to the City or others in accordance with the Ordinance. No Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence or default.

SECTION 703. Funds Held in Trust. All moneys held by any Fiduciary, as such, at any time pursuant to the terms of the Ordinance shall be and hereby are assigned, transferred and set over unto such Fiduciary in trust for the purposes and under the terms and conditions of the Ordinance.

SECTION 704. Evidence on Which Fiduciaries May Act. Each Fiduciary shall be protected in acting upon any notice, resolution, ordinance, request, consent, order, certificate, opinion, bond, or other paper or document believed by it to be genuine, and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be of counsel to the City, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

SECTION 705. Compensation and Expenses. Unless otherwise provided by contract with the Fiduciary, the City shall pay to each Fiduciary, except the State Comptroller, from time to time reasonable compensation for all services rendered by it hereunder, and also reimbursement for all its reasonable expenses, charges, counsel fees and other disbursements and those of its attorneys, agents and employees, incurred in and about the performance of its powers and duties hereunder.

SECTION 706. Certain Permitted Acts. Any Fiduciary may become the owner of Bonds as fully and with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect
Any Fiscal Agent appointed of a successor, Fiscal Agent, approved or confirmed by the city council, shall be removed at any time by an ordnance of the city council adopted by a two-thirds vote of all the members thereof, held with the fiscal agent, or by a referendum vote of the holders of a majority in principal of the bonds or of the outstanding principal of the bonds held by the holders of the bonds of the city whose bonds are held as collateral for the bonds of the city. Any such ordnance or referendum vote shall take effect immediately, and the fiscal agent removed thereby shall lose his office and shall not receive any compensation for his services. Any successor or successors approved by the city council in accordance with the provisions of this section shall become qualified to hold office immediately upon their appointment and the acts of the former fiscal agent shall be deemed acts of the successor. Any such appointment of a successor shall be confirmed by the city council.
By the authority and in accordance with all the provisions of the transfer of the office of receiver or receiver-applicant to the successor receiver indicated in the schedule of receivers and the provisions of this section shall be a bank or trust company of the City in the Borough of Manhattan, City of New York, having a combined national banking association doing business and having the highest rating under the provisions of this section.
over, assign and deliver to the successor Fiduciary any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the City be required by such successor Fiduciary for more fully and certainly vesting in and confirming to such successor Fiduciary any such moneys, estates, properties, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the City. Any such successor Fiduciary shall promptly notify the other Fiduciaries of its appointment as such Fiduciary.

ARTICLE VIII

AMENDMENTS

SECTION 801. Mailing and Publication of Notices. (A) Any provision in this Article relative to the mailing of a notice or other paper to Bondholders shall be fully complied with if it is mailed, postage prepaid, only (1) to each registered owner of any Bonds then outstanding at his last address, if any, appearing upon the registry books, (2) to each Holder of any Bonds payable to bearer then outstanding who shall have filed with the Fiscal Agent within two years preceding such mailing an address for notice, and (3) to the Fiscal Agent.

(B) Any provisions in this Article relative to publication of a notice or other matter shall be fully complied with if it is published only in an Authorized Newspaper.

SECTION 802. Powers of Amendment. Any modification or amendment of the Ordinance and of the rights and obligations of the City and of the Holders of the Bonds and coupons thereunder, in any particular, may be made by a Supplemental Ordinance with the written consent, given as provided in Section 803, of the Holders of at least two-thirds in principal amount of the Bonds outstanding at the time such consent is given; provided, however, that no such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or the rate of interest thereon or the requirements of Section 901 with respect to the discharge and satisfaction of the obligations of the City without the consent of the Holder of such Bond, or shall reduce the percentage or otherwise affect the description of Bonds the consent of the Holders of which is required to effect any such modification or amend-
ment, or shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Fiscal Agent of its written assent thereto. For the purposes of this Section, Bonds shall be deemed to be affected by a modification or amendment of the Ordinance if the same adversely affects or diminishes the rights of the Holders thereof against the City or the covenants made by the City under the Ordinance.

**Section 803. Consent of Bondholders.** The City may at any time adopt a Supplemental Ordinance making a modification or amendment permitted by the provisions of Section 802, to take effect when and as provided in this Section. A copy of such Supplemental Ordinance (or brief summary thereof or reference thereto in form approved by the Fiscal Agent), together with a request to Bondholders for their consent thereto in form satisfactory to the Fiscal Agent, shall be mailed by the City to Bondholders and shall be published at least once (but failure to mail such copy and request shall not affect the validity of such Supplemental Ordinance when consented to as provided in this Section). Such Supplemental Ordinance shall not be effective unless and until, and shall take effect in accordance with its terms when, (1) there shall have been filed with the Fiscal Agent (a) the written consents of Holders of the percentage of outstanding Bonds specified in Section 802, and (b) a Counsel's Opinion stating that such Supplemental Ordinance has been duly and lawfully adopted by the City in accordance with the provisions of the Ordinance, is authorized or permitted by the provisions of the Ordinance, and, when effective, will be valid and binding upon the City and enforceable in accordance with its terms, and (2) a notice shall have been published as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 902. A certificate or certificates by the Fiscal Agent filed with the Fiscal Agent that it has examined such proof and that such proof is sufficient in accordance with Section 902 shall be conclusive that the consents have been given by the Holders of the Bonds described in such certificate or certificates of the Fiscal Agent. Any such consent shall be binding upon the Holder of the Bonds giving such consent and upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), but, notwithstanding the provisions of Section 902, such consent may be revoked in writing by the Holder of such Bonds giving such consent or a subsequent Holder thereof by filing with the Fiscal Agent, prior to but not later than the time when the written statement of the Fiscal Agent
hereinafter in this Section provided for is filed, such a revocation and, if such
Bonds are transferable by delivery, proof that such Bonds are held by the
signer of such revocation in the manner permitted by Section 902. The fact
that a consent has not been revoked may likewise be proved by a certificate
of the Fiscal Agent filed with the Fiscal Agent to the effect that no revocation
thereof is on file with the Fiscal Agent. At any time after the Holders of the
required percentage of Bonds shall have filed their consents to such Supple-
mental Ordinance, the Fiscal Agent shall make and file with the City and
the Fiscal Agent a written statement that the Holders of such required per-
centage of Bonds have filed and given such consents. Such written statements
shall be conclusive that such consents have been so filed and have been given.
At any time thereafter notice, stating in substance that such Supplemental
Ordinance has been consented to by the Holders of the required percentage
of Bonds and will be effective as provided in this Section, may be given to
Bondholders by the City by mailing such notice to Bondholders (but failure
to mail such notice shall not prevent such Supplemental Ordinance from
becoming effective and binding as in this Section provided) and by publishing
the same at least once. The City shall file with the Fiscal Agent proof of
the publication of such notice, and, if the same shall have been mailed to
Bondholders, of the mailing thereof. A record, consisting of the papers
required or permitted by this Section to be filed with the Fiscal Agent, shall
be proof of the matters therein stated. Such Supplemental Ordinance shall be
deemed conclusively binding upon the City, the Fiduciaries and the Holders
of all Bonds and coupons at the expiration of forty days after the filing with
the Fiscal Agent of proof of the publication of such last-mentioned notice,
except in the event of a final decree of a court of competent jurisdiction setting
aside such Supplemental Ordinance in a legal action or equitable proceeding
for such purpose commenced within such forty-day period; provided, how-
ever, that any Fiduciary and the City during such forty-day period and any
further period during which any such action or proceeding may be pending
shall be entitled in their absolute discretion to take such action, or to refrain
from taking such action, with respect to such Supplemental Ordinance as
they may deem expedient.

SECTION 804. Amendments by Unanimous Consent. Notwithstanding
anything contained in the foregoing provisions of this Article, the terms and
provisions of the Ordinance and the rights and obligations of the City and the
Holders of the Bonds and coupons thereunder, in any particular, may be
modified or amended in any respect upon the taking effect in accordance with
the provisions of this Article of a Supplemental Ordinance making such modification or amendment and the consent to such Supplemental Ordinance of the Holders of all of the Bonds then outstanding, such consent to be given and proved as provided in Section 803 except that no notice to Bondholders either by mailing or publication shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Fiscal Agent of its written assent thereto in addition to the said consent of Bondholders.

SECTION 805. Exclusion of Bonds. Bonds owned or held by or for the account of the City shall be excluded and shall not be deemed outstanding for the purpose of consent or other action or any calculation of outstanding Bonds provided for in this Article. At the time of any consent or other action taken under this Article, the City shall furnish the Fiscal Agent with a Comptroller's Certificate, upon which the Fiscal Agent may rely, describing all Bonds so to be excluded.

SECTION 806. Amendments Not Requiring Bondholders Consent. Notwithstanding anything contained in the foregoing provisions of this Article, a Supplemental Ordinance amending or modifying the Ordinance may be adopted for any one or more of the following purposes and at any time or from time to time:

(1) To add to the covenants or agreements of the City contained in the Ordinance other covenants or agreements to be observed by the City which are not contrary to or inconsistent with the Ordinance as theretofore in effect;

(2) To add to the limitations or restrictions contained in the Ordinance other limitations or restrictions to be observed by the City which are not contrary to or inconsistent with the Ordinance as theretofore in effect;

(3) To surrender any right, power or privilege reserved to or conferred upon the City by the Ordinance;

(4) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in the Ordinance; and

(5) To insert such provisions clarifying matters or questions arising under the Ordinance as are necessary or desirable and are not contrary to or inconsistent with the Ordinance as theretofore in effect.
SECTION 807. Amendment Prior to Issuance of Bonds. Prior to the original issuance of the Bonds and notwithstanding anything contained in this Article, the City may, by amending ordinance, modify or amend any of the terms or provisions of the Bonds or of the Ordinance.

SECTION 808. Consent of Control Board and Filing. No Supplemental Ordinance shall become effective until a copy thereof, certified by the City Clerk and endorsed with evidence of the approval of the Control Board (unless the existence of the Control Board shall have been terminated), shall have been filed with the Fiscal Agent.

ARTICLE IX

MISCELLANEOUS

SECTION 901. defeasance. The covenants, agreements and other obligations of the City to the Bondholders hereunder shall be discharged and shall be of no further force and effect if at any time:

(A) there is on deposit in a separate trust account with the Fiscal Agent sufficient moneys or direct obligations of the United States of America or the State, the principal of and interest on which will provide moneys to pay punctually when due at maturity or prior to maturity by redemption in accordance with their terms the principal or Redemption Price, if applicable, and interest due or to become due on the Bonds on and prior to the redemption date or maturity date thereof,

(B) irrevocable instructions from the City to the Fiscal Agent for such payment of such principal or Redemption Price, if applicable, and interest with such moneys have been given, and

(C) notice to the holders of the Bonds of the provisions for payment made pursuant to this Section shall have been given and the Fiscal Agent shall have received irrevocable instructions to redeem the Bonds at the earliest possible redemption date and if the Bonds are then redeemable, notice of such redemption shall have been given. All of such moneys or obligations shall be held in trust for and applied only to the payment, when due, of the principal or Redemption Price of the Bonds for the payment or redemption of which such moneys or obligations were deposited and the interest accrued thereon to the date of maturity or redemption.
SECTION 902. Evidence of Signatures of Bondholders and Ownership of Bonds. Any request, consent, revocation of consent or other instrument which the Ordinance may require or permit to be signed and executed by Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys duly authorized in writing. Proof of (1) the execution of any such instrument, or of an instrument appointing or authorizing any such attorney, or (2) the holding by any person of any Bonds or coupons appertaining thereto, shall be sufficient for any purpose of the Ordinance if made in the following manner, or in any other manner satisfactory to the Fiscal Agent which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

(A) The fact and date of the execution by any Bondholder or his attorney of any such instrument may be proved (1) by the certificate of a notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act that the person signing such instrument acknowledged to him the execution thereof, or by the affidavit of a witness of such execution, duly sworn to before such a notary public or other officer, or (2) by the certificate which need not be acknowledged or verified, of an officer of a bank, trust company or financial firm or corporation (including members of the National Association of Securities Dealers, Inc.) satisfactory to the Fiscal Agent that the person signing such instrument acknowledged to such bank, trust company, firm or corporation the execution thereof.

(B) The authority of a person or persons to execute any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice-president of such corporation with a corporate seal affixed, and is attested by a person purporting to be its secretary or assistant secretary.

(C) The amount of Bonds transferable by delivery held by any person executing any such instrument as a Bondholder, and the numbers and other identification thereof, and the date of his holding such Bonds, may be proved by a certificate, which need not be acknowledged or verified, of an officer of a bank, trust company, financial firm or corporation (including members of the National Association of Securities Dealers, Inc.) or other depositary satisfactory to the Fiscal Agent, showing that at a date therein mentioned such person exhibited to or had on
deposit with such bank, trust company, firm, corporation or depository
the Bonds described or referred to in such certificate; and such a certificate
may be made and given by an officer or member of any bank, trust com-
pany, insurance company or financial firm or corporation with respect to
Bonds held by it, if satisfactory to the Fiscal Agent.

(D) The holding of Bonds registered otherwise than to bearer,
the amount, numbers and other identification thereof, and the date
of holding the same, shall be proved by the registry books.

Any request, consent or other instrument executed by the Holder or Owner
of any Bond shall bind all future Holders and owners of such Bond in respect
of anything done or suffered to be done hereunder by the City or any
Fiduciary in accordance therewith.

Section 903. Cancellation of Bonds and Coupons. All Bonds and
coupons purchased, redeemed or paid by the City or by any Fiduciary, as
such, shall be cancelled by it and delivered to the Fiscal Agent. All such
Bonds and coupons and all other Bonds and coupons cancelled by any
Fiduciary and delivered to the Fiscal Agent pursuant to the Ordinance shall
be destroyed by the Fiscal Agent and a certificate thereof delivered to the
City. No Bonds or coupons cancelled as aforesaid shall be deemed out-
standing under the Ordinance and no Bonds or coupons shall be issued in
lieu thereof.

Section 904. Preservation and Inspection of Documents. All reports,
certificates, statements, and other documents received by any Fiduciary under
the provisions of the Ordinance shall be retained in its possession and shall be
available at all reasonable times for the inspection of the City, any other
Fiduciary, the State Comptroller, the Control Board or any holder of Bonds
or Obligations, and their agents and their representatives.

Section 905. Regulations Regarding Investment of Funds. Investment
Obligations purchased as an investment of moneys in any Fund estab-
lished under the Ordinance shall be deemed at all times to be a part of
such Fund, and the interest thereon and any profit arising on the sale
thereof shall be credited to such Fund, and any loss resulting on the sale
thereof shall be charged to such Fund. In computing the amount in any
such Fund for any purpose hereunder, such Investment Obligations shall be
valued at the lower of cost or market price thereof, exclusive of accrued
interest. The Fiscal Agent shall sell at the best price obtainable any Invest-
Obligations so purchased whenever it shall be necessary so to do in order to provide moneys to make any withdrawal or payment from such Fund, and shall not be liable or responsible for any loss resulting from any such investment made in accordance with the Ordinance.

