STATE OF NEW YORK

SENIOR EXTRAORDINARY SESSION

SENATE—ASSEMBLY

September 27, 1978

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

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

AN ACT to amend the public authorities law, in relation to the issuance of obligations by the municipal assistance corporation for the city of New York; to amend chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five relating to the New York state financial emergency act for the city of New York and assistance to certain municipalities during periods of financial emergency, in relation to legislative findings and statement of purpose; to amend the New York state financial emergency act for the city of New York, in relation to certain definitions contained therein, certain activities and practices of the control board and making technical and conforming changes therein; to amend the local finance law, in relation to the four year financial plan of the city of New York and to repeal paragraph [ ] of section 25.00 thereof relating to the issuance of revenue anticipation notes by the city of New York; to amend the general municipal law, in relation to interest payments in the event of default; to amend chapter fifty of the laws of nineteen hundred seventy-eight (State Purposes) and chapter fifty-three of the laws of nineteen hundred seventy-eight (Local Assistance), in relation to the appropriation of certain revenues; to amend the executive law, in relation to making a conforming change and chapter two hundred one of the laws of nineteen hundred seventy-eight relating to the municipal assistance corporation for the city of New York, in relation to changing the effective date thereof.

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

1. Section 1. Section three thousand ten of the public authorities law, as enacted by chapter one hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended by renumbering subparagraph eighteen thereof as subparagraph nineteen and by adding thereto a new subparagraph eighteen to

EXPLANATION — Matter in italics is new; matter in brackets [ ] is old law to be omitted.

S.A.
read as follows:

(18) in connection with any agreement by the federal government or any agency or instrumentality thereof to guarantee the payment of the principal of or the interest on the obligations issued by the municipality for which the municipal assistance corporation was created, to enter into one or more agreements with the federal government or any agency or instrumentality thereof in respect of such guarantee containing terms and conditions required by the secretary of the treasury pursuant to the federal act authorizing the issuance of such guarantees and to comply with such terms and conditions, including, without limitation, a requirement that the corporation make deposits or cause monies to be deposited in a fund or funds established in connection with the issuance of guaranteed obligations or funds pursuant to the terms and conditions of such guarantee; and

§ 2. Paragraph (a) of subdivision one of section three thousand twelve of such law, such section having been added by chapter one hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

(a) A municipal assistance corporation shall have the power and is hereby authorized from time to time to issue its notes and bonds in conformity with applicable provisions of the uniform commercial code, in such principal amounts as such corporation shall determine to be necessary within the limits of authorized indebtedness prescribed in the special law creating such corporation, to provide sufficient funds for achieving its corporate purposes, including the making of payments to or purchase of obligations of, the municipality for which the corporation was created, to make payments of interest on its notes and bonds, [and] to establish reserves to secure such notes and bonds and to make deposits into a fund or funds established pursuant to any agreement entered into by such corporation with the federal government or an agency or instrumentality thereof in accordance with subparagraph eighteen of section three thousand ten of this article.

§ 3. Subdivision three of section thirty hundred thirty-eight of such law, such section having been added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

3. The city shall take such action as may be necessary to enable the state comptroller, or at his election an independent certified public accounting firm retained by the city but satisfactory to the state comptroller, to perform an annual audit and to furnish to the corporation an annual report, for the fiscal year ending June thirtieth, nineteen hundred seventy-eight [and for each subsequent fiscal year] upon the financial statements of the city. For each subsequent fiscal year the city shall take such action as may be necessary to enable a nationally recognized independent certified public accounting firm selected and retained by the city at its cost in accordance with the provisions of section seven-a of the New York state financial emergency act for the city of New York to perform an annual audit and to furnish to the corporation an annual report upon the financial statements of the city. Each such report shall be prepared in accordance with the accounting method prescribed under subdivision two of this section. The city shall make available for inspection and copying all books, records, work papers and other data and material as required by the state comptroller or the independent certified public accounting firm conducting such audit and the city shall make its officers and employees available to and shall cooperate with such auditors so as to permit such annual audit to be completed and the report issued to the city and to the corporation within one hundred twenty days after the close of the fiscal year. Such report shall be made available to the public promptly thereafter.
§ 4. Paragraphs a and b of subdivision nine of section three thousand thirty-eight of such law, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read as follows:

a. The city shall not, at any time issue any short-term obligations which would cause the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, renewed, redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with noteholders or bondholders and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for a purpose set forth in subparagraph (b) of section three thousand thirty-seven or in subparagraph eighteen of section three thousand ten of this article, and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, and less any short-term obligations of the city then held by the corporation) to exceed (i) six billion six hundred million (hereinafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty percent of the base debt limit, during the fiscal year ending June 30, 1978 the additional amount may not exceed twenty-five percent of the base debt limit, during the fiscal year ending June 30, 1979, the additional amount may not exceed twenty percent of the base debt limit, and during the fiscal year ending June 30, 1980 the additional amount may not exceed fifteen percent of the base debt limit.

b. In addition to the foregoing limitation the city shall not, at any time, issue any short-term obligations which would cause the aggregate principal amount of its outstanding short-term obligations (excluding bond anticipation notes) plus the aggregate principal amount of all notes and bonds issued by the corporation (less (i) any notes or bonds which have been refunded or renewed and any notes or bonds in an amount equal to the aggregate principal amount of bond anticipation notes of the city acquired by the corporation, whether or not then held by the corporation (except bond anticipation notes of the city acquired by the corporation in consideration of the surrender by the corporation to the city, of bond anticipation notes of the city), and any notes or bonds issued for a purpose set forth in subparagraph (b), (c) or (d) of section three thousand thirty-seven, in subdivision two-a of section three thousand thirty-three, or subparagraph eighteen of section three thousand ten of this article, and less any notes or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, (ii) any short-term obligations of the city then held by the corporation other than bond anticipation notes and (iii) any short-term obligations of the city issued and payable within the same fiscal year) to exceed four billion five hundred million dollars plus, in the discretion of the board of directors, an additional amount not exceeding five hundred million dollars plus, in the discretion of the board of directors, until June thirtieth, nineteen hundred seventy-six, a further additional amount not exceeding two hundred million dollars.

§ 5. Section one-a of chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five relating to the New York state financial emergency act for the city of New York and assistance to certain municipalities during periods of financial emergency, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:
§ 1-a. Legislative findings and statement of purposes. It is hereby found and declared that a financial emergency [and an emergency period continue] continues to exist in the city of New York. Since a financial emergency [and an emergency period were] was first declared to exist in the city of New York by chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five the city has been unable to regain access to the public credit markets. The city without the receipt of federal guarantees of its obligations, or the obligations of a state financing agency which is authorized to assist the city, additional long-term financing[,] and continued [federal] seasonal financing, the federal source of which [terminates] terminated on June thirtieth, nineteen hundred seventy-eight pursuant to the New York city seasonal financing act of 1975, [or other seasonal financing] is unable to obtain the funds needed by the city to continue to provide essential services to its inhabitants or to meet its obligations to the holders of outstanding securities. Unless such funds are obtained the city will soon (i) fail to pay salaries and wages to employees and amounts owed vendors and suppliers to the city, (ii) fail to pay amounts due to persons receiving assistance from the city, (iii) default on the interest and principal payments due to holders of outstanding obligations of the city and (iv) fail to make payments to other governmental agencies which rely upon the receipt of such revenues from the city to maintain their operations.

If such failures and defaults were to occur, the effect on the city and its inhabitants would be devastating: (i) unpaid employees might refuse to work; (ii) unpaid vendors and suppliers might refuse to sell their goods and render services to the city; (iii) unpaid recipients of public assistance would be unable to provide themselves with the basic necessities of life; and (iv) unpaid holders of city obligations would seek judicial enforcement of their legal rights as to city revenues. These events would effectively force the city to stop operating as a viable governmental entity and create a clear and present danger to the health, safety and welfare of its inhabitants.

The difficulties of finding solutions to such events are compounded by the likelihood that the city, as well as the municipal assistance corporation for the city of New York, would be foreclosed indefinitely from obtaining funds in the public markets sufficient to meet the city’s requirements. The elimination of the public markets as well as federal financing as a source of funds would leave the city with no foreseeable way to pay its outstanding indebtedness. Thus, the city might be unable for an extended period to cure defaults on its outstanding obligations and that event could almost permanently destroy the fiber of the city. The status of the city as the financial capital of the nation and of the world and as the headquarters of American and international commerce would be severely shaken. Just as significantly, the exodus from the city of corporate and individual taxpayers would increase, thereby having the effect of imposing a greater burden on the remaining taxpayers.

It is a matter of substantial and imperative state concern that the city not fail to meet its obligations and thereby suffer the above consequences. Such a failure could require the state to provide costly financial assistance to the city to ameliorate the emergency conditions that would result. Aside from the avoidance of that expense, it is the concern of the state that the above-described events not occur, because the city represents a major part of the state. In addition to being the state’s largest city, the city is the commercial, financial, cultural, communications and transportation center of the state. If the city were unable, because of the lack of funds, to function in its normal manner, the economy of the state would, therefore, be drastically harmed.
A failure by the city to meet its obligations would also affect the state's own
ability to raise funds in the public markets. Defaults by the city would
adversely affect the ability of all public issuers within the state, including the
municipal assistance corporation for the city of New York, to market securities [to
meet their cash requirements]. To the extent the state, the municipal assistance
corporation and other public issuers within the state would be able to market
their securities at all, the interest rates would significantly exceed those which
otherwise would be paid. This effect has already been clearly demonstrated since
the urban development corporation defaulted on its obligations in February
nineteen hundred seventy-five. Notwithstanding that such default was soon
cured as the result of state action, other public authorities were unable to
market their securities or were required to pay much higher interest rates for a
considerable period thereafter and numerous municipalities, school districts and
sewer districts throughout the state were similarly affected.

This situation continues to create a state of emergency. To end this disaster,
to bring the emergency under control, to restore investor confidence in the city's
obligations, to meet the requirements for a federal guarantee of its obligations or
those of a state financing agency, and to respond to the overriding state concern
described above, the state must continue to undertake [an extraordinary] the
exercise of its police and emergency powers under the state constitution, and
exercise controls and supervision over the financial affairs of the city of New
York, but in a manner intended to preserve the ability of city officials to
determine programs and expenditure priorities within available financial
resources.