**SECTION 906. No Recourse on Bonds.** No recourse shall be had for the payment of the principal of or the interest on the Bonds or for any claim based thereon or on the Ordinance against any official or employee of the City or any person executing the Bonds. The Bonds are not and shall not be in any way a debt or liability of the State and do not and shall not create or constitute any indebtedness, liability or obligation of said State, either legal, moral or otherwise.

**SECTION 907. State Pledge and Agreement.** Pursuant to the provisions of Section 17 of the Act, the City is authorized and directed to include the following pledge and agreement of the State contained in said Section 17 in the Ordinance, and the Act provides that upon payment for the Bonds by the original and all subsequent holders thereof the inclusion of such pledge and agreement shall be deemed conclusive evidence of valuable consideration received by the State and City for such pledge and agreement and of reliance upon such pledge and agreement by any such holder and that any action by the State contrary to or inconsistent with the provisions of such pledge and agreement shall be void:

"The state does hereby pledge to and agree with the holders of obligations of the city issued pursuant to the local finance law or this act that the state will not (a) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the power or duty of the city to exercise, perform, carry out and fulfill its responsibilities under this act to the extent that the city incorporates in any bond ordinance or credit agreement covenants and agreements to so exercise, perform, carry out and fulfill such responsibilities, (b) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the rights and remedies of any such holders to fully enforce in a court of law such covenants and agreements so incorporated in the bond ordinance or credit agreement or to enforce the pledge and agreement of the state contained in this section, or (c) otherwise exercise any sovereign power contrary to or inconsistent with the provisions of such bond ordinance or credit agreement, it being hereby determined and declared that the provisions of this act and the powers and duties of the city authorized and
imposed hereunder are proper, reasonable and appropriate means by which the state can and should exercise and has exercised its duty under section twelve of article eight of the constitution to prevent abuses by the city in taxation and in the contracting of indebtedness and that the provisions hereof are necessary and in the public interest and proper means to improve market reception for the purchase of bonds and other obligations of the city; provided, however, the foregoing pledge and agreement shall be of no further force and effect if at any time (i) there is on deposit in a separate trust account with the fiscal agent sufficient moneys or direct obligations of the United States of America or the state the principal of and/or interest on which will provide moneys to pay punctually when due at maturity or prior to maturity by redemption in accordance with their terms all principal and interest on all such obligations of the city outstanding, (ii) irrevocable instructions from the state and city to the fiscal agent for such payment of such principal and interest with such moneys have been given, and (iii) notice to the holders of such obligation as provided in the bond ordinance or credit agreement has been given, and provided further that such pledge and agreement by the state may be temporarily suspended upon the declaration of martial law in the city in the event of circumstances in the city deriving directly out of a natural disaster (such as an earthquake or major conflagration or flood but not a snowstorm) or civil disturbance (such as military invasions or civil insurrections but not strikes or crises created by financial abuses or economic events). Nothing in this section contained shall preclude the state from authorizing the city to exercise, or the city from exercising, any power provided by law to seek application of laws then in effect under the bankruptcy provisions of the United States constitution or to preclude the state from further exercise of its powers under article eight, section twelve, of the state constitution.”

SECTION 908. Statutory Statement. The validity of the Bonds authorized pursuant to this Ordinance may be contested only if:

(a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such Ordinance, or publication of an abstract or summary of the Ordinance, are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication, or
(c) such obligations are authorized in violation of the provisions of the constitution.

SECTION 909. Effective Date. The City Clerk is hereby directed to cause a certified copy of the Ordinance to be submitted to the Control Board for its approval, and this Ordinance shall become effective when the Control Board shall have caused evidence of its approval to be endorsed on a certified copy thereof.
CLERK’S CERTIFICATE

I, ALOYSIUS MOCZYDŁOWSKI, City Clerk of the City of Yonkers, New York, HEREBY CERTIFY that the foregoing ordinance entitled: “Bond Ordinance of the City of Yonkers, New York, adopted September 17, 1976, Stating the Amount of the Capital Completion Bill and the Amount of the General Deficiency Bill of the City, Appropriating $92,578,084 To Pay Said Bills, Authorizing the Issuance of $83,660,000 Serial Bonds of the City to Finance a Portion of said Appropriation, Determining Certain Terms and Details of Said Bonds, and Providing for the Rights of Holders of Said Bonds and Other Obligations of the City”, is a true copy of an original ordinance which was duly adopted by the City Council of said City at a meeting thereof which was duly called and held on September 17, 1976, and at which a quorum was present and acting throughout, and that said copy has been compared by me with said original ordinance as recorded in the Ordinance Book of said City and that it is a correct transcript thereof and of the whole of said ordinance, and that said ordinance has not been altered, amended or repealed, but is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 19th day of October, 1976.

(SEAL)

/s/ ALOYSIUS MOCZYDŁOWSKI
City Clerk
ENDORSEMENT CERTIFICATE OF CONTROL BOARD

I, HELEN D. VOLK, Counsel to the Emergency Financial Control Board for the City of Yonkers, HEREBY CERTIFY that the Bond Ordinance of the City of Yonkers, New York annexed hereto, has been and is consented to and approved by said Control Board and its consent is hereby endorsed upon the copy annexed hereto of said Bond Ordinance pursuant to authorization of, and in accordance with actions had and taken by, said Control Board, for all of the purposes and with the effect provided by Chapter 488 of the Laws of 1976 of the State of New York.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of October, 1976.

/s/ HELEN D. VOLK
 Counsel, Emergency Financial Control Board for the City of Yonkers
SUPPLEMENTAL ORDINANCE OF THE CITY OF YONKERS, NEW YORK, ADOPTED OCTOBER 5, 1976, DETERMINING CERTAIN MATTERS WITH RESPECT TO THE GENERAL OBLIGATION SERIAL BONDS — 1976 (SPECIAL FINANCE AND BUDGET ACT ISSUE), AND AWARDING THE BONDS TO SMITH BARNEY, HARRIS UPHAM & CO., INCORPORATED AND ASSOCIATES.

BE IT ORDAINED by the CITY COUNCIL OF THE CITY OF YONKERS, IN THE COUNTY OF WESTCHESTER, NEW YORK, AS FOLLOWS:

SECTION 1. Short Title. This ordinance may hereafter be cited by the City, and is hereinafter sometimes referred to as the “First Supplemental Ordinance”.

SECTION 2. Authority for First Supplemental Ordinance. The First Supplemental Ordinance supplements the Ordinance and is adopted pursuant to the provisions of the Ordinance and in accordance with the terms of Article VIII thereof, and is the Supplemental Ordinance referred to in paragraph (b) of Section 302.

SECTION 3. Definitions. (A) Wherever used or referred to in the First Supplemental Ordinance, all words or terms which are defined in Section 101, except words or terms which are defined in Paragraph (B) of this Section, shall, unless a different meaning clearly appears from the context, have the meanings given or ascribed to such words and terms, respectively, in Section 101.

(B) In the First Supplemental Ordinance, unless a different meaning clearly appears from the context:

(1) “First Supplemental Ordinance” shall have the meaning ascribed to such term in Section 1 hereof;

(2) “Ordinance” means the ordinance adopted by the City Council and entitled: “Bond ordinance of the City of Yonkers, New York adopted September 17, 1976, Stating the Amount of the Capital Completion Bill and the Amount of the General Deficiency Bill of the City, Appropriating $92,578,084 to Pay Said Bills, Authorizing the Issuance of $83,660,000 Serial Bonds of the City to Finance a Portion of Said Appropriation, Determining Certain Terms and Details of Said Bonds,
and Providing for the Rights of Holders of Said Bonds and Other Obligations of the City;”

(3) “Purchase Contract” means the contract dated as of the date of adoption of the First Supplemental Ordinance by and between the City and the Underwriters;

(4) “Managers” means Smith Barney, Harris Upham & Co., Incorporated; and

(5) “Underwriters” means Smith Barney, Harris Upham & Co., Incorporated, Bache Halsey Stuart Inc., Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Salomon Brothers and Hornblower & Weeks-Hemphill Noyes, Incorporated, or such other Underwriters as shall be finally determined pursuant to the Purchase Contract.

SECTION 4. Award of Bonds. The Purchase Contract is hereby accepted by the City. Pursuant to the terms of the Purchase Contract, the Bonds are hereby awarded and sold to Smith Barney, Harris Upham & Co., Incorporated and Associates, the Underwriters, at the aggregate price of $81,150,200, comprising $36,617,500 for the $37,750,000 principal amount of Current Account Bonds and $44,532,700 for the $45,910,000 principal amount of Capital Account Bonds.

SECTION 5. Rates of Interest. The Bonds maturing in each year set forth in the following table shall bear interest at the rate of interest per annum set forth opposite such year:

<table>
<thead>
<tr>
<th>Year</th>
<th>Rate of Interest</th>
<th>Year</th>
<th>Rate of Interest</th>
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<tbody>
<tr>
<td>1978</td>
<td>6 %</td>
<td>1987</td>
<td>8 3/4%</td>
</tr>
<tr>
<td>1979</td>
<td>6 1/2 %</td>
<td>1988</td>
<td>8 3/4%</td>
</tr>
<tr>
<td>1980</td>
<td>7</td>
<td>1989</td>
<td>8 3/4%</td>
</tr>
<tr>
<td>1981</td>
<td>7 1/2</td>
<td>1990</td>
<td>8 3/4%</td>
</tr>
<tr>
<td>1982</td>
<td>7 3/4</td>
<td>1991</td>
<td>8 3/4%</td>
</tr>
<tr>
<td>1983</td>
<td>8</td>
<td>1992</td>
<td>8 3/4%</td>
</tr>
<tr>
<td>1984</td>
<td>8 1/4</td>
<td>1993</td>
<td>8 3/4%</td>
</tr>
<tr>
<td>1985</td>
<td>8 1/2</td>
<td>1994</td>
<td>8 3/4%</td>
</tr>
<tr>
<td>1986</td>
<td>8 5/8</td>
<td>1995</td>
<td>8 3/4%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1996</td>
<td>8 3/4%</td>
</tr>
</tbody>
</table>

SECTION 6. Appointment of Paying Agent. Manufacturers Hanover Trust Company, a bank, trust company or national banking association doing business and having its Principal Office in the Borough of Manhattan, City and State of New York, is hereby appointed as a Paying Agent for the Bonds.
SECTION 7. Authentication and Delivery of Bonds. The various officers of the City, as provided in Section 210, are hereby authorized and directed to execute the Bonds on behalf of the City and to deliver the Bonds to the Fiscal Agent for authentication, and to deliver to the Fiscal Agent a written order authorizing and directing the delivery of the Bonds upon the order of the City to or upon the order of the Underwriters or the Managers, after such authentication and upon receipt from the Underwriters of the purchase price of the Bonds plus accrued interest from October 15, 1976 to the date of such delivery, and to do and perform, or cause to be done and performed, for or on behalf of the City each and everything necessary for the issuance and delivery of the Bonds.

SECTION 8. Execution and Delivery of Purchase Contract, Official Statement and Certificate. The City Manager is hereby authorized to execute the Purchase Contract and deliver it to the Underwriters, to execute an Official Statement of the City on behalf of the City Council substantially in the form of the Preliminary Official Statement dated September 17, 1976 and prepared by the City in connection with the sale of the Bonds, to deliver said Official Statement to the Underwriters, and to execute and deliver to the Underwriters a certificate substantially in the form attached to the Purchase Contract as Appendix C.

SECTION 9. Effective Date. The City Clerk is hereby directed to cause a certified copy of the First Supplemental Ordinance to be submitted to the Control Board for its approval, and the First Supplemental Ordinance shall become effective when the Control Board shall have caused evidence of its approval to be endorsed on a certified copy thereof.
CLERK'S CERTIFICATE

I, ALOYSIUS MOCZYDŁOWSKI, City Clerk of the City of Yonkers, New York, HEREBY CERTIFY that the foregoing ordinance entitled: "Supplemental Ordinance of the City of Yonkers, New York, Adopted October 5, 1976, Determining Certain Matters with Respect to the General Obligation Serial Bonds—1976 (Special Finance and Budget Act Issue), and Awarding the Bonds to Smith Barney, Harris Upham & Co., Incorporated and Associates", is a true copy of an original ordinance which was duly adopted by the City Council of said City at a meeting thereof which was duly called and held on October 5, 1976, and at which a quorum was present and acting throughout, and that said copy has been compared by me with said original ordinance as recorded in the Ordinance Book of said City and that it is a correct transcript thereof and of the whole of said ordinance, and that said ordinance has not been altered, amended or repealed, but is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 19th day of October, 1976.

(Seal)

/s/ ALOYSIUS MOCZYDŁOWSKI
City Clerk
ENDORSEMENT CERTIFICATE

I, HELEN D. VOLK, Counsel to the Emergency Financial Control Board for the City of Yonkers, HEREBY CERTIFY that the Supplemental Ordinance of the City of Yonkers, New York annexed hereto, has been and is consented to and approved by said Control Board and its consent is hereby endorsed upon the copy annexed hereto of said Supplemental Ordinance pursuant to authorization of, and in accordance with actions had and taken by, said Control Board, for all the purposes and with the effect provided by Chapter 488 of the Laws of 1976 of the State of New York.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of October, 1976.

/s/ HELEN D. VOLK
Counsel, Emergency Financial
Control Board for the
City of Yonkers
AN ACT in relation to the finances of the city of Yonkers, to imposing certain requirements and restrictions with respect to the types of obligations which may be issued by such city, the specified objects and purposes therefor, and the sale and proceeds thereof, to prescribing and limiting procedures with respect to budgetary appropriations and receipts, to providing for the rights of holders of the obligations of such city and, generally, to providing for the payment and orderly reduction of the debts of such city

Became a law June 30, 1976, with the approval of the Governor. Passed on Home Rule request pursuant to Article IX section 2 (b) (2) of the Constitution, by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings and declaration. (A) It is hereby found and declared that a condition of fiscal affairs now exists and has existed for several years in the city of Yonkers which involves inadequate regard for proper financial accounting procedures as required by law, improvident budgeting and taxing practices, inappropriate deferral of current expenditures, increased dependence on emergency legislation to fund resulting deficiencies, and other documented disregard for prudent management of its financial affairs. This condition of fiscal affairs has contributed to a current loss of confidence by short-term and long-term investors in obligations of the city of Yonkers, and has resulted in the necessity for the establishment of an emergency control board for the city of Yonkers, the advancement of certain state aid to the city well ahead of scheduled payments, the purchase by certain funds of the state of obligations of the city, the reluctant renewals by certain financial institutions of short-term obligations, the issuance of tax receivable notes and other measures requiring active supervisory power of the state over the daily operations of the city.