Among the fundamental causes of the emergency described above were the failure
of the city to plan for and adhere to balanced budgets covering all expenditures other
than capital items, the inclusion of expense items in the city's capital budget and the
issuance of short term indebtedness at unmanageable levels to fund resulting deficits.
In view of the continuing overriding state concern as described above and the duty of
the legislature under article eight section twelve of the state constitution to restrict the
power of taxation, assessment, borrowing money, contracting indebtedness, and
loaning the credit of cities so as to prevent abuses in taxation and assessments and in
contracting of indebtedness by them, it is appropriate, desirable and necessary to
provide for and implement ongoing oversight and regulation of the estimation of
revenues, the preparation of financial plans providing for balanced expense budgets
covering all expenditures other than capital items in accordance with generally
accepted accounting principles and the incurrence of indebtedness and entering into
contracts of the city.

Since a financial emergency [and an emergency period were] was first
declared to exist in the city of New York in nineteen hundred seventy-five, the
city has taken the following steps toward recovery: (i) its workforce has been
reduced by sixty-one thousand employees which is over twenty percent of
the level of its workforce in nineteen hundred seventy-five; (ii) welfare
recipients have been reduced from a high of one million two hundred sixty-five
thousand three hundred in nineteen hundred seventy-two to nine hundred
thirty-one thousand six hundred; (iii) tuition fees have been imposed at City
University; (iv) the subway fare has been increased by forty percent; (v)
nineteen fire companies have been closed and funding for seventy-seven day
care centers has been eliminated; (vi) a demonstration program of "absence
control" in four city agencies yielded an overall reduction of thirty-three percent
in absences, and the program has now been expanded to all city
agencies; (vii) fringe benefits to city employees have been reduced by forty-one
million dollars; (viii) the city's deficit has been reduced by one billion dollars on
the basis of generally accepted accounting principles; and (ix) accounting
practices have been reformed and a new financial management and control
system has been installed.

Despite these steps toward recovery, the city has been unable to regain access
to the public credit markets. Two principal impediments to the city's access to
these markets are (1) the inability of the city to balance its budget in
accordance with generally accepted accounting principles and (2) the city's large
annual financing requirements which are presently [three] approximately two
and one half billion dollars for both seasonal and long term purposes, an amount
which is more than the market can reasonably be expected to absorb. The city
has developed a four year financial plan covering fiscal years ending June thirty,
nine hundred seventy-nine through June thirty, nine hundred eighty-
two to remove these impediments. The plan calls for a balanced budget in
accordance with generally accepted accounting principles by the end of the fiscal
year beginning July first, nine hundred eighty-one and the elimination of
more than one-half of the city's present annual financing needs. The plan also
mandates the removal of operating expenses from the city's capital budget by
July first, nine hundred eighty-one and commits funds to improve and to
prevent further decay to its physical plant so as to provide essential
governmental services to support the city's economy and to stimulate its
economic development.

To accomplish these goals the city will require long-term financing which it
hopes to obtain in part from the guarantee by the federal government of the
principal of and interest on its bonds or the bonds of a state financing agency
which is authorized to assist the city. Leaders of the United States Senate and
the House of Representatives have advised the city that the United States
Congress [will] not authorize federal financial assistance in the form of
federal guarantees of city obligations unless the state [covenants] covenanted
that it [will] not repeal, invalidate or otherwise substantially impair the
authority of the board to control the fiscal affairs of the city during the entire
period for which federal assistance will be outstanding. [Bill] Public Law
number [H. R. 12426] 95–339 requires this agreement on the part of the state as
the condition for the federal guarantee of obligations of the city or a state
financing [agency] agency, as defined in [bill number H. R. 12426] Public Law
95–339. The city's financing plan also [proposes] proposed the continuation
through June thirtieth, nine hundred eighty-two of federal seasonal loan
financing which [will otherwise terminate] however, terminated on June thirty,
nine hundred seventy-eight. Public Law 95–339 also authorizes federal
guarantees of certain seasonal loans made on or prior to January first, nine hundred seventy-nine.

As enacted by the Congress in July, 1978, Public Law 95–339 provides that
pursuant to the act up to $1.65 billion principal amount of outstanding city
indebtedness may be federally guaranteed as to the payment of principal and interest
for periods of up to fifteen years through the issuance of guaranteed bonds during the
city's 1979 to 1982 fiscal years and the issuance of guaranteed notes not to exceed
$325 million in outstanding principal amount in the city's 1979 fiscal year under
certain circumstances.

Section 103 of Public Law 95–339 specifies conditions of eligibility which must be
met before the secretary of the Treasury may guarantee city indebtedness. One of the
conditions is the existence of an independent fiscal monitor which has demonstrated
to the satisfaction of the secretary that it has the authority to control the fiscal affairs
of the city for the entire period during which assistance under Public Law 95–339
will be outstanding. The independent fiscal monitor is defined in Public Law 86–
539 to be an agency, board, or other entity, authorized by the law of the state, which
has the authority to control the fiscal affairs of the city during the entire period for
which assistance under Public Law 95–339 will be outstanding and which authority
the state has covenant will not be substantially impaired during such period.