(B) It is hereby further determined and declared that the continued existence of such condition of affairs is contrary to the public interest of the city and the state and seriously threatens a decline in the general prosperity and economic welfare of the inhabitants of the city and the people of this state.

(C) It is hereby acknowledged that a home rule message recommended by the city manager of the city, approved by a unanimous vote of the city council and endorsed by the mayor of the city, requests the enactment of all of the provisions of this act as necessary and in the public interest to accomplish the objective of improving market reception for the necessary sale of bonds and other obligations of the city by precluding by law and by contract certain practices which have occurred in the past while retaining the city's right to operate independently as a municipal corporation of the state of New York, and thereby eliminating any necessity for the continuation of the emergency financial control board for the city of Yonkers beyond its expiration date.

(D) When in the past a condition of fiscal affairs such as described above has existed in other municipalities, experience has shown that a financial plan for a city which provided for payment in full of debt securities when due while at the same time permitting payment for required public services can best be formulated if the city is provided the opportunity to restructure its short-term indebtedness by the issuance of long-term bonds and if proper safeguards are imposed designed to preclude the recurrence of such conditions and prevent a situation of undue burden on the taxpayers of the city.

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.
(E) It is noted that section twelve of article eight of the constitution imposes a duty on this legislature to restrict the power of taxation, assessment, borrowing money and contracting indebtedness so as to prevent abuses in taxation and assessments and in the contracting of indebtedness by the city.

(F) In order to fulfill such duty and based upon such conditions of affairs in the city, the legislature hereby finds and determines that this act providing for certain borrowing power balanced by imposition of certain requirements as to budgetary operations and retention and application of certain funds and further providing for an independent fiscal agent, is the most appropriate means available to provide the city of Yonkers with the opportunity of paying its debts and continuing to function independently as a municipal corporation of the state, to improve market reception for the obligations of such city, and to eliminate need for the continued existence of the emergency control board.

§ 2. Definitions. As used in this act, the following words and terms shall have the following meanings respectively, unless the context shall indicate another or different meaning or intent.

(A) "Base year," when used in reference to a budget, estimate or computation, means the fiscal year next preceding the fiscal year in which the budget is required to be prepared and adopted, being the second fiscal year next preceding the budget year.

(B) "Board" means the governmental agency created by section five of the control act.

(C) "Budget" means a current operating budget of the city prepared or adopted pursuant to law, being the annual budget and estimate of expenditures to be made during a fiscal year for the general support and current expenses of the government of the city to be paid from taxes or assessments or other current revenues of the city for such year or from the proceeds of notes issued in anticipation of the collection thereof.

(D) "Budget year" means a fiscal year of the city for or with respect to which a budget is required or is adopted pursuant to law.

(E) "Capital account bond" means a bond of the city issued or authorized to be issued under authority of section four of this act.

(F) "Capital completion bill" means, with regard to a fiscal year, the amount of

(1) any items of contract indebtedness unpaid and due or to become due during or at any date after said fiscal year, incurred and approved by or on behalf of the city on account of capital projects whether or not (a) in excess of the amount of existing appropriations therefore,* (b) in excess of the amount of bond authorizations or bond ordinances for the financing thereof or balances thereof, or (c) there is an existing bond authorization or bond ordinance for the financing thereof,

(2) any items of capital expenses on account of capital projects properly attributable to said fiscal year or any prior period paid or provided for by the application of current revenues properly attributable to said fiscal year or any prior period, including the application of the proceeds of notes of the city referred to in paragraphs one and two of subdivision (Q) of this section,

(3) any bond anticipation notes of the city, other than the bond anticipation notes mentioned in paragraph two of subdivision (Q) of this section, outstanding at any time during said fiscal year, whether or not the proceeds thereof were used for the specific object or purpose or the class of objects or purposes for which the bonds, in anticipation of which such notes were issued, were authorized pursuant to the bond authorization or bond ordinance, and

(4) any costs, based on estimates, of authorization and issuance of capital ac-

*No in original. Word misspelled.
count bonds, including printing, engraving, advertising, financial accounting and legal fees and expenses, initial fiscal agent fees and expenses and any discount incurred upon the issuance. "Capital completion bill" shall not be construed to include: (a) provision for or on account of capital projects not authorized on or before June thirtieth, nineteen hundred seventy-six or
(b) contracts on account of capital projects not approved or incurred on or before June thirtieth, nineteen hundred seventy-six, other than those estimated in paragraph four of this subdivision.

(G) "City" means the city of Yonkers.
(H) "City comptroller" means the comptroller of the city.
(I) "City taxes" means and includes all taxes on real property levied and assessed by the city, based on valuation thereof and shall not mean any rent, rate, fee, special assessment or other charge based on benefit or use.
(J) "Collecting officer" means the comptroller and any other officer empowered to demand, collect and receive city taxes.

(K) "Control act" means the New York State Financing Emergency Act for The City of Yonkers enacted by chapter eight hundred seventy-one of the laws of nineteen hundred seventy-five.

(L) "Current account bond" means a bond of the city issued or authorized to be issued under authority of section three of this act.

(M) "Current year", when used in reference to a budget, estimate or computation, means the fiscal year in which the budget is required to be prepared and adopted, being the fiscal year next preceding the budget year.

(N) "Debt service fund" means the fund so entitled which is held by the fiscal agent and is described and provided for in section eleven of this act.

(O) "Fiscal agent" means any trust company or bank having the powers of a trust company in the state, appointed by resolution of the city council and any successor trust company or bank having the powers of a trust company in the state which may be substituted in its place pursuant to such resolution.

(P) "Fiscal year" means the fiscal year of the city.

(Q) "General deficiency bill" means, with regard to a fiscal year, the amount of:

(1) any tax anticipation notes, revenue anticipation notes or budget notes of the city outstanding at any time during said fiscal year, whether issued for or on account of said fiscal year or some prior period and whether original or renewal and whether due or to become due;

(2) any bond anticipation notes of the city outstanding at any time during said fiscal year issued pursuant to chapter one hundred twenty-four of the laws of nineteen hundred sixty-nine, chapter twelve hundred one of the laws of nineteen hundred seventy-one or chapter eight hundred seventy-one of the laws of nineteen hundred seventy-five, whether issued for or on account of said fiscal year or some prior period and whether original or renewal and whether due or to become due;

(3) any sums of money (a) at any time received by the city from the state as an advance of moneys to become subsequently payable to the city pursuant to any provisions of the state finance law, and (b) not previously in or before said fiscal year repaid by the city or otherwise reimbursed to the state or the appropriation from which said sums were expended and so advanced;

(4) any unpaid amounts payable, on account of or before or during such fiscal year, by or on behalf of the city or its collecting officer for or on account of state or county taxes;

(5) any items of current expenses, including items of reserves, of the city properly attributable to any prior period paid, provided for or to be provided for by application, whether direct or indirect, (a) of current revenues of the city
properly attributable to said fiscal year or borrowings in anticipation thereof, including notes referred to in paragraph one of this subdivision, or (b) of proceeds of bonds or notes of the city other than bonds or notes referred to in paragraph two of this subdivision authorized or issued under any act cited in said paragraph two;

(6) any items of current expense properly attributable to the fiscal year or any prior period not otherwise provided for in the budget of said fiscal year including such items as salaries and pension payments and reserves for refunds required to be paid by the city on account of certiorari proceedings with respect to state, county or city taxes;

(7) any items of capital expenses of the city properly attributable to said fiscal year or any prior period not otherwise accounted for in computing the capital completion bill and paid or provided for by application of the proceeds of notes of the city referred to in paragraphs one or two of this subdivision, for the payment of which there is no bond authorization or bond ordinance (including bonds or notes issued thereunder) and for which contract claims are outstanding and unpaid or for which contract claims have been paid, provided for or to be provided for by application whether direct or indirect of current revenues of the city properly attributable to said fiscal year or borrowings in anticipation thereof, including notes referred to in paragraphs one or two of this subdivision; and

(8) any costs, based on estimates, of authorization and issuance of current account bonds, including printing, engraving, advertising, financial, accounting and legal fees and expenses, initial fiscal agent fees and expenses, and any discount incurred upon issuance.

(R) "Justification document" means a written certificate setting forth facts determined and actions completed forming an existing basis for a reasonable expectation that (a) in the case of receipts, a stated amount thereof will actually be collected or otherwise realized in cash during a budget year, or (b) in the case of appropriations, that the stated amount thereof will be sufficient for all expenditures by the city for the purpose thereof during a budget year, accompanied by certified copies of all proceedings necessary to evidence the completion of all such actions.

(8) "Miscellaneous revenues" means, with respect to a fiscal year, any current revenues of the city properly attributable to such year and applicable to the payment of current expenses of the city for such year, other than receipts from any city taxes levied or assessed upon real property in the city for such year and payable during such year to the city or its collecting officer, or any item of surplus, state or federal aid or collections of delinquent taxes mentioned and provided for by paragraph (1), (2) or (3) of subdivision (A) of section seven of this act.

(T) "Outstanding", when used with respect to obligations of the city as of any particular date, describes all obligations of the city theretofore issued and thereupon being issued except any obligation theretofore paid and discharged or for the payment of the principal of and interest on which money is held by or on behalf of the city, in trust, solely and in all events only for the purpose and sufficient to pay in full the principal and redemption premium, if any, of and interest on such obligations.

(U) "Properly attributable" means the accounting system and procedures for cities prescribed by the state comptroller pursuant to section thirty-six of the general municipal law and in effect at the effective date of this act, as modified to give full effect to this act and all as determined and applied by independent accountants.

(V) "Special debt service" means, with respect to a fiscal year, the amounts
required for the punctual payment of (a) all principal due or becoming due and payable in said year with respect to any serial bonds, tax anticipation notes, revenue anticipation notes, capital notes or budget notes of the city, and all principal amortization for said year required by law with respect to bond anticipation notes or urban renewal notes or other securities of the city, and not specifically mentioned in clause (b) of this subdivision, and (b) all interest due or becoming due and payable in said year with respect to any serial bonds, bond anticipation notes, tax anticipation notes, revenue anticipation notes, capital notes, budget notes or urban renewal notes or other securities of the city not specifically mentioned herein.

(W) "State" means the state of New York.

(X) "State comptroller" means the comptroller of the State. Unless the context specifically provides otherwise, any terms used in this act such as appropriations, revenues, expenditures or surplus shall be construed as such term is construed under applicable accounting principles.

This act shall be known and may be cited as the Special Local Finance and Budget Act of the city of Yonkers.

§ 3. Authorization for current account bonds. (A) Notwithstanding the provisions or limitations of any other law, general, special or local, the city of Yonkers is hereby authorized and empowered from time to time but prior to June thirtieth, nineteen hundred seventy-seven, to issue its serial bonds for the purpose of funding and paying all or any part of the general deficiency bill of the city. Said purpose is hereby determined and declared to be a specific object or purpose for which indebtedness of the city may be contracted and serial bonds of the city may be issued. The bonds issued under authority of this section shall be authorized, sold, executed and issued in the manner prescribed by and pursuant to this act and the local finance law; provided, that in the event of inconsistencies or conflicts with the local finance law, the provisions of this act shall be followed. No notes shall be issued in anticipation of the sale of such serial bonds. The period of probable usefulness of said specific object or purpose is hereby determined to be fifteen years, such period being found and declared by the legislature as appropriate and necessary for the orderly payment in full of all items aggregating the general deficiency bill without creating undue hardship on the taxpayers of the city or increasing the exposure of the city or its creditors or such taxpayers to the uncertainties of debt enforcement actions in bankruptcy or other judicial proceedings. Debt service on the serial bonds issued for such specific object or purpose shall be paid from the proceeds of taxes assessed, levied on and collected from taxable real estate in the city in the manner hereafter in this act provided. The amount to be so assessed, levied and collected in any fiscal year shall be a charge against, and be deducted from, the limitation provided by the constitution on the amount to be raised in such year by tax on real estate in the city, it being hereby determined necessary for the legislature thus to further restrict the power of the city to levy taxes on real estate in accordance with the last paragraph of section ten of article eight of the constitution and section twelve of article eight of the constitution.

(B) No obligations of the city other than serial bonds shall be issued pursuant to this act to finance such specific object or purpose, and the provisions of section 107.00 of the local finance law shall not be applicable to the issuance of such bonds or any expenditure for said specific object or purpose.

(C) Prior to the adoption of a bond ordinance authorizing the issuance of any such current account bonds, there shall be filed with the city council and the control board an accountant's certificate stating the amount of the general deficiency bill of the city as of June thirtieth, nineteen hundred seventy-six and setting forth the items thereof in the order and as listed in paragraphs one to
seven, inclusive, of the definition of general deficiency bill, and further stating that, in the opinion of the signer, there is no item accounted for under any one such clause which is also accounted for under another of such clauses or in the capital completion bill. Such opinion may make reference to, and such accountant's certificate may include, such notes as may be appropriate under generally accepted accounting principles. The amount so stated in such certificate shall be conclusive evidence as to the maximum amount of current account bonds which may be issued by the city.

(D) Any bond ordinance of the city authorizing the issuance of current account bonds shall set forth at least the following:

(1) A statement of the amount of such general deficiency bill to be paid or funded by such current account bonds.

(2) The maturity dates of such bonds.

(3) A statement to the effect that the principal of and interest on such bonds shall be raised by taxation and paid as directed pursuant to this act and that the amount thereof shall be charged against the operating tax limit as above provided.

(4) A statement that said bonds are authorized under this act and local finance law.

(5) A statement of or reference to the special contract with the bondholders (if any) authorized by the city council in accordance with this act.

(6) A determination and finding by the city council that the issuance of such bonds is in the public interest and affords increased assurance that the city can continue operating independently as a municipal corporation of the state.

(E) If by June thirtieth, nineteen hundred seventy-seven the city shall not have issued bonds under authority of this act or made other provisions sufficient to fund the full amount of the general deficiency bill, the unfunded balance of such general deficiency bill shall be deemed to be indebtedness of the city and shall be paid by the city no later than July thirty-first, nineteen hundred seventy-seven from any other source which is legally available for the purpose of making such payment.

§ 4. Authorization for capital account bonds. (A) Notwithstanding the provisions or limitations of any other law, general, special or local, the city of Yonkers is hereby authorized and empowered from time to time but prior to June thirtieth, nineteen hundred seventy-seven to issue its serial bonds for the purpose of funding and paying all or any part of the capital completion bill of the city. Said purpose is hereby determined and declared to be a specific object or purpose for which indebtedness of the city may be contracted and serial bonds of the city may be issued. No notes shall be issued in anticipation of the sale of said serial bonds. The bonds issued under authority of this section shall be authorized, sold, executed and issued in the manner prescribed by and pursuant to this act and the local finance law; provided, that in the event of inconsistencies or conflicts with such local finance law, the provisions of this act shall be followed. All existing bond authorizations, bond ordinances, existing contracts for capital expenses, the indebtedness or liability arising out of such contracts and all bond anticipation notes included in the computation of the capital completion bill, including all proceedings and actions of the city council, the city manager and city comptroller with respect thereto, are hereby validated notwithstanding, at the time of or prior to the execution of said contracts or issuance of such notes, the absence of an appropriation or authorization therefor or other infirmity or informality in law with respect thereto, it being hereby determined that the failure to maintain separate accounts for the proceeds of bond authorizations or ordinances and insufficient accounting procedures
heretofore existing in the city and other abuses as referred to in section one hereof have created a condition of fiscal affairs which makes ascertainment of capital contract liabilities, bond and note authorizations, or bond and note ordinances and purposes, and the application thereto of proceeds, impossible to determine with any degree of certainty except upon an aggregate basis. In view of the foregoing, the period of probable usefulness of said specific object or purpose is hereby determined to be twenty years, such period being found and declared by the legislature to be appropriate and necessary for the orderly payment in full of all items aggregating the capital completion bill without creating undue hardship on the taxpayers of the city or increasing the exposure of the city or its creditors or such taxpayers to the uncertainties of debt enforcement actions in bankruptcy or other judicial proceedings. Debt service on the serial bonds issued for such object or purpose shall be raised by taxes on real estate in the city in the manner hereinafter in this act provided.

(B) No obligations of the city other than serial bonds shall be issued pursuant to this act to finance such specific object or purpose, and the provisions of section 107.00 of the local finance law shall not be applicable to the issuance of such bonds or any expenditure for said specific object or purpose.

(C) Prior to the adoption of a bond ordinance authorizing the issuance of any such capital account bonds, there shall be filed with the city council and the control board an accountant's certificate stating the amount of the capital completion bill of the city as of June thirtieth, nineteen hundred seventy-six and setting forth the items thereof included in the computation of the capital completion bill, and further stating that in the opinion of the signer there is no item accounted for in such bill under any one such clause thereof which is also accounted for under another such clause of such bill or under the general deficiency bill. Such opinion may make reference to, and such accountant's certificate may include, such notes as may be appropriate under generally accepted accounting principles. The amount so stated in such certificate shall be conclusive evidence as to the maximum amount of capital account bonds which may be issued by the city.

(D) Any bond resolution of the city authorizing the issuance of capital account bonds shall set forth at least the following:

1. A statement of the amount of the capital completion bill to be paid or funded by such capital account bonds.
2. The maturity dates of such bonds.
3. A statement to the effect that the principal and interest on said bonds shall be raised by taxation and paid as directed pursuant to this act.
4. A statement that said bonds are authorized under this act and the local finance law.
5. A statement of or reference to the special contract with the bondholders (if any) authorized by the city council in accordance with this act.
6. A determination and finding by the city council that the issuance of such bonds is in the public interest and affords increased assurance that the city can continue operating independently as a municipal corporation of the state.

(E) If by June thirtieth, nineteen hundred seventy-seven the city shall not have issued bonds under authority of this act or made other provisions sufficient to fund the full amount of the capital completion bill, the unfunded balance of such capital completion bill shall be deemed to be indebtedness of the city and shall be paid by the city no later than July thirty-first, nineteen hundred seventy-seven, provided, however, nothing herein shall be construed to preclude the city at any time from paying such unfunded amount by the
issuance of bonds, other than capital account bonds, of the city, or from other sources legally available for the purpose of making such payment.

§ 5. Proceeds of bonds. Notwithstanding the provisions or limitations of any other law, general, special or local the proceeds of each bond issue of the city hereafter issued by the city and any notes issued in anticipation thereof shall be deposited with the fiscal agent in a special and separate bank account and held in trust and expended only for the object or purpose for which such bonds were issued. A copy of each bond ordinance to which the proceeds of bonds relates shall be filed with such fiscal agent at or prior to the time the proceeds are made available to the city. No moneys shall be withdrawn from such account unless there is filed with such fiscal agent a written requisition of the city council or the properly authorized delegate of the city, who shall be the chief fiscal officer of the city or his authorized deputy, setting forth (a) the item number of the requisition; (b) the account to be charged; (c) the name of the person, *including the holder of a note payable to bearer, of the amount due by deposit with the paying agent designated on such note) to whom payment is due; (d) the amount to be paid; and (e) a statement to the effect that the obligation in the stated amount has been incurred by the city and is a proper charge against such account. Pending such withdrawals, the moneys shall be invested for and on behalf of the city by the fiscal agent upon instructions from the chief fiscal officer of the city or his authorized deputy in the manner provided by subdivision b of section one hundred sixty-five of the local finance law.

§ 6. Budget appropriations. (A) There shall be included and made in the budget of the city for or with respect to each budget year not less than the following appropriations estimated and computed in accordance with this section:

(1) All appropriations required to fund expenditures required by law for the budget year;
(2) Appropriations of the amounts required for the budget year to pay special debt service outstanding at the beginning of such year;
(3) Appropriations of the amounts required for the payment of any judgments or settled claims against the city unpaid at the beginning of such budget year together with interest thereon until paid, and amounts properly attributable as reserve for any judgments or settled claims against the city during the budget year together with interest, if any, thereon.
(4) Appropriation of the amounts estimated to be required for the payment when due of the interest on tax anticipation notes and revenue anticipation notes to be issued during the budget year and paid prior to the expiration of such year;
(5) Appropriation of the amounts required for all other expenditures to be made during the budget year, or properly attributable to such year, for the general support and current expenses of the government of the city to be paid from taxes or special assessments or other current revenues of the city for such year;
(6) An appropriation for a reserve for uncollected taxes of not less than the amount determined as stated below for the required provision for uncollected taxes for such budget year;
(7) An appropriation for liquidation of prior deficits of the city of not less than the amount determined as stated below for the required provision for deficits of prior years for such budget year;
(B) Unless the exact amount of the expenditure for any item of such an appropriation for a budget year is known and stated at the time of making and adopting the budget for or with respect to such year, the amount thereof shall be estimated by ordinance of the city council; provided, however, that the es-

*So in original.
timate for such item shall not be less in amount than the amount for such item of expenditure paid or incurred for or with respect to the base year, or less in amount than the appropriation made or included for such item in the budget for the current year, whichever is less, unless there shall have been previously filed with the fiscal agent a justification document of the city council with respect to such estimate.

(C) The required provision for uncollected taxes for or with respect to a budget year shall be not less than the amount determined by (a) ascertaining the amount of city, state, county or other taxes levied or assessed upon real property in the city for the base year and payable during such year to the city or its collecting officer or agent which were not collected or otherwise realized in cash by the city or its collecting officer or agent prior to the end of such base year; (b) dividing the amount so ascertained by the balance obtained by subtracting the said amount so ascertained from the total amount of city taxes levied or assessed upon real property in the city for the base year (whether or not subsequently abated, remitted or cancelled) and payable during such year to the city or its collecting officer or agent, and stating the result as a percentage; and (c) multiplying said percentage so stated by the total amount of city taxes levied or assessed or to be levied or assessed upon taxable real property in the city for the budget year and payable during such year to the city or its collecting officer or agent, except and excluding the portion thereof included as the aforesaid reserve or provision for uncollected taxes.

(D) The required provision for deficit of prior years for or with respect to a budget year shall be the amount of the aggregate of the deficits of the various operating funds of the city as of the end of the base year.

(E) With respect to the appropriation referred to in paragraph four of subdivision (A) and subject to the limitations set forth in subdivision (B) hereof, there shall be attached to and made a part of each budget of the city a schedule of cash expenditures and cash receipts for the budget year on a monthly basis in as much detail as the city council shall consider appropriate for the determination of the estimated need for the issuance of tax and/or revenue anticipation notes. In addition, with respect to each budget subsequent to the second budget effective under this act, there shall be attached to such schedule the certificate of the chief fiscal officer of the city setting forth the actual cash expenditures and actual cash receipts on a monthly basis for the base year. In the event there shall be substantial variation between the schedule attached to the budget and the certificate, there shall be filed with the fiscal agent a justification document of the chief fiscal officer, approved by the city council of the city.

§ 7. Budget receipts. (A) In computing or stating the amount of city taxes assessed or levied or to be assessed or levied upon real property in the city pursuant to the budget for any budget year, there shall not be deducted from the total of the appropriations included and made in such budget, and the receipt or availability shall not be estimated or anticipated in such budget of, any sum or sums of money which the city council does not by resolution declare will be collected or otherwise realized in cash by or for the account of the city prior to the expiration of such year, or, in any event, any sum or sums of money other than or in excess of the following:

(1) Operating surpluses of prior years not in excess of the amount of the aggregate of the fund balances of the various operating funds of the city as of the end of the base year;

(2) As state or federal aid under any program thereof continuing fully in effect until the end of said budget year, a sum or sums of money not in the aggregate exceeding the amount received or otherwise realized in cash by the
city for or on account of said program during the base year, or any such larger amount as may be certified by an officer, board, commission or other agency of the state or the United States of America as received or receivable in cash, for or on account of said program and under legislation and appropriations then fully effective and sufficient, by the city from such officer, board, commission or agency or from the state or the United States of America, free from any setoff or counterclaim, during any period of twelve consecutive months ending not later than the end of such budget year or more than six months prior to the beginning of said year;

(3) Collection or other realization in cash of real property taxes unpaid and remaining payable to the city or its collecting officer on the first day of such budget year, not in excess of the amount determined by (a) ascertaining (i) the amount of delinquent real property taxes unpaid and remaining payable to the city or its collecting officer on the first day of the base year (whether or not subsequently abated, remitted or cancelled) and (ii) the amount of such delinquent real property taxes which were collected or otherwise realized in cash during such base year, (b) dividing the amount ascertained pursuant to (a) (ii) above by the amount ascertained pursuant to (a) (i) above and stating the result as a percentage, and (c) multiplying such percentage by the amount of delinquent real property taxes (including taxes for such base year) unpaid and remaining payable to the city or its collecting officer on the last day of such base year;

(4) Miscellaneous revenues not in any instance or as to any item in excess of the amount of such miscellaneous revenues collected or otherwise realized in cash from the same source in the base year or properly attributable to the current year;

(5) Miscellaneous revenues in excess of amounts permitted for any item under the provisions of paragraph (4) of this subdivision, but only if there shall have been previously filed with the fiscal agent a justification document approved by the city council with respect to such item; and

(6) Miscellaneous revenues as to any item not mentioned in paragraph (4) of this subdivision, but only if there shall be filed a justification document approved by the city council with respect to such item, not in excess of the amount of such miscellaneous revenues actually realized in cash from the same source in the current year in not less than four of the six months prior to the beginning of said budget year plus that anticipated for the remaining months of the current year estimated as accurately as may be, provided that the authority for receiving such item of miscellaneous revenues shall continue to be fully in effect until the end of said budget year.

(B) In stating in any budget the receipts pursuant to paragraphs two through six of subdivision (A) of this section, there shall be attached to the budget an accountant's certificate stating that the inclusion of such receipt for such budget year is properly attributable to such budget year;

(C) For and with respect to each budget year, the city council of the city shall assess and levy the amount of real property taxes for each such year required under the budget including the required provisions for uncollected taxes and for deficits of prior years referred to in section six of this act, being the excess of the aggregate amount of all appropriations included and made in such budget over the aggregate amount of all receipts (except real property taxes for such year) anticipated in such budget as estimated and stated in accordance with the limitations of subdivision (A) of this section, and the city council shall cause to be raised the said amount so required by tax upon real property liable therefor in the manner provided for the levy of city taxes.

§ 8. Transfer of appropriations. No transfer shall at any time be made of any
part of an appropriation referred to in paragraphs one, two, three, four, six or seven of subdivision (A) of section six of this act. No transfer of any part of an appropriation made in a budget for any purpose shall be authorized or made or shall take effect at any time unless there shall have been previously filed with the fiscal agent a resolution of the city council finding that the unencumbered balance of such appropriation remaining after such transfer equals or exceeds the estimated expenditures of the city required for such purpose during the remainder of the budget year, together with a justification document of or approved by the city council with respect to such finding. Upon the taking effect of such transfer, the amount of the appropriation in such budget to which such transfer is made shall be deemed for all purposes of this act to be increased by the amount of such transfer. No transfer under this section shall be made to any appropriation for expenditures with respect to a capital project for which there is an existing bond ordinance in effect covering such capital project, unless such bond ordinance is amended to increase the estimated maximum amount of the cost of financing said capital project and provision is made to finance the appropriation for such increase with the use of such general operating funds.

§ 9. Emergency, supplemental or other appropriations. No emergency appropriation, supplemental or supplementary appropriation or other increase in the amount of any appropriation made in any budget shall be authorized or made or shall take effect during the budget year, except (a) an increase by a transfer made in accordance with section eight of this act or (b) a supplemental appropriation for the payment of expenditures expected to be met in full by application of an amount not estimated or anticipated as a revenue or receipt in such budget which is certified by an officer, board, commission or other agency of the state or the United States of America to be receivable in cash by the city during such budget year from such officer, board, commission or agency or from the state or the United States of America, under legislation and appropriations then fully effective and sufficient, for the purpose of paying such expenditure, free from any setoff or counterclaim.

§ 10. Other financial needs. Nothing in this act shall limit the powers of the city under the local finance law to authorize the expenditure of and to expend the proceeds of sale of serial bonds, bond anticipation notes or budget notes or a portion of such proceeds for any purpose whether or not provided for by an appropriation in a budget, and the city shall have power to authorize, sell and issue budget notes pursuant to paragraphs one and two of subdivision a of section 29.00 of said law notwithstanding the limitations of amount set forth in paragraph two of said subdivision, provided that the total amount of budget notes which may be issued by the city in any single fiscal year pursuant to said paragraph two of subdivision a shall never exceed five per centum of the budget for such year. No budget notes shall be issued by the city during a fiscal year unless there shall be filed with the fiscal agent a justification document of the city council setting forth the facts and circumstances necessitating the issuance of such budget notes and the purpose for which the proceeds of such notes are to be used and stating that there are no other funds available to the city with which to pay or provide for such purpose. Notwithstanding the foregoing provisions of this section no budget notes shall be issued in any fiscal year for the purpose of paying any wage and salary increases or increases in pension payments which take effect during the fiscal year pursuant to collective bargaining agreements executed after the adoption of the original budget for such fiscal year.

§ 11. Special debt service fund. (A) Upon the issuance of any current account bonds or any capital account bonds, the city council shall establish and thereafter maintain a special debt service fund with the fiscal agent for the pur-
pose of paying the special debt service due or becoming due in subsequent fiscal years.