Public Law 95–339 further provides that as a condition of eligibility for the
guarantee of city obligations, the secretary of the Treasury is authorized to require
from the city such other terms, conditions and agreements as he deems appropriate.
Pursuant to such authority, and to facilitate the sale or other disposition by the
employee pension funds of the city and of the state of the federally guaranteed
obligations so that such guarantees may terminate at the earliest practicable date, the
secretary has required that the covenant of the state that the authority of the
independent fiscal monitor will not be substantially impaired shall be included in all
such guaranteed obligations so that such covenant will continue to be available as an
important security provision to subsequent purchasers of the obligations notwith-
standing the lapse of the federal guarantee upon such sale or other disposition. The
secretary has also required as a condition of eligibility for the guarantee that an
agreement be entered into between the city and the secretary on behalf of the United
States of America which will contain various financial covenants of the city which
the secretary considers to be important security provisions.

Another condition of eligibility prior to the issuance of guarantees under Public
Law 95–339 is that the independent fiscal monitor is requiring the city to adopt and
adhere to budgets covering all expenditures other than capital items, the results of
which would not, for fiscal years of the city beginning after June 30, 1981, show a
deficit when reported in accordance with generally accepted accounting principles
and, for fiscal years of the city beginning on or prior thereto but after June 30, 1978,
to make substantial progress toward that goal, and, for each fiscal year of the city
beginning prior to June 30, 1981, but after June 30, 1978 is requiring the city to
adopt and adhere to budgets covering all expenditures other than capital items the
results of which would not show a deficit when reported in accordance with
accounting principles established under state law.

A third requirement is that the city has submitted to the secretary, with the
approval of the independent fiscal monitor, a plan for bringing all of its
expenditures other than capital items into balance with its revenues for each of the
first three full fiscal years of the city beginning after June 30, 1978.

A further condition of eligibility is the submission by the city, with the approval of
the independent fiscal monitor, in accordance with generally accepted accounting
principles, of a plan for bringing all of its expenditures other than capital items into
balance with its revenues no later than the final fiscal year of the four year period
which begins with the fiscal year beginning July 1, 1978.

Public Law 95–339 further provides that whenever city indebtedness is guaranteed
the secretary of the Treasury shall assess and collect from the issuer, a guarantee fee
computed daily at a rate of no less than one-half of one per centum on the
outstanding principal amount of such city indebtedness.

The city must agree to do the following, among others, as further conditions of
eligibility for federal guarantees: (A) submit annually an opinion of independent
public accountants setting forth the results of an audit by such accountants of the
financial statements of the city for such fiscal years, (B) establish an audit
committee and productivity council as prescribed by Public Law 95–339, and (C) implement a program of refunding any outstanding guaranteed city indebtedness as
soon as practicable for the purpose of achieving complete repayment of such
indebtedness at the earliest practicable date.

In the case of guarantees issued after June 30, 1979, Public Law 95–339 requires
the state to give to the secretary of the Treasury satisfactory assurances that the
amount of financial assistance to be provided by the state to the city during the fiscal
year in which such guarantee is to be issued will not be less than the amount of such
assistance which was provided during the fiscal year ending June 30, 1979 unless
the city's budget is balanced in accordance with generally accepted accounting
principles. Public Law 95-339 also provides that the state, or an agency of the state,
shall deposit in a fund approved by the secretary an amount which shall equal not
less than five per centum of the principal and of one year's interest on the city's then
outstanding guaranteed indebtedness.

The city's four year financing plan contemplates receipt of a substantial amount
of funds from the municipal assistance corporation for the city of New York. To the
extent that such corporation can borrow such amounts on a private placement basis
from financial institutions or in the public markets, the amount which would
otherwise need to be provided by the state or from other sources will be reduced.

Representatives of the municipal assistance corporation for the city of New York
have requested certain financial institutions, including the eleven New York clearing
house banks and various savings banks and insurance companies to purchase an
aggregate of $1.175 billion principal amount of long-term bonds of the municipal
assistance corporation for the city of New York during the city's nineteen hundred
seventy-nine through nineteen hundred eighty-two fiscal years. The participation of
these financial institutions is an essential part of the city's four-year financing
program. Without such participation neither the city nor the municipal assistance
corporation for the city of New York will be able to market a sufficient amount of
their respective bonds and notes to meet the long-term and seasonal financing
requirements of the city during the four fiscal years.

Such institutions have informed representatives of the municipal assistance
corporation for the city of New York and the state that they would not be prepared to
make these essential investments in the amounts or at the interest rates contemplated
in the city's four-year financing program unless they are also provided with
assurance by a state covenant that the state will not repeal, invalidate or otherwise
substantially impair the authority of the board to control the fiscal affairs of the city
during a control or reimposed control period during the entire period the bonds they
are being asked to purchase are outstanding. Substantial sales of the bonds of the
municipal assistance corporation for the city of New York are also contemplated to
be made during the four-year fiscal program in the public markets. The state should
provide the same covenant to public purchasers as it provides to the financial
institutions.

The city's financial plan calls for the sale to public and private investors of
substantial amounts of unguaranteed bonds and notes of the city. In order to assure
prospective investors that the city will plan for and adhere to balanced budgets as
provided herein and thereby provide important assurance to such investors, the city
should be authorized to insert the aforesaid state covenant in bonds and notes to be
issued and sold by it.