(B) For and with respect to each fiscal year beginning after such issuance of bonds, the city comptroller shall certify to the fiscal agent the percentage obtained by dividing the balance obtained by subtracting the amount of the appropriation for such year for a reserve for uncollected taxes from the total amount of city taxes levied and assessed for such year, into the total appropriation in the budget of such year for special debt service, and the percentage so certified shall constitute the debt service percentage for such fiscal year. Immediately upon receipt of any payment during such fiscal year of or on account of any city taxes, the city, its collecting officer and any agent receiving the same shall remit such payment to the fiscal agent. Of each sum so received, the fiscal agent shall deposit and pay into the special debt service fund the portion thereof equal to the debt service percentage of the total sum, and shall pay over the remainder of such sum to the city comptroller for use by the city in the manner provided by law. If at any time during a fiscal year the moneys in the debt service fund exceed the unpaid amount of all special debt service due or to become due at or prior to the first day of July next ensuing, the fiscal agent shall pay over to the city comptroller the amount of such excess for use by the city in the manner provided by law.

(C) No tax anticipation notes shall be issued by the city in anticipation of the collection of taxes levied for such fiscal year or shall be valid for any purpose unless such notes are countersigned and thus authenticated by the fiscal agent. The proceeds of any such tax anticipation notes shall be paid to the fiscal agent which, simultaneously with such payment, shall countersign and authenticate such notes. Of the proceeds so received, the fiscal agent shall deposit and pay into the special debt service fund the portion thereof equal to the debt service percentage of the total proceeds, and shall pay over the remainder of such proceeds to the city comptroller for use by the city in the manner provided by law. Thereafter, on receipt of sums remitted to the fiscal agent pursuant to subdivision (B) above, the fiscal agent, in addition to the portion thereof required by said subdivision (B), shall deposit and pay into the special debt service fund the remainder of all such sums unless and until the total of the excess amounts so deposited and paid shall equal the total amount of principal and interest due or to become due on said tax anticipation notes.

(D) No tax anticipation notes shall be issued by the city in anticipation of the collection of taxes levied for such fiscal year in any amount which exceeds the total amount of city taxes levied and assessed for such year less the amount or amounts set forth in the budget for such year as a reserve for uncollected taxes.

(E) No revenue anticipation notes or urban renewal notes or budget notes shall be issued by the city during such fiscal year or shall be valid for any purpose unless such notes are countersigned and thus authenticated by the fiscal agent. The city comptroller shall certify to the fiscal agent the percentage obtained by dividing the balance obtained by subtracting the amount of the appropriation for such year for a reserve for uncollected taxes from the total amount of city taxes levied and assessed for such year and then remaining uncollected, into the total amount of interest payable on such notes in such fiscal year, and the fiscal agent, simultaneously with receipt of such certificate from the city comptroller, shall countersign and authenticate said notes. The percentage so certified shall constitute an added debt service percentage for such fiscal year. Thereafter, on receipt of any sum remitted to the fiscal agent pursuant to subdivision (B) above, the fiscal agent, in addition to the portion thereof required by said subdivision (B), shall deposit and pay into the special debt service fund the ad-
ditional portion thereof equal to said added debt service percentage of the total
sum.

(F) The fiscal agent shall from time to time during each fiscal year withdraw
from the special debt service fund all amounts required for the payment as the
same becomes due of all special debt service of such fiscal year and the principal
and interest on tax anticipation notes as described in subdivision (C) of this
section and interest on revenue anticipation notes and budget notes as described
in subdivision (E) of this section and cause the amounts so withdrawn to be
applied to such payments as and when due.

(G) Upon the issuance of any current account bonds or capital account bonds,
the special fund created pursuant to section ninety-two-f of the state finance law
shall hereby be abolished, and the revenues derived from the imposition of the
additional one percent sales and use tax by the city authorized pursuant to
section twelve hundred ten of the tax law shall be deposited in the special debt
service fund. The state comptroller is hereby charged with the duty and en-
powered to deposit such revenues directly into such special debt service fund. To
the extent any provisions of said section ninety-two-f are inconsistent with the
provisions of this section, the provisions of said section ninety-two-f are hereby
repealed.

(H) The special debt service fund and all monies or securities therein or
payable thereto in accordance with this section is hereby declared to be city
property devoted to essential governmental purposes and accordingly shall not
be applied to any purpose other than as provided herein and shall not be subject
to any order, judgment, lien, execution, attachment, setoff or counterclaim by
any creditor of the city other than a creditor for whose benefit such fund is es-
established and maintained and entitled thereto under and pursuant to this act.

§ 12. Sale or other issuance of bonds. The city council shall be the finance
board of the city hereunder and shall be vested with and exercise all powers and
duties pertaining or incidental to the sale of any current account bonds or
capital account bonds. Any of such bonds may be sold at either public or private
sale in such manner and amounts, for such sums at, above or below their par
value, bearing such rate or rates of interest, with such privileges of registration
and redemption prior to maturity and on such other terms and conditions as the
city council may approve. Upon approval by the city council, any such bonds
may be sold and delivered without previous public offering at not less than their
par value in exchange for notes to be funded or refunded by the issuance thereof
whether or not such notes be then or theretofore or thereafter due and payable
and irrespective of any higher or lower rate of interest borne by the notes so to
be funded or refunded. Upon approval by the city council, any such bonds may
be sold and delivered without previous public offering directly to any creditor of
the city at not less than their par value in absolute and complete discharge of
any indebtedness of like or greater amount which is not evidenced by bonds or
notes of the city and is to be funded or refunded by the issuance thereof;
provided, however, that the amount of such indebtedness and its validity shall
be fixed and determined by ordinance adopted by the vote of a majority of all
the members of the city council; and provided, further, that such creditor ex-
ecute and deliver to the city a general release with respect to such indebtedness.

§ 13. Approval of control board. Unless the existence of the control board
shall sooner have been terminated, no bond ordinance authorizing any current
account bonds or capital account bonds under this act or credit agreement
authorized to be executed in accordance with section fifteen of this act shall take
effect until a certified copy of each shall be submitted to the control board and
said board shall approve the same and cause evidence of its approval to be en-
dorsed on such copy. The control board shall approve such ordinance unless it
action or proceeding at law or in equity enforce all rights of the holders of such obligations, including any right to require the city to assess, levy and collect taxes adequate to carry out the provisions of any agreement with the holders of such obligations and to perform its duties under the act; (c) bring suit upon such obligations; (d) by action or suit in equity, require the city to account as if it were the trustee of an express trust for the holders of such obligations; (e) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such obligations; (f) declare all such obligations of such issue due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five percent of the principal amount of such obligations then outstanding, annul such declaration and its consequences.

(C) any holder of any such obligations at any time outstanding, whether or not then due and payable or reduced to judgment and either on his own behalf or on behalf of all persons similarly situated, may (a) by mandamus, original or ancillary, mandatory or other injunction, or any other order, process or decree, or by any other suit, action or proceeding at law or in equity, enforce all contractual or other rights of such holder or holders, including any right to require the city to assess, levy, collect and apply taxes to carry out the provisions of any agreement with such holder or holders and perform its duties under this act; (b) by action, suit or other proceeding, require the city to account as if it were the trustee of an express trust for such holder or holders; and (c) by action, suit or other proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of such holder or holders.

(D) such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the holders of such obligations of such issue in the enforcement and protection of their rights.

(E) the supreme court shall have jurisdiction of any suit, action or proceeding by or on behalf of such holders of such obligations. The venue of any such suit, action or proceeding shall be laid in the county of Westchester.

§ 17. State pledge. The state does hereby pledge to and agree with the holders of obligations of the city issued pursuant to the local finance law or this act that the state will not (a) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the power or duty of the city to exercise, perform, carry out and fulfill its responsibilities under this act to the extent that the city incorporates in any bond ordinance or credit agreement covenants and agreements to do exercise, perform, carry out and fulfill such responsibilities, (b) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the rights and remedies of any such holders to fully enforce in a court of law such covenants and agreements so incorporated in the bond ordinance or credit agreement or to enforce the pledge and agreement of the state contained in this section, or (c) otherwise exercise any sovereign power contrary to or inconsistent with the provisions of such bond ordinance or credit agreement, it being hereby determined and declared that the provisions of this act and the powers and duties of the city authorized and imposed hereunder are proper, reasonable and appropriate means by which the state can and should exercise and has exercised its duty under section twelve of article eight of the constitution to prevent abuses by the city in taxation and in the contracting of indebtedness and that the provisions hereof are necessary and in the public interest and a proper means to improve market reception for the purchase of bonds and other obligations of the city; provided, however, the foregoing pledge and agreement shall be of no further force and effect if at any time (i) there is on deposit in a separate trust account with the fiscal agent suf-
ficient moneys or direct obligations of the United States of America or the state the principal of and/or interest on which will provide moneys to pay punctually when due at maturity or prior to maturity by redemption in accordance with their terms all principal and interest on all such obligations of the city outstanding, (ii) irrevocable instructions from the state and city to the fiscal agent for such payment of such principal and interest with such moneys have been given, and (iii) notice to the holders of such obligation as provided in the bond ordinance or credit agreement has been given, and provided further that such pledge and agreement by the state may be temporarily suspended upon the declaration of martial law in the city in the event of circumstances in the city deriving directly out of a natural disaster (such as an earthquake or major conflagration or flood but not a snowstorm) or civil disturbance (such as military invasions or civil insurrections but not strikes or crises created by financial abuses or economic events). Nothing in this section contained shall preclude the state from authorizing the city to exercise, or the city from exercising, any power provided by law to seek application of laws then in effect under the bankruptcy provisions of the United States constitution or to preclude the state from further exercise of its powers under article eight, section twelve, of the state constitution.

The city is authorized and directed to include this pledge and agreement of the state in any ordinance authorizing the issuance of its obligations or any credit agreement with respect thereto as and for a pledge and agreement of the state with and for the benefit of the holders of all obligations of the city issued pursuant to the local finance law and this act or issued pursuant to the local finance law and upon payment for such obligations issued pursuant to the local finance law and this act by the original and all subsequent holders such inclusion shall be deemed conclusive evidence of valuable consideration received by the state and city for such pledge and agreement and of reliance upon such pledge and agreement by any such holder and any action by the state contrary to or inconsistent with the provisions hereof shall be void. The state hereby grants any such benefited holder the right to sue the state and enforce this covenant and agreement and waives all rights of defense based on sovereign immunity or sovereign power in such an action or suit, it being expressly determined and declared that the continued integrity of the contract of any such holder is essential to the continued right of the city to operate independently as a municipal corporation of the state.

§ 18. Court preference. If any section, part or provision of this act shall be declared unconstitutional or invalid or ineffective by any court of this state, any party in interest shall have a direct appeal as of right to the court of appeals of the state of New York, and such appeal shall have preference over all other causes. Service upon the adverse party of a notice of appeal shall stay the effect of the judgment or order appealed from pending the hearing and determination of the appeal.

§ 19. Severability. If any section, part or provision of this act shall be declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such declaration shall be limited to the section, part or provision directly involved in the controversy in which such declaration was made and shall not affect any other section, provision or part thereof.

§ 20. Effective date. This act shall take effect immediately except for section
seventeen which shall take effect upon the first issuance of current account bonds or capital account bonds by the city.

The Legislature of the State of New York as:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction, and, in accordance with such section is entitled to be read into evidence.

WARREN M. ANDERSON
Temporary President of the Senate

STANLEY STEINGUT
Speaker of the Assembly
CHAPTER 488

An Act in relation to the finances of the city of Yonkers, to imposing certain requirements and restrictions with respect to the types of obligations which may be issued by such city, the specified objects and purposes thereof, and the sale and proceeds thereof, to prescribing and limiting procedures with respect to budgetary appropriations and receipts, to providing for the rights of holders of the obligations of such city and, generally, to providing for the payment and orderly reduction of the debt of such city.

Approved June 30, 1976, effective as provided in section 20.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings and declaration. (A) It is hereby found and declared that a condition of fiscal affairs now exists and has existed for several years in the city of Yonkers which involves inadequate regard for proper financial accounting procedures as required by law, imprudent budgeting and taxing practices, inappropriate deferral of current expenditures, increased dependence on emergency legislation to fund resulting deficiencies, and other documented disregard for prudent management of its financial affairs. This condition of fiscal affairs has contributed to a current loss of confidence by short-term and long-term investors in obligations of the city of Yonkers, and has resulted in the necessity for the establishment of an emergency control board for the city of Yonkers, the advancement of certain state aid to the city well ahead of scheduled payments, the purchase by certain funds of the state of obligations of the city, the renewal renewals by certain financial institutions of short-term obligations, the issuance of tax receivable notes and other measures requiring active supervisory power of the state over the daily operations of the city.

(B) It is hereby further determined and declared that the continued existence of such condition of affairs is contrary to the public interest of the city and the state and seriously threatens a decline in the general prosperity and economic welfare of the inhabitants of the city and the people of this state.

(C) It is hereby acknowledged that a home rule message recommended by the city manager of the city, approved by a unanimous vote of the city council and endorsed by the mayor of the city, requests the enactment of all of the provisions of this act as necessary and in the public interest to accomplish the objective of improving market reception for the necessary sale of bonds and other obligations of the city by precluding by law and by contract certain practices which have occurred in the past while retaining the city's right to operate independently as a municipal corporation of the state of New York, and thereby eliminating any necessity for the continuation of the emergency financial control board for the city of Yonkers beyond its expiration date.

(D) When in the past a condition of fiscal affairs such as described above has existed in other municipalities, experience has shown that a financial plan for a city which provided for payment in full of debt securities when due while at the same time permitting payment for required public services can best be formulated if the city is provided the opportunity to restructure its short-term indebtedness by the issuance of long-term bonds and if proper safeguards are imposed designed
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to preclude the recurrence of such conditions and prevent a situation of undue burden on the taxpayers of the city.

(E) It is noted that section twelve of article eight of the constitution imposes a duty on this legislature to restrict the power of taxation, assessment, borrowing money and contracting indebtedness so as to prevent abuses in taxation and assessments and in the contracting of indebtedness by the city.

(F) In order to fulfill such duty and based upon such conditions of affairs in the city, the legislature hereby finds and determines that this act providing for certain borrowing power balanced by imposition of certain requirements as to budgetary operations and retention and application of certain funds and further providing for an independent fiscal agent, is the most appropriate means available to provide the city of Yonkers with the opportunity of paying its debts and continuing to function independently as a municipal corporation of the state, to improve market reception for the obligations of such city, and to eliminate need for the continued existence of the emergency control board.

§ 2. Definitions. As used in this act, the following words and terms shall have the following meanings respectively, unless the context shall indicate another or different meaning or intent.

(A) "Base year", when used in reference to a budget, estimate or computation, means the fiscal year next preceding the fiscal year in which the budget is required to be prepared and adopted, being the second fiscal year next preceding the budget year.

(B) "Board" means the governmental agency created by section five of the control act.

(C) "Budget" means a current operating budget of the city prepared or adopted pursuant to law, being the annual budget and estimate of expenditures to be made during a fiscal year for the general support and current expenses of the government of the city to be paid from taxes or assessments or other current revenues of the city for such year or from the proceeds of notes issued in anticipation of the collection thereof.

(D) "Budget year" means a fiscal year of the city for or with respect to which a budget is required or is adopted pursuant to law.

(E) "Capital account bond" means a bond of the city issued or authorized to be issued under authority of section four of this act.