It is in the interest of the state, as well as the city and the municipal assistance
corporation for the city of New York, to provide such assurance. The existence of a
state board to assure annual balanced budgets of the city during a control period
when guaranteed city bonds and bonds of the municipal assistance corporation for
the city of New York are outstanding will assist importantly in the maintenance of
the financial and economic health and viability of the city during the period. The
level of business activity in the city affects levels of the sales and other taxes from
which revenues of the municipal assistance corporation for the city of New York are
derived. The financial condition of the city has an effect on the financial condition of
the state and the marketability of obligations of the state and its agencies, including
the municipal assistance corporation for the city of New York as to which statutory
provision has been made whereby the state may be called upon to appropriate moneys for deposit into its capital reserve fund in order to provide moneys for the payment of the principal of and interest on its bonds. Accordingly, the effective monitoring of the fiscal affairs of the city will also contribute to the financial health of the state, including its capacity to provide appropriate amounts of customary state aid to the city. Finally, the state has an interest in the municipal assistance corporation's being able to raise funds at reasonable rates. The market and market price for such bonds have been and may be affected by financial developments affecting the city. Assurance that the board will remain in existence during the life of bonds being sold under the financial program will serve to assure that the municipal assistance corporation for the city of New York will be able to sell the maximum amount of its bonds to the financial institutions and in the public markets at the best obtainable interest rates. Because of all of the foregoing, and the substantial amounts of additional bonds of the municipal assistance corporation for the city of New York that will be issued and outstanding as a result of the city's four-year financing program, the state acknowledges that the state covenant is an important additional security provision with respect to such additional bonds. Therefore, in order to induce the contemplated purchase of such bonds, it is essential that the corporation include such state covenant in bonds issued by it.

The financial program embodied in this act provides the necessary statutory changes to permit the financial assistance required by the city at this time, including the receipt of federal guarantees on its bonds or the obligations of a state financing agency, restoration of investor confidence in its long-term obligations, and the investment of a portion of the funds of the state and city retirement systems in obligations of the city of New York and of the municipal assistance corporation for the city of New York and provides for (i) the continued existence of a state board with some city representation to review, control and supervise the financial management of the city, (ii) the adoption, with the approval of such board, of four-year financial plans that will provide the basis for a return of the city to sound financial condition, (iii) review, control and supervision by such board of the disbursement of city funds, under which debt service requirements will be met as a first priority, (iv) the review, control and supervision of city operations by such board to assure that sound management practices are observed or restored and that operations are conducted in accordance with the plan and, (v) review, approval or disapproval by such board of city contracts and the terms of each city long-term and short-term borrowing.

In addition, the act provides that the city must provide for a general reserve fund and debt service funds and accounts to further assure investors that it will meet its debt service requirements. Restrictions are placed upon the issuance and renewal of short-term obligations by the city.

The provisions of the act are necessary, proper, reasonable and appropriate means by which the state can and should implement its overriding state concern with respect to the financial condition of the city and can and should exercise 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 and of the municipal assistance corporation for the city of New York.

This legislative program is intended to accomplish the objectives described above and thereby to insure the continuity of governmental operations in the city and to provide the means by which the present emergency can in time be overcome and the city restored to financial health [and this intervention by}
§ 6. Subdivision five of section two of section two of chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five constituting New York State Financial Emergency Act For The City of New York, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

5. "Covered organization" means any governmental agency, public authority or public benefit corporation which receives or may receive monies directly, indirectly or contingently, (other than monies received for the sale of goods or the rendering of services or the loan of monies to the city) from the city, and in any event includes, without limitation, the board of education of the city of New York, the board of higher education of the city of New York, the health and hospitals corporation, the New York city transit authority, the New York city housing authority, the New York city housing development corporation, city university construction fund, Battery park city authority, New York city convention and exhibition center corporation, Manhattan and Bronx surface transit operating authority, Staten Island rapid transit operating authority, the New York city sports authority and the Brooklyn sports center authority but shall not include (i) any governmental agency, public authority or public benefit corporation specifically exempted from the provisions of this act by order of the board upon application of such agency, authority, or corporation to the board or at the board's own motion upon a finding by the board that such exemption does not materially affect the ability of the city to adopt and maintain an expense budget pursuant to the provisions of this act and provided that at the time of such exemption there shall have been and during the period of such exemption there shall be an annual audit by a nationally recognized independent certified public accounting firm or consortium of firms, one of which shall be a nationally recognized firm, of the covered organization's financial statements performed in accordance with generally accepted auditing standards and report by such auditor thereon which includes an opinion that the financial statements so audited have been prepared in accordance with generally accepted accounting principles [as the same may be modified by the board pursuant to] (subject to the provisions of subdivision two-a of section eight of this act) and such other information as such auditors deem appropriate, (ii) any state public authority as defined in section two hundred one of the civil service law, unless specifically named above, or (iii) any governmental agency, authority, commission or instrumentality created by compact or agreement between the state of New York and another state or states; provided, however, that the board may terminate any exemption granted by order of the board pursuant to this subdivision upon a determination that the circumstances upon which such exemption was granted are no longer applicable.

§ 7. Subdivision twelve of section two of such act, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

12. "Emergency Control period" means the period of time from the effective date of this act until the date when (a) there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal of or interest on any note or bond issued by the city or a state financing agency, [and] (b) the board shall determine, based on annual audit reports furnished in accordance with section seven-a, that [the expense budget of the city has been in balance in accordance with generally accepted accounting principles (subject to any modification as shall be approved by the board pursuant to the provisions of subdivision two-a of section eight)] for each of the
three immediately preceding fiscal years, the city has adopted and adhered to
budgets covering all expenditures other than capital items, the results of which did not
show a deficit when reported in accordance with generally accepted accounting
principles subject to the provisions of subdivision two-a of section eight of this act
and (c) the comptroller of the state and the comptroller of the city jointly shall certify
that securities sold by or for the benefit of the city during the fiscal year immediately
preceding such date and the then current fiscal year in the general public market
satisfied the capital and seasonal financing requirements of the city during such
period and that there is a substantial likelihood that such securities can be sold in the
general public market from such date through the end of the next succeeding fiscal
year in amounts which will satisfy substantially all of the capital and seasonal
financing requirements of the city during such period in accordance with the
financial plan then in effect, provided that for these purposes sales to any fund whose
governing board includes any designated representative of the state or city or to any
financial institution which participates in a private placement for the purchase of
securities for the benefit of the city during its nineteen hundred seventy-nine fiscal
year shall not be deemed sales in the general public market, unless in the case of sales
to such a financial institution such comptrollers jointly certify at the time of each
such sale that a sale could have been made in such amount and on reasonably
comparable terms in the general public market. After termination of [the
emergency] the control period in accordance with the foregoing provisions and
until there shall no longer be outstanding any notes or bonds issued by the city
or a state financing agency which are entitled to the benefits of the pledge and
agreement authorized by section ten-a hereof, the board shall reimpose [an
emergency] a control period upon a determination at any time that any of the
following events has occurred [and] or that there is a substantial likelihood and
imminence of such occurrence: (i) the city shall have failed to pay the principal
of or interest on any of its bonds or notes when due or payable (other than notes
held by the municipal assistance corporation for the city of New York to the extent
that such corporation has evidenced its intention not to present such notes for
payment during the fiscal year in which the determination is made provided that
such notes were held by such corporation on June thirty-first, nineteen hundred
seventy-eight or were issued in exchange for or in refunding or renewal of notes held
by such corporation on such date), (ii) the city shall have incurred [an expense
budget] a deficit of more than one hundred million dollars during its fiscal year
in the results of operations covered by a budget covering all expenditures other than
capital items as reported in accordance with generally accepted accounting
principles, subject to the provisions of subdivision two-a of section eight of this act,
(iii) the city shall have issued notes in violation of section nine-b of this act as
amended from time to time, [or] (iv) the city shall have otherwise violated any
provision of this act and such violation substantially impedes the ability of the
city to pay principal of or interest on its bonds or notes when due and payable or
its ability to adopt or [maintain a balanced expense] adhere to a budget covering
all expenditures other than capital items balanced in accordance with this act or (e)
the comptrollers’ joint certification at any time, at the request of the board or on the
comptrollers’ joint initiative, which joint certification shall be made from time to
time as promptly as circumstances warrant and reported to the board, that on the
basis of facts existing at such time they could not make the joint certification
described by clause (c) of the preceding sentence. [Any such reimposed emergency
period shall continue until the board shall determine that no circumstance
warranting the reimposition of the emergency period exists.] The board shall
terminate any such reimposed control period when it determines that none of the
conditions which would permit the board to reimpose a control period exist. After
termination of an emergency a control period the board shall annually consider
items (i) through (iv) above and determine whether, in its judgment, any
of the events described in such items have occurred and the board shall publish
each such determination. Each such joint certification made by the comptrollers
hereunder shall be based on their separate written determinations which shall take
into account a report and opinion of a nationally recognized independent expert in
the marketing of municipal securities selected by the board as well as any other
information which may be available to each comptroller and each such separate
written determination by the comptrollers shall have annexed thereto the report and
opinion of such expert and any other information taken into account and shall be
made public when delivered to the board. Notwithstanding any part of the
foregoing to the contrary, in no event shall any emergency control period
continue beyond the earlier of (a) July first, two thousand eight or (b) the date
(i) when all bonds and notes containing the pledge and agreement authorized by
section ten-a of this act are refunded, redeemed, discharged or otherwise
defeated or (ii) when there shall no longer be outstanding any guarantee by the
United States of America or any agency or instrumentality thereof as to payment of
principal or interest on any note or bond issued by the city or a state financing
agency, whichever of (i) or (ii) shall occur later.
§ 8. Subdivision fifteen of section two of such act, as added by chapter two
hundred one of the laws of nineteen hundred seventy-eight, is hereby amended