(F) "Capital completion bill" means, with regard to a fiscal year, the amount of

(1) any items of contract indebtedness unpaid and due or to become due during or at any date after said fiscal year, incurred and approved by or on behalf of the city on account of capital projects whether or not (a) in excess of the amount of existing appropriations therefore, (b) in excess of the amount of bond authorizations or bond ordinances or for the financing thereof or balances thereof, or (c) in excess of the amount of capital anticipation notes referred to in paragraphs one and two of subdivision (Q) of this section,

(2) any items of capital expenses on account of capital projects properly attributable to said fiscal year or any prior period paid or provided for by the application of current revenues properly attributable to said fiscal year or any prior period, including the application of the proceeds of notes of the city referred to in paragraphs one and two of subdivision (Q) of this section,

(3) any bond anticipation notes of the city, other than the bond anticipation notes mentioned in paragraph two of subdivision (Q) of this section, outstanding at any time during said fiscal year, whether or not the proceeds thereof were used for the specific object or purpose or the class of objects or purposes for which the bonds, in anticipation of which such notes were issued, were authorized pursuant to the bond authorization or bond ordinance, and

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(4) any costs, based on estimates, of authorization and issuance of capital account bonds, including printing, engraving, advertising, financial accounting and legal fees and expenses, initial fiscal agent fees and expenses and any discount incurred upon the issuance. "Capital completion bill" shall not be construed to include (a) provision for or on account of capital projects not authorized on or before June thirtieth, nineteen hundred seventy-six or (b) contracts on account of capital projects not approved or incurred on or before June thirtieth, nineteen hundred seventy-six, other than those estimated in paragraph four of this subdivision.

(6) "City" means the city of Yonkers.

(7) "City comptroller" means the comptroller of the city.

(8) "City taxes" means and includes all taxes on real property levied and assessed by the city, based on valuation thereof and shall not mean any rent, rate, fee, special assessment or other charge based on benefit or use.

(9) "Collecting officer" means the comptroller and any other officer empowered to demand, collect and receive city taxes.

(10) "Central act" means the New York State Financing Emergency Act for The City of Yonkers enacted by chapter eight hundred seventy-one of the laws of nineteen hundred seventy-five.

(11) "Current account bond" means a bond of the city issued or authorized to be issued under authority of section three of this act.

(12) "Current year" when used in reference to a budget, estimate or computation, means the fiscal year in which the budget is required to be prepared and adopted, being the fiscal year next preceding the budget year.

(13) "Debt service fund" means the fund so entitled which is held by the fiscal agent and is described and provided for in section eleven of this act.

(14) "Fiscal agent" means any trust company or bank having the powers of a trust company in the state, appointed by resolution of the city council and any successor trust company or bank having the powers of a trust company in the state which may be substituted in its place pursuant to such resolution.

(15) "Fiscal year" means the fiscal year of the city.

(16) "General deficiency bill" means, with regard to a fiscal year, the amount of:

(1) any tax anticipation notes, revenue anticipation notes or budget notes of the city outstanding at any time during said fiscal year, whether issued for or on account of said fiscal year or some prior period and whether original or renewal and whether due or to become due;

(2) any bond anticipation notes of the city outstanding at any time during said fiscal year issued pursuant to chapter one hundred twenty-four of the laws of nineteen hundred sixty-nine, chapter eleven hundred one of the laws of nineteen hundred seventy-one or chapter eight hundred seventy-one of the laws of nineteen hundred seventy-five, whether issued for or on account of said fiscal year or some prior period and whether original or renewal and whether due or to become due;

(3) any sums of money (a) at any time received by the city from the state as an advance of monies to become subsequently payable to the city pursuant to any provisions of the state finance law, and (b) not previously in or before said fiscal year repaid by the city or otherwise reimbursed to the state or the appropriation from which said sums were expended and so advanced;

(4) any unpaid amounts payable on account of or before or during such fiscal year, by or on behalf of the city or its collecting officer for or on account of state or county taxes.
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(5) any items of current expenses, including items of reserves, of the city properly attributable to any prior period paid, provided for or to be provided for by application, whether direct or indirect, (a) of current revenues of the city attributable to said fiscal year or borrowings in anticipation thereof, including notes referred to in paragraph one of this subdivision, or (b) of proceeds of bonds or notes of the city other than bonds or notes referred to in paragraph two of this subdivision authorized or issued under any act cited in said paragraph two;

(6) any items of current expense properly attributable to the fiscal year or any prior period not otherwise provided for in the budget of the city and expressly added to the said fiscal year including such items as salaries and pension payments and reserves for refunds required to be paid by the city on account of certain unauthorized proceedings with respect to state, county or city taxes;

(7) any items of capital expenses of the city properly attributable to said fiscal year or any prior period not otherwise accounted for in computing the capital completion bill and paid or provided for, by application of the proceeds of the city referred to in paragraphs one or two of this subdivision, for the payment of which there is no bond authorization or bond ordinance (including bonds or notes issued thereunder) and for which contract claims are outstanding and unpaid or for which contract claims have been paid, provided for or to be provided for by application whether direct or indirect of current revenues of the city properly attributable to said fiscal year or borrowings in anticipation thereof, including notes referred to in paragraphs one or two of this subdivision; and

(8) all costs, based on estimates, of authorization and issuance of current account bonds, including printing, engraving, advertising, financial, accounting and legal fees and expenses, initial fiscal agent fees and expenses, and any discount incurred upon issuance.

(R) "Certification document" means a written certificate setting forth facts determined and actions completed forming an existing basis for a reasonable expectation that (a) in the case of receipts, a stated amount thereof will actually be collected or otherwise realized in cash during a budget year, or (b) in the case of appropriations, that the stated amount thereof will be sufficient for all expenditures by the city for the purpose thereof during a budget year, accompanied by certified copies of all proceedings necessary to evidence the completion of all such actions.

(S) "Miscellaneous revenues" means, with respect to a fiscal year, any current revenues of the city properly attributable to such year and applicable to the payment of current expenses of the city for such year, other than receipts from any city taxes levied or assessed upon real property in the city for such year and payable during such year to the city or its collecting officer, or any item of surplus, state or federal aid or collections of delinquent taxes mentioned and provided for by paragraph (3), (2) or (3) of subdivision (A) of section seven of this act.

(T) "Outstanding", when used with respect to obligations of the city as of any particular date, describes all obligations of the city theretofore issued and thereupon being issued except any obligation therefore paid and discharged or for the payment of the principal of and interest on which money is held by or on behalf of the city, in trust, solely and in all events only for the purpose and sufficient to pay in full the principal and redemption premium, if any, of and interest on such obligations.

(U) "Properly attributable" means the accounting system and procedures for cities prescribed by the state comptroller pursuant to section thirty-six of the general municipal law and in effect at the
effective date of this act, as modified to give full effect to this act and all as determined and applied by independent accountants.

(V) "Special debt service" means, with respect to a fiscal year, the amounts required for the punctual payment of (a) all principal due or becoming due and payable in said year with respect to any serial bonds, tax anticipation notes, revenue anticipation notes, capital notes or bond anticipation notes of the city, and all principal amortization for said year required by law with respect to bond anticipation notes or urban renewal notes or other securities of the city, and not specifically mentioned in clause (b) of this subdivision, and (b) all interest due or becoming due and payable in said year with respect to any serial bonds, bond anticipation notes, tax anticipation notes, revenue anticipation notes, capital notes, bond notes or urban renewal notes or other securities of the city not specifically mentioned herein.

(W) "State" means the state of New York.

(X) "State comptroller" means the comptroller of the State. Unless the context specifically provides otherwise, any terms used in this act such as appropriations, revenues, expenditures or surplus shall be construed as such term is construed under applicable accounting principles.

This act shall be known and may be cited as the Special Local Finance and Budget Act of the city of Yonkers.

§ 3. Authorization for current account bonds. (A) Notwithstanding the provisions or limitations of any other law, general, special or local, the city of Yonkers is hereby authorized and empowered from time to time but prior to June thirtieth, nineteen hundred seventy-seven, to issue its serial bonds for the purpose of funding and paying all or any part of the general deficiency bill of the city. Said purpose is hereby determined and declared to be a specific object or purpose for which indebtedness of the city may be contracted and serial bonds of the city may be issued. The bonds issued under authority of this section shall be authorized, sold, executed and issued in the manner prescribed by and pursuant to this act and the local finance law; provided, that in the event of inconsistencies or conflicts with the local finance law, the provisions of this act shall prevail. No notes shall be issued in anticipation of the sale of such serial bonds. The period of probable usefulness of said specific object or purpose is hereby determined to be fifteen years, such period being found and declared by the legislature as appropriate and necessary for the orderly payment in full of all items aggregating the general deficiency bill without creating undue hardship on the taxpayers of the city or increasing the exposure of the city or its creditors or such taxpayers to the uncertainties of debt enforcement actions in bankruptcy or other judicial proceedings. Debt service on the serial bonds issued for such specific object or purpose shall be paid from the proceeds of taxes assessed, levied on and collected from taxable real estate in the city in the manner hereafter in this act provided. The amount to be so assessed, levied and collected in any fiscal year shall be a charge against, and be deducted from, the limitation provided by the constitution on the amount to be raised in each fiscal year by tax on real estate in the city, if being hereby determined necessary for the legislature thus to further restrict the power of the city to levy taxes on real estate in accordance with the last paragraph of section ten of article eight of the constitution and section twelve of article eight of the constitution.

(B) No obligations of the city other than serial bonds shall be issued pursuant to this act to finance such specific object or purpose, and the provisions of section 107.00 of the local finance law shall not be applicable to the issuance of such bonds or any expenditure for said specific object or purpose.

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(C) Prior to the adoption of a bond ordinance authorizing the issuance of any such current account bonds, there shall be filed with the city council and the control board an accountant’s certificate stating the amount of the general deficiency bill of the city as of June thirtieth, nineteen hundred seventy-six and setting forth the items thereof in the order and as listed in paragraphs one to seven, inclusive, of the definition of general deficiency bill, and further stating that, in the opinion of the signer, there is no item accounted for under any one such clause which is also accounted for under another of such clauses or in the capital completion bill. Such opinion may make reference to, and such accountant’s certificate may include, such notes as may be appropriate under generally accepted accounting principles. The amount so stated in such certificate shall be conclusive evidence as to the maximum amount of current account bonds which may be issued by the city.

(2) Any bond ordinance of the city authorizing the issuance of current account bonds shall set forth at least the following:

(1) A statement of the amount of such general deficiency bill to be paid or funded by such current account bonds.

(2) The maturity dates of such bonds.

(3) A statement to the effect that the principal of and interest on such bonds shall be raised by taxation and paid as directed pursuant to this act and that the amount thereof shall be charged against the operating tax limit as above provided.

(4) A statement that said bonds are authorized under this act and local finance law.

(5) A statement of or reference to the special contract with the bondholders (if any) authorized by the city council in accordance with this act.

(6) A determination and finding by the city council that the issuance of such bonds is in the public interest and affords increased assurance that the city can continue operating independently as a municipal corporation of the state.

(E) If by June thirtieth, nineteen hundred seventy-seven the city shall not have issued bonds under authority of this act or made other provisions sufficient to fund the full amount of the general deficiency bill, the unfunded balance of such general deficiency bill shall be deemed to be indebtedness of the city and shall be paid by the city no later than July thirty-first, nineteen hundred seventy-seven from any other source which is legally available for the purpose of making such payment.

§ 4. Authorization for capital account bonds. (A) Notwithstanding the provisions or limitations of any other law, general, special or local, the city of Yonkers is hereby authorized and empowered from time to time but prior to June thirtieth, nineteen hundred seventy-seven to issue its serial bonds for the purpose of funding and paying all or any part of the capital completion bill of the city. Said purpose is hereby determined and declared to be a specific object or purpose for which indebtedness of the city may be contracted and serial bonds of the city may be issued. No notes shall be issued in anticipation of the sale of said serial bonds. The bonds issued under authority of this section shall be authorized, sold, executed and issued in the manner prescribed by and pursuant to this act and the local finance law; provided, that in the event of inconsistencies or conflicts with such local finance law, the provisions of this act shall be followed. All existing bond authorizations, bond ordinances, existing contracts for capital expenses, the indebtedness or liability arising out of such contracts and all bond anticipation notes included in the computation of the capital completion bill, including all proceedings and actions of the city council,
the city manager and city comptroller with respect thereto, are hereby validated notwithstanding, at the time of or prior to the execution of said contracts or issuance of such notes, the absence of any appropriation or authorization therefor or other infirmity or informality in law with respect thereto, it being hereby determined that the failure to maintain separate accounts for the proceeds of bond authorizations or ordinances and insufficient accounting procedures heretofore existing in the city and other abuses as referred to in section one hereof have created a condition of fiscal affairs which makes ascertaining the amount of capital contract liabilities, bond and note authorizations, or bond and note ordinances and purposes, and the application thereof of proceeds, impossible to determine with any degree of certainty except upon an aggregate basis.

In view of the foregoing, the period of probable usefulness of said specific object or purpose is hereby determined to be twenty years, such period being found and declared by the legislature to be appropriate and necessary for the orderly payment in full of all items aggregating the capital completion bill without creating undue hardship on the taxpayers of the city or increasing the exposure of the city or its creditors or such taxpayers to the uncertainties of debt enforcement actions in bankruptcy or other judicial proceedings. Debt service on the serial bonds issued for such object or purpose shall be raised by taxes on real estate in the city in the manner hereinafter in this act provided.

(B) No obligations of the city other than serial bonds shall be issued pursuant to this act to finance such specific object or purpose, and the provisions of section 167.00 of the local finance law shall not be applicable to the issuance of such bonds or any expenditure for said specific object or purpose.

(C) Prior to the adoption of a bond ordinance authorizing the issuance of any such capital account bonds, there shall be filed with the city council and the control board an accountant's certificate stating the amount of the capital completion bill of the city as of June thirty, nineteen hundred seventy-six and setting forth the items thereof included in the computation of the capital completion bill, and further stating that in the opinion of the accountant there is no item accounted for in such bill under any one such clause thereof which is also accounted for under another such clause of such bill or under the general deficiency bill. Such opinion may make reference to, and such accountant's certificate may include, such notes as may be appropriate under generally accepted accounting principles. The amount so stated in such certificate shall be conclusive evidence as to the maximum amount of capital account bonds which may be issued by the city.

(D) Any bond resolution of the city authorizing the issuance of capital account bonds shall set forth at least the following:

(1) A statement of the amount of the capital completion bill to be paid or funded by such capital account bonds.

(2) The maturity dates of such bonds.

(3) A statement to the effect that the principal and interest on said bonds shall be raised by taxation and paid as directed pursuant to this act.

(4) A statement that said bonds are authorized under this act and the local finance law.

(5) A statement of or reference to the special contract with the bondholders (if any) authorized by the city council in accordance with this act.