to read as follows:
15. “Board fund” means the emergency financial control board fund
established pursuant to section nine of this act.
§ 9. Subdivision nineteen of section two of such act, as added by chapter two
hundred one of the laws of nineteen hundred seventy-eight, is hereby amended
to read as follows:
19. “Available tax levy” with respect to an issue of tax anticipation notes
means at any date of computation the total amount of city real estate taxes or
assessments projected, consistent with the financial plan then in effect, to be
received in cash on or before the fifth day preceding the maturity date of such
tax anticipation note issue, less amounts required during the period between the
date of computation and the fifth day preceding such maturity date to be paid
into the general debt service fund or otherwise required to pay interest payable on
other outstanding city bonds and notes, principal (including payments into
sinking funds) coming due on outstanding city bonds and principal to be paid
from sources other than the proceeds of bonds or renewal notes on other
outstanding city notes (exclusive of revenue anticipation notes or renewals
thereof issued less than two years prior to the date of computation) (and sinking
fund payments payable on) but not including payments from sinking funds
required by the terms of certain city bonds. For the purposes of this subdivision such
amounts required shall not include principal of or interest on any notes of the city
held by the municipal assistance corporation for the city of New York to the extent
that such corporation has evidenced its intention not to present such notes for
payment of principal or interest during the fiscal year in which the computation is
made provided that such notes were held by such corporation on June thirtieth,
nineteen hundred seventy-eight or were issued in exchange for or in refunding or
renewal of notes held by such corporation on such date.
§ 10. Section two-a of of such act, as amended by chapter two hundred one of
the laws of nineteen hundred seventy-eight, is hereby amended to read as
follows:
§ 2-a. Legislative declaration of financial emergency. The legislature hereby
finds and declares that a state of financial emergency continues to exist within
the city. The legislature further finds and declares that the maintenance by the city
of a balanced budget in accordance with generally accepted accounting principles and
the city's borrowing practices are and will continue to be a matter of overriding state
concern, and that it is also appropriate and desirable for the legislature to exercise its
duty under section twelve of article eight of the state constitution to restrict the powers
of the city to prevent abuses in taxation and assessments and in contracting of
indebtedness by the city.
§ 11. Subdivision one of section three of such act is hereby amended to read as
follows:
1. Neither the city nor any covered organization shall borrow or expend any
monies, or in any way, directly or indirectly, expressly or implicitly, engage its
credit during [the emergency] any control period except in compliance with the
provisions of this act.
§ 12. Section five of such act is hereby amended to read as follows:
§ 5. New York state [emergency] financial control board; created. There is
hereby created the New York state [emergency] financial control board. The
board shall be a governmental agency and instrumentality of the state and it
shall have such powers and functions as are set forth in this act.
§ 13. Subdivision one of section six of such act, as amended by chapter two
hundred one of the laws of nineteen hundred seventy-eight, is hereby amended
to read as follows:
1. The membership of the board shall be the governor, the state comptroller
(pursuant to his authority to supervise the accounts of any political subdivision
of the state), the mayor, the city comptroller and three members appointed by
the governor with the advice and consent of the senate. At least two of the
appointed members shall be residents of the city or have their principal place of
business in the city. Such appointed members shall serve at the pleasure of the
governor. The governor shall be the chairman of the board and the governor or
his representative shall preside over all meetings of the board. The board shall
act by majority vote of the entire board. The board shall maintain a record of its
proceedings in such form as it may determine, but such record shall indicate
attendance and all votes cast by each member. Every member of the board, who
is otherwise an elected official of the state or city, shall be entitled to designate a
representative to attend, in his place, meetings of the board and to vote or
otherwise act in his behalf. Written notice of such designation shall be furnished
to the board by the designating member prior to any meeting attended by his
representative. Any such representative shall serve at the pleasure of the
designating member. No such representative shall be authorized to delegate any
of his duties or functions to any other person. The lieutenant governor,
temporary president of the senate, the minority leader of the senate, speaker
and minority leader of the assembly, the president of the council of the city of
New York, the city board of estimate acting by majority vote, and the vice-
chairman and the minority leader of the [city] council of the city of New York,
shall each be entitled to appoint a representative to the board. Each such
representative shall be entitled to receive notice of and to attend all meetings of
the board but shall not be entitled to vote. No representative shall be an
employee or officer of the federal, state or city governments. Each representa-
tive shall serve at the pleasure of the appointing official or body, shall be eligible
for reappointment, and shall hold office until his successor has been appointed.
§ 14. Paragraphs a, b and c of subdivision one of section seven of such act,
paragraphs a and b having been amended by chapter two hundred one of the
laws of nineteen hundred seventy-eight, are hereby amended to read, respective-
ly, as follows:
a. [As set forth in] In accordance with the provisions of section eight of this act, the board shall (i) consult with the city and the covered organizations in the preparation of the financial plan, and certify to the city the revenue estimates approved therein, (ii) prescribe the form of the financial plan and the supporting information required in connection therewith, and (iii) exercise the rights of approval, disapproval and modification with respect to the financial plan, including [without limitation] but not limited to the revenue estimates contained therein.