(6) A determination and finding by the city council that the issuance of such bonds is in the public interest and affords increased assurance that the city can continue operating independently as a municipal corporation of the state.
If by June thirtieth, nineteen hundred seventy-seven the city shall not have issued bonds under authority of this act or made other provisions sufficient to fund the full amount of the capital completion bill, the unfunded balance of such capital completion bill shall be deemed to be indebtedness of the city and shall be paid by the city no later than July thirty-first, nineteen hundred seventy-seven, provided, however, nothing herein shall be construed to preclude the city at any time from paying such unfunded amount by the issuance of bonds, other than capital account bonds, of the city, or from other sources legally available for the purpose of making such payment.

§ 5. Proceeds of bonds. Notwithstanding the provisions or limitations of any other law, general, special or local the proceeds of each bond issue of the city hereafter issued by the city and any notes issued in anticipation thereof shall be deposited with the fiscal agent in a special and separate bank account and held in trust and expended only for the object or purpose for which such bonds were issued. A copy of each bond ordinance to which the proceeds of bonds relates shall be filed with such fiscal agent at or prior to the time the proceeds are made available to the city. No moneys shall be withdrawn from such account unless there is filed with such fiscal agent a written requisition of the city council or the properly authorized delegate of the city, who shall be the chief fiscal officer of the city or his authorized deputy, setting forth (1) the item number of the requisition; (2) the account to be charged; (3) the name of the person, including the holder of a note payable to bearer, of the amount due by deposit with the paying agent designated on such note) to whom payment is due; (4) the amount to be paid; and (5) a statement to the effect that the obligation in the amount has been incurred by the city and is a proper charge against such account. Pending such withdrawals, the moneys shall be invested for and on behalf of the city by the fiscal agent upon instructions from the chief fiscal officer of the city or his authorized deputy in the manner provided by subdivision b of section one hundred sixty-five of the local finance law.

§ 6. Budget appropriations. (A) There shall be included and made in the budget of the city for or with respect to each budget year not less than the following appropriations estimated and computed in accordance with this section:

1. All appropriations required to fund expenditures required by law for the budget year;
2. Appropriations of the amounts required for the budget year to pay special debt service outstanding at the beginning of such year;
3. Appropriations of the amounts required for the payment of any judgments or settled claims against the city unpaid at the beginning of such budget year together with interest thereon until paid, and amounts properly attributable as reserve for any judgments or settled claims against the city during the budget year together with interest, if any, thereon.
4. Appropriation of the amounts estimated to be required for the payment when due of the interest on tax anticipation notes and revenue anticipation notes to be issued during the budget year and paid prior to the expiration of such year;
5. Appropriation of the amounts required for all other expenditures to be made during the budget year, or properly attributable to such year, for the general support and current expenses of the government of the city to be paid from taxes or special assessments or other current revenues of the city for such year;
(6) An appropriation for a reserve for uncollected taxes of not less than the amount determined as stated below for the required provision for uncollected taxes for such budget year;  
(7) An appropriation for liquidation of prior deficits of the city of not less than the amount determined as stated below for the required provision for deficits of prior years for such budget year;  
(8) Unless the exact amount of the expenditure for any item of such an appropriation for a budget year is known and stated at the time of making and adopting the budget for or with respect to such year, the amount thereof shall be estimated by ordinance of the city council; provided, however, that the estimate for such item shall not be less in amount than the amount for such item of expenditure paid or incurred for or with respect to the base year, or less in amount than the appropriation made or included for such item in the budget for the current year, whichever is less, unless there shall have been previously filed with the fiscal agent a justification document of the city council with respect to such estimate.  
(C) The required provision for uncollected taxes for or with respect to a budget year shall be not less than the amount determined by (a) ascertaining the amount of city, state, county or other taxes levied or assessed upon real property in the city for the base year and payable during such year to the city or its collecting officer or agent which were not collected or otherwise realized in cash by the city or its collecting officer or agent prior to the end of such base year; (b) dividing the amount so ascertained by the balance obtained by subtracting the said amount so ascertained from the total amount of city taxes levied or assessed upon real property in the city for the base year (whether or not subsequently abated, refunded or cancelled) and payable during such year to the city or its collecting officer or agent, and stating the result as a percentage; and (c) multiplying said percentage so stated by the total amount of city taxes levied or assessed or to be levied or assessed upon taxable real property in the city for the budget year and payable during such year to the city or its collecting officer or agent, except and excluding the portion thereof included as the aforesaid reserve or provision for uncollected taxes.  
(D) The required provision for deficit of prior years for or with respect to a budget year shall be the amount of the aggregate of the deficits of the various operating funds of the city as of the end of the base year.  
(E) With respect to the appropriation referred to in paragraph four of subdivision (A) and subject to the limitations set forth in subdivision (B) hereof, there shall be attached to and made a part of each budget of the city a schedule of cash expenditures and cash receipts for the budget year on a monthly basis as much detail as the city council shall consider appropriate for the determination of the estimated need for the issuance of tax and/or revenue anticipation notes. In addition, with respect to each budget subsequent to the second budget effective under this act, there shall be attached to such schedule the certificate of the chief fiscal officer of the city setting forth the actual cash expenditures and actual cash receipts on a monthly basis for the base year. In the event there shall be substantial variation between the schedule attached to the budget and the certificate, there shall be filed with the fiscal agent a justification document of the chief fiscal officer, approved by the city council of the city.  
§ 7. Budget receipts. (A) In computing or stating the amount of city taxes assessed or levied or to be assessed or levied upon real property in the city pursuant to the budget for any budget year, there shall not be deducted from the total of the appropriations included and made in such budget, and the receipt or availability shall not be estimated or
anticipated in such budget of, any sum or sums of money which the city council does not by resolution declare will be collected or otherwise realized in cash by or for the account of the city prior to the expiration of such year, or, in any event, any sum or sums of money other than or in excess of the following:

(1) Operating surpluses of prior years not in excess of the amount of the aggregate of the fund balances of the various operating funds of the city as of the end of the base year;

(2) As state or federal aid under any program thereof continuing fully in effect until the end of said budget year, any sum or sums of money not in the aggregate exceeding the amount received or otherwise realized in cash by the city for or on account of such program during the base year, or any such larger amount as may be certified by an officer, board, commission or other agency of the state or the United States of America as received or receivable in cash, for or on account of such program and under legislation and appropriations then fully effective and sufficient, by the city from such officer, board, commission or agency or from the state or the United States of America, free from any offset or counterclaim, during any period of twelve consecutive months ending not later than the end of such budget year or more than six months prior to the beginning of such year;

(3) Collection or other realization in cash of real property taxes unpaid and remaining payable to the city or its collecting officer on the first day of such budget year, not in excess of the amount determined by (a) ascertaining (i) the amount of delinquent real property taxes unpaid and remaining payable to the city or its collecting officer on the first day of the base year (whether or not subsequently abated, remitted or cancelled) and (ii) the amount of such delinquent real property taxes which were collected or otherwise realized in cash during such base year, (b) dividing the amount ascertained pursuant to (a)(i) above by the amount ascertained pursuant to (a)(ii) above and stating the result as a percentage, and (c) multiplying such percentage by the amount of delinquent real property taxes (including taxes for such base year) unpaid and remaining payable to the city or its collecting officer on the last day of such base year;

(4) Miscellaneous revenues not in any instance or as to any item in excess of the amount of such miscellaneous revenues collected or otherwise realized in cash from the same source in the base year or properly attributable to the current year;

(5) Miscellaneous revenues in excess of amounts permitted for any item under the provisions of paragraph (4) of this subdivision, but only if there shall have been previously filed with the fiscal agent a justification document approved by the city council with respect to such item; and

(6) Miscellaneous revenues as to any item not mentioned in paragraph (4) of this subdivision, but only if there shall be filed a justification document approved by the city council with respect to such item, not in excess of the amount of such miscellaneous revenues actually realized in cash from the same source in the current year in not less than four of the six months prior to the beginning of said budget year plus that anticipated for the remaining months of the current year estimated as accurately as may be, provided that the authority for receiving such item of miscellaneous revenues shall continue to be fully in effect until the end of said budget year.

(1) In stating in any budget the receipts pursuant to paragraphs two through six of subdivision (A) of this section, there shall be attached to the budget an accountant’s certificate stating that the inclusion of such receipt for such budget year is properly attributable to such budget year:

1130 Changes or additions in text are indicated by underline.
(c) For and with respect to each budget year, the city council of the city shall assess and levy the amount of real property taxes for each such year required under the budget including the required provisions for uncollected taxes and for deficits of prior years referred to in section six of this act, being the excess of the aggregate amount of all appropriations included and made in such budget over the aggregate amount of all receipts (except real property taxes for such year) anticipated in such budget as estimated and stated in accordance with the limitations of subdivision (A) of this section, and the city council shall cause to be raised the said amount so required by tax upon real property liable therefor in the manner provided for the levy of city taxes.

§ 8. Transfer of appropriations. No transfer shall at any time be made of any part of an appropriation referred to in paragraphs one, two, three, four, six or seven of subdivision (A) of section six of this act. No transfer of any part of an appropriation made in a budget for any purpose shall be authorized or made or shall take effect at any time unless there shall have been previously filed with the fiscal agent a resolution of the city council finding that the unencumbered balance of such appropriation is sufficient for all purposes of this act to be increased by the amount of such transfer. No transfer under this section shall be made to any appropriation for expenditures with respect to a capital project for which there is an existing bond ordinance in effect covering such capital project, unless such bond ordinance is amended to increase the estimated maximum amount of the cost of financing said capital project and provision is made to finance the appropriation for such increase with the use of such general operating funds.

§ 9. Emergency, supplemental or other appropriations. No emergency appropriation, supplemental or supplementary appropriation or other increase in the amount of any appropriation made in any budget shall be authorized or made or shall take effect during the budget year, except (a) an increase by a transfer made in accordance with section eight of this act or (b) a supplemental appropriation for the payment of expenditures expected to be met in full by application of an amount not estimated or anticipated as a revenue or receipt in such budget which is certified by an officer, board, commission or other agency of the state or the United States of America to be receivable in cash by the city during such budget year from such officer, board, commission or agency or from the state or the United States of America, under legislation and appropriations theretofore effective and sufficient, for the purpose of paying such expenditure, free from any setoff or counterclaim.

§ 10. Other financial needs. Nothing in this act shall limit the powers of the city under the local finance law to authorize the expenditure of and to expend the proceeds of sale of serial bonds, bond anticipation notes or budget notes or a portion of such proceeds for any purpose whether or not provided for by an appropriation in a budget, and the city shall have power to authorize, sell and issue bond notes pursuant to paragraphs one and two of subdivision a of section 20.00 of said law notwithstanding the limitations of amount set forth in paragraph two of said subdivision, provided that the total amount of budget notes which may be issued by the city in any single fiscal year pursuant to said paragraph two of subdivision a shall never exceed five per centum of the budget for such year. No budget notes shall be issued by the city during a fiscal year unless there shall be filed with the fiscal agent a justifications by state.
§ 11. Special debt service fund. (A) Upon the issuance of any current account bonds or any capital account bonds, the city council shall establish and thereafter maintain a special debt service fund with the fiscal agent for the purpose of paying the special debt service due or becoming due in subsequent fiscal years.

(B) For and with respect to each fiscal year beginning after such issuance of bonds, the city comptroller shall certify to the fiscal agent the percentage obtained by dividing the balance obtained by subtracting the amount of the appropriation for such year for a reserve for uncollected taxes from the total amount of city taxes levied and assessed for such year, into the total appropriation in the budget for such year for special debt service, and the percentage so certified shall constitute the special debt service percentage for such fiscal year. Immediately upon receipt of any payment during such fiscal year of or on account of any taxes, the city, its collecting officer and any agent receiving the same shall remit such payment to the fiscal agent. Of each sum so received, the fiscal agent shall deposit and pay into the special debt service fund the portion thereof equal to the debt service percentage of the total sum, and shall pay over the remainder of such sum to the city comptroller for use by the city in the manner provided by law. If at any time during a fiscal year the moneys in the debt service fund exceed the unpaid amount of all special debt service due or to become due at or prior to the first day of July next ensuing, the fiscal agent shall pay over to the city comptroller the amount of such excess for use by the city in the manner provided by law.

(C) No tax anticipation notes shall be issued by the city in anticipation of the collection of taxes levied for such fiscal year or shall be valid for any purpose unless such notes are countersigned and thus authenticated by the fiscal agent. The proceeds of any such tax anticipation notes shall be paid to the fiscal agent which, simultaneously with such payment, shall countersign and authenticate such notes. Of the proceeds so received, the fiscal agent shall deposit and pay into the special debt service fund the portion thereof equal to the debt service percentage of the total proceeds, and shall pay over the remainder of such proceeds to the city comptroller for use by the city in the manner provided by law. Thereafter, on receipt of sums remitted to the fiscal agent pursuant to subdivision (B) above, the fiscal agent, in addition to the portion thereof required by said subdivision (B), shall deposit and pay into the special debt service fund the remainder of all such sums unless and until the total of the excess amounts so deposited and paid shall equal the total amount of principal and interest due or to become due on said tax anticipation notes.

(D) No tax anticipation notes shall be issued by the city in anticipation of the collection of taxes levied for such fiscal year in any amount which exceeds the total amount of city taxes levied and assessed for such year less the amount or amounts set forth in the budget for such year as a reserve for uncollected taxes.
(F) No revenue anticipation notes or urban renewal notes or budget notes shall be issued by the city during such fiscal year or shall be valid for any purpose unless such notes are countersigned and thus authenticated by the fiscal agent. The city comptroller shall certify to the fiscal agent the percentage obtained by dividing the balance obtained by subtracting the amount of the appropriation for such year for a reserve for uncollected taxes from the total amount of city taxes levied and assessed for such year and then remaining uncollected, into the total amount of interest payable on such notes in such fiscal year, and the fiscal agent, simultaneously with receipt of such certificate from the city comptroller, certified shall constitute an added debt service percentage for such fiscal year. Thereafter, on receipt of any sum remitted to the fiscal agent pursuant to subdivision (B) above, the fiscal agent, in addition to the portion thereof required by said subdivision (B), shall deposit and pay into the special debt service fund the additional portion thereof equal to said added debt service percentage of the total sum.

(F) The fiscal agent shall from time to time during each fiscal year withdraw from the special debt service fund all amounts required for the payment as the same becomes due of all special debt service of such fiscal year and the principal and interest on tax anticipation notes as described in subdivision (1) of this section and interest on revenue anticipation notes and budget notes as described in subdivision (E) of this section and cause the amounts so withdrawn to be applied to such payments as and when due.

(G) Upon the issuance of any current account bonds or capital account bonds, the special fund created pursuant to section ninety-two of the state finance law shall hereby be abolished, and the revenues derived from the imposition of the additional one percent sales and use tax by the city authorized pursuant to section twelve hundred ten of the tax law shall be deposited in the special debt service fund. The state comptroller is hereby charged with the duty and empowered to deposit such revenues directly into such special debt service fund. To the extent any provisions of said section ninety-two are inconsistent with the provisions of this section, the provisions of said section ninety-two are hereby repealed.

(H) The special debt service fund and all moneys or securities therein or payable thereon in accordance with this section is hereby declared to be city property devoted to essential governmental purposes and accordingly shall not be applied to any purpose other than as provided herein and shall not be subject to any order, judgment, lien, execution, attachment, setoff or counterclaim by any creditor of the city other than a creditor for whose benefit such fund is established and maintained and entitled thereto under and pursuant to this act.

§ 12. Sale or other issuance of bonds. The city council shall be the finance board of the city hereunder and shall be vested with and exercise all powers and duties pertaining or incidental to the sale of any current account bonds or capital account bonds. Any of such bonds may be sold at either public or private sale in such manner and amounts, for such sums, at, above or below their par value, bearing such rate or rates of interest, with such privileges of registration and redemption prior to maturity and on such other terms and conditions as the city council may approve. Upon approval by the city council, any such bonds may be sold and delivered without previous public offering at not less than their par value in exchange for notes to be funded or refunded by the issuance thereof whether or not such notes be then or thereafter due and payable and irrespective of any higher or lower rate of interest borne by the notes so to be funded or refunded. Upon approval by the
city council, any such bonds may be sold and delivered without previous public offering directly to any creditor of the city at not less than their par value in absolute and complete discharge of any indebtedness of like or greater amount which is not evidenced by bonds or notes of the city and is to be evidenced by the issuance thereof; provided, however, that the amount of such indebtedness and its validity shall be fixed and determined by ordinance adopted by the vote of a majority of all the members of the city council; and provided, further, that such creditor execute and deliver to the city a general release with respect to such indebtedness.

§ 13. Approval of control board. Unless the existence of the control board shall sooner have been terminated, no bond ordinance authorizing any current account bonds or capital account bonds under this act or credit-agreement authorized to be executed in accordance with section fifteen of this act shall take effect until a certified copy of each shall be submitted to the control board and said board shall approve the same and cause evidence of its approval to be endorsed on such copy. The control board shall approve such ordinance unless it shall find and declare in writing that issuance of the bonds authorized thereby would be inconsistent with the purposes of the control act or the objectives of the financial plan therein referred to. However, the control board shall not approve any ordinance of the city council which does not authorize the issuance of current account bonds to fund the full amount of the general deficiency bill or capital account bills to fund the full amount of the capital completion bill unless the city council shall file its justification document with the control board setting forth the sources of the funds for the payment of the unfunded amount of such general deficiency bill or the unfunded amount of such capital completion bill, as the case may be, and the control board shall certify that it is reasonable for the city to assume that such revenues from such sources will be available on or before July first, nineteen hundred seventy-seven to pay such unfunded amount or amounts respectively. The control board shall approve such credit agreement unless it shall find and declare in writing that such terms or provisions would be inconsistent with the purposes of the control act or the objectives of the financial plan therein referred to.

§ 14. Miscellaneous. (A) No indebtedness to be evidenced by bonds or notes authorized to be issued pursuant to this act shall be contracted by the city unless, in addition to making provision for the payment of the principal thereof and the interest thereon pursuant to this act, the faith and credit of the city shall be pledged for the payment of such principal and interest.

(B) The provisions of sections 80.00 through 81.00, inclusive, of the local finance law shall apply to any bonds or notes authorized pursuant to this chapter, but in lieu of publication in full of any ordinance authorizing any such bonds or notes, the city council may provide for the publication of an abstract or summary of any such ordinance or group of ordinances.

(C) Upon delivery of and payment for the first current account bonds or capital account bonds, the provisions of title six A of Article II of the local finance law shall not thereafter apply to the city or any bonds or notes issued by it.

(D) Upon delivery of and payment for the first current account bonds or capital account bonds, the provisions of section three-a of the general municipal law shall be inapplicable with respect to obligations of the city issued pursuant to the local finance law or pursuant to the local finance law and this act. The rate of interest to be paid by the city of Yonkers upon any judgment or accrued claim with respect to any such
obligations shall not exceed the rate of interest per annum stated there- 
in as payable on the principal sum at its maturity.

(5) Notwithstanding the provisions or limitations of the charter of 
the city or any other law, general, special or local, upon delivery of and 
payment for the first current account bonds or capital account bonds, 
any funds which by law are not immediately required for the purpose or 
purposes for which the same were borrowed, raised or otherwise created 
shall not thereafter be used or temporarily diverted for the purposes for 
which an issue of the city of any bonds including notes issued in antici-
pation of the sale thereof, capital notes or urban renewal notes have 
been authorized.

(6) In the event of any inconsistencies or conflicts with the charter 
of the city of Yonkers or any other law, general, special or local the pro-
visions of this act shall be followed and no law shall hereafter be enact-
ed inconsistent, less stringent or less restrictive than the provisions of 
this act.

(G) The provisions of sections seven, eight, nine and ten of this act 
shall not apply with respect to the budget for the budget year nineteen 
hundred seventy-six nineteen hundred seventy-seven and no provisions 
set forth under section eleven hereof shall apply until the debt service 
fund shall have been established.

§ 15. Special city covenants to secure bonds and performance of act. 
In the discretion of the city any bonds or issue of bonds or bond antici-
pation notes, tax anticipation notes, revenue anticipation notes, urban 
renewal notes or budget notes may be authorized under ordinances or re-
solutions of the city which provide for or contain covenants of the 
city to protect and safeguard the security and rights of the holders of 
such obligations of the city, and without limiting the generality of the 
foregoing, such ordinance or resolution may contain covenants as to (a) 
establishment and maintenance of the special debt service fund, its re-
quirements and the obligations in which the proceeds of such fund may 
be invested pending their use in accordance with this act and subject to 
such limitations on investment of public funds otherwise provided for by 
law; (b) the appointment, rights, powers and duties of the fiscal agent 
including limiting or abrogating the right of the holders to appoint a 
trustee pursuant to the provisions of section 16 of this act and vesting 
in the fiscal agent all or any of such rights, duties and powers, in trust; 
(c) the execution of a credit agreement with the fiscal agent for the 
benefit of holders of such obligations so authorized and for the benefit 
of any other holders of bonds of the city now outstanding, provided, 
however, that such benefit conferred on such holders of such bonds shall 
not be deemed to restrict, preclude or otherwise impair any rights that 
such holders currently may assert; (d) filings, review and correction of 
budgets, justification documents, annual reports, audits and other mat-
ters of financial record; (e) compliance with the provisions of the act 
and other laws applicable to the city including the local finance law, and 
with further restrictions on the powers, rights and duties of the city 
necessary, appropriate or desirable for the proper, prudent and effici-
cent management of its financial affairs which the city determines will 
assure prompt payment when due of its debt and operating obligations; 
and (f) conditions which would give rise to an event of default under 
the terms of such ordinance or resolution and actions and remedies which 
the fiscal agent may take or assert on behalf of the holders of such 
obligations.

§ 16. Rights and remedies of certain holders of certain obligations of 
the city. The holders of current account bonds, capital account bonds 
and notes, any bond anticipation notes, tax anticipation notes, revenue
anticipation notes, urban renewal notes or budget notes issued after the
issuance of the first permanent account bonds or capital account bonds shall
have in addition to any other rights and remedies under law, the follow-
ing rights and remedies subject to the terms of the ordinance authoriz-
ing such obligations or any credit agreement or other instruments related
thereto.

(A) in the event that the city shall default in the payment of prin-
cipal of or interest on any issue of obligations issued after the effective
date of this section after the same shall become due, whether at maturity
or upon call for redemption, and such default shall continue for a period
of thirty days, or in the event that the city shall fail or refuse to comply
with the provisions of the act, or shall default in any contract made with
the holder of any such obligations, the holders of twenty-five per-
cent in aggregate principal amount of such obligations of such issue
then outstanding, by instrument or instruments filed in the office of the
defaulting city or the county of Westchester and proved as a deed to be re-
corded, may appoint a trustee to repre-
sent the holders of such obligations for the purposes herein provided.

(B) such trustee may, and upon written request of the holders of
twenty-five percent in principal amount of such obligations then out-
standing shall, in his or its own name exercise all or any of the powers
of any such holders under subdivision (C) of this section and in addition
(a) bring suit for any principal or interest then due or unpaid or in vi-
olation of the rights of the holders of such obligations, including
any right to require the city to assess, levy and collect taxes ade-
quate to carry out the provisions of any agreement with the holders of
such obligations and to perform its duties under the act; (b) bring suit upon
such obligations; (c) by action or suit in equity, require the city to ac-
count as if it were the trustee of an express trust for the holders of such
obligations; (d) by action or suit in equity, require any acts or things
which may be unlawful or in violation of the rights of the holders of
such obligations; (e) by action or suit in equity, appeal to the court for
the protection of the holders of such obligations, including any right to re-
quire the city to assess, levy, collect and apply taxes to carry out the pro-
visions of any agreement with such holder or holders and perform its duties under this act,
(b) by action, suit or other proceeding, require the city to account as if
it were the trustee of an express trust for such holder or holders; and
(c) by action, suit or other proceeding, require any acts or things
which may be unlawful or in violation of the rights of the holders of
such obligation.

(D) such trustee shall, in addition to the foregoing, have and posses
all of the powers necessary or appropriate for the exercise of any func-
tion or function specifically set forth herein or incident to the general repre-
sentation of the holders of such obligations of such issue in the enforcement
and protection of their rights.

(E) the supreme court shall have jurisdiction of any suit, action or
proceeding by or on behalf of such holders of such obligations. The
venue of any such suit, action or proceeding shall be laid in the county
of Westchester.
§ 17. State pledge. The state does hereby pledge to and agree with the holders of obligations of the city issued pursuant to the local finance law or this act that the state will not (a) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the power or duty of the city to exercise, perform, carry out and fulfill its responsibilities under this act to the extent that the city incorporates in any bond ordinance or credit agreement covenants and agreements to so exercise, perform, carry out and fulfill such responsibilities, (b) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the rights and remedies of any such holders to fully enforce in a court of law such covenants and agreements so incorporated in the bond ordinance or credit agreement or to enforce the pledge and agreement of the state contained in this section, or (c) otherwise exercise any sovereign power contrary to or inconsistent with the provisions of such bond ordinance or credit agreement, it being hereby determined and declared that the provisions of this act and the powers and duties of the city authorized and imposed hereunder are proper, reasonable and appropriate means by which the state can and should exercise and has exercised its duty under section twelve of article eight of the constitution to prevent abuses by the city in taxation and in the contracting of indebtedness and that the provisions hereof are necessary and in the public interest and a proper means to improve market reception for the purchase of bonds and other obligations of the city; provided, however, the foregoing pledge and agreement shall be of no further force and effect if at any time (i) there is on deposit in a separate trust account with the fiscal agent sufficient moneys or direct obligations of the United States of America or the state the principal of and/or interest on which will provide moneys to pay punctually when due at maturity or prior to maturity by redemption in accordance with their terms all principal and interest on all such obligations of the city outstanding, (ii) irrevocable instructions from the state and city to the fiscal agent for such payment of such principal and interest with such moneys have been given, and (iii) notice to the holders of such obligation as provided in the bond ordinance or credit agreement has been given, and provided further that such pledge and agreement by the state may be temporarily suspended upon the declaration of martial law in the city in the event of circumstances in the city deriving directly out of a natural disaster (such as an earthquake or major conflagration or flood but not a snowstorm) or civil disturbance (such as military invasions or civil insurrections but not strikes or crises created by financial abuses or economic events). Nothing in this section contained shall preclude the state from authorizing the city to exercise, or the city from exercising, any power provided by law to seek application of laws then in effect under the bankruptcy provisions of the United States constitution or to preclude the state from further exercise of its powers under article eight, section twelve, of the state constitution.

The city is authorized and directed to include this pledge and agreement of the state in any ordinance authorizing the issuance of its obligations or any credit agreement with respect thereto as and for a pledge and agreement of the state with and for the benefit of the holders of all obligations of the city issued pursuant to the local finance law and this act or issued pursuant to the local finance law and upon payment for such obligations issued pursuant to the local finance law and this act by the original and all subsequent holders such inclusion shall be deemed conclusive evidence of valuable consideration received by the state and city for such pledge and agreement and of reliance upon such pledge and agreement by any such holder and any action by the state contrary to or inconsistent with the provisions hereof shall be void. The state hereby grants any such beneficial holder the right to sue the state and en-
force this covenant and agreement and waives all rights of defense based on sovereign immunity or sovereign power in such an action or suit, it being expressly determined and declared that the continued integrity of the contract of any such holder is essential to the continued right of the city to operate independently as a municipal corporation of the state.

§ 18. Court preference. If any section, part or provision of this act shall be declared unconstitutional or invalid or ineffective by any court of this state, any party in interest shall have a direct appeal as of right to the court of appeals of the state of New York, and such appeal shall have preference over all other causes. Service upon the adverse party of a notice of appeal shall stay the effect of the judgment or order appealed from pending the hearing and determination of the appeal.

§ 19. Severability. If any section, part or provision of this act shall be declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such declaration shall be limited to the section, part or provision directly involved in the controversy in which such declaration was made and shall not affect any other section, provision or part thereof.

§ 20. Effective date. This act shall take effect immediately except for section seventeen which shall take effect upon the first issuance of current account bonds or capital account bonds by the city.

Yonkers, City of—Fiscal Agent Defined

CHAPTER 489

An Act to amend a chapter of the laws of nineteen hundred seventy-six, entitled "AN ACT in relation to the finances of the city of Yonkers, to imposing certain requirements and restrictions with respect to the types of obligations which may be issued by such city, the specified objects and purposes therefor, and the sale and proceeds thereof, to prescribing and limiting procedures with respect to budgetary appropriations and receipts, to providing for the rights of holders of the obligations of such city and, generally, to providing for the payment and orderly reduction of the debts of such city", in relation to the definition of the term "fiscal agent".

Approved and effective June 20, 1976.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (O) of section two of a chapter of the laws of nineteen hundred seventy-six, entitled "An Act in relation to the finances of the city of Yonkers, to imposing certain requirements and restrictions with respect to the types of obligations which may be issued by such city, the specified objects and purposes therefor, and the sale and proceeds thereof, to prescribing and limiting procedures with respect to budgetary appropriations and receipts, to providing for the rights of holders of the obligations of such city and, generally, to providing for the payment and orderly reduction of the debts of such city";* as hereby amended to read as follows:

(O) "Fiscal agent" means the state comptroller or with the approval of the state comptroller, any trust company or bank having the powers of a trust company in the state, appointed by resolution of the city council and any successor trust company or bank having the powers of a trust company in the state which may be substituted in its place pursuant to such resolution.

* 1976 McKinney Session Laws, Chapter 488.

§ 2. This act shall take effect immediately.