b. The board, to the extent it deems it necessary or [desirable] appropriate in order to accomplish the purposes of this act, shall establish and adopt procedures with respect to the (i) proper maintenance of the board fund, [the fund, the TAN debt service account and the RAN debt service account,] (ii) the deposit and investment of revenues in such [funds and accounts] fund and (iii) disbursement of monies from such [funds and accounts] fund.

c. The board shall, from time to time and to the extent it deems necessary or [desirable] appropriate in order to accomplish the purposes of this act, (i) review the operations, management, efficiency and productivity of such city operations and of such covered organizations or portions thereof as the board may determine, and make reports thereon; (ii) audit compliance with the financial plan in such areas as the board may determine; (iii) recommend to the city and the covered organizations such measures relating to their operations, management, efficiency and productivity as it deems appropriate to reduce costs and improve services so as to advance the purposes of this act; and (iv) obtain information of the financial condition and needs of the city and the covered organizations. Nothing herein shall diminish the powers of the comptroller otherwise provided by law and the board may request the assistance of the comptroller in performing the above functions.

§ 15. Paragraphs e, f and g of subdivision one of section seven of such act, the opening paragraph and subparagraph (i) of paragraph e having been amended by chapter eight hundred seventy of the laws of nineteen hundred seventy-five, subparagraphs (iii) and (iv) of paragraph e and paragraphs f and g having been amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read, respectively, as follows:

e. All contracts entered into by the city or any covered organization must be consistent with the provisions of this act and must comply with the requirements of the financial plan as approved by the board. With respect to all contracts or other obligations to be entered into by the city or any covered organization after October fifteenth, nineteen hundred seventy-five, requiring the payment of funds or the incurring of costs by the city or any covered organization:

(i) Within twenty days from the effective date of this act the mayor shall present to the board proposed regulations respecting the categories and types of contracts and other obligations required to be reviewed by the board pursuant to this subdivision e. Within thirty days from the effective date of this act, the board shall approve or modify and approve such proposed regulations or promulgate its own in the event that such proposed regulations are not submitted to it within the twenty days as provided for herein. Such regulations may thereafter be modified by the board from time to time on not less than thirty days notice to the mayor and the mayor may from time to time propose modifications to the board. Unless expressly disapproved or modified by the board within thirty days from the date of submission by the mayor, any such proposed regulations or modifications shall be deemed approved by the board;
(ii) Prior to entering into any contract or other obligation subject to review of the board under its regulations, the city or any covered organization shall submit a copy of such contract or other obligation to the board accompanied by an analysis of the projected costs of such contract or other obligation and a certification that performance thereof will be in accordance with the financial plan, all in such form and with such additional information as the board may prescribe. The board shall promptly review the terms of such contract or other obligation and the supporting information in order to determine compliance with the financial plan;

(iii) During an emergency a control period the board shall, by order, disapprove any contract or other obligation reviewed by it only upon a determination that, in its judgment, the performance of such contract or other obligation would be inconsistent with the financial plan and the city or covered organization shall not enter into such contract or other obligation;

(iv) During an emergency a control period if the board approves the terms of a reviewed contract or other obligation, the city or covered organization may enter into such contract or other obligation upon the terms submitted to the board. Failure of the board to notify the city or covered organization within thirty days (or such additional time not exceeding thirty days as the board shall have notified the city or covered organization, that it requires to complete its review and analysis) after submission to it of a contract or other obligation that such contract or other obligation has been disapproved shall be deemed to constitute board approval thereof.

f. [The] Upon submission thereof by the city, the board shall review the terms of each proposed long-term and short-term borrowing by the city and any covered organization to be affected during an emergency a control period but after October fifteenth, nineteen hundred seventy-five, and no such borrowing shall be made unless approved by the board. Each such proposed borrowing by a covered organization shall be submitted to the city by the covered organization before it may be considered by the board. Not more than thirty days after any such submission by a covered organization the city shall transmit any such proposed terms of borrowing to the board together with the certification of the city as to whether such proposed terms of borrowing are in accordance with the financial plan and are consistent with the objectives and purposes of this act. Any such submission to the city shall be accompanied by a certification of the covered organization that the terms thereof are in accordance with the financial plan and are consistent with the objectives or purposes of this act. The transmittal by the city to the board shall include a recommendation by the city for the approval or disapproval of such proposed terms of borrowing pursuant to the terms of this paragraph. In the event the city does not make such transmittal within such thirty day period, such covered organization may submit such proposed borrowing directly to the board. The board shall disapprove any borrowing if it determines that such borrowing is inconsistent with the financial plan or the objectives or purposes of this act. The board shall consult and coordinate with the municipal assistance corporation for the city of New York with respect to borrowings of the city and any covered organization and shall receive reports from the municipal assistance corporation for the city of New York on its review of borrowings by the city. No covered organizations shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes.

g. The board and the comptroller shall receive quarterly reports from the city comptroller setting forth the debt service requirements on all bonds and notes of the city and the covered organizations for the following quarter, which reports shall be in such form and contain such information as the board shall determine. Such reports shall be issued no later than sixty days prior to the start of the
quarter to which they pertain and shall be updated immediately upon each
issuance of bonds or notes after the date of such report to reflect any change in
debt service requirements as a result of such issuance. The board also shall
receive from the city monthly and quarterly financial reports, which reports
shall be made available by the city to the public, containing substantially the
same information as the city is required to submit to the United States
department of the treasury pursuant to the federal credit agreement, entered
into under the New York city seasonal financing act of nineteen hundred
seventy-five, notwithstanding the expiration of such agreement, with such
modifications to the form and content of such reports as the city shall propose
and the board shall approve, in such form and contain such information as the
board shall determine and shall be made available by the city to the public. In order to
avoid duplicative reports and reporting requirements, to the extent that the city is
required to submit monthly or quarterly financial reports to the department of the
treasury pursuant to any agreement or arrangement made in connection with federal
guarantees of notes or bonds issued by the city or a state financing agency, copies of
such reports shall be submitted to the board in satisfaction of the monthly and
quarterly reporting requirements set forth above, together with such additional
information as the board may require. Each monthly and quarterly report herein
required to be submitted to the board must indicate any variance between
actual and budgeted revenues, expenses or cash for such quarter the period
covered by such report.

§ 16. Paragraphs (b) and (f) of subdivision three of section seven of such act,
such subdivision having been added by chapter two hundred one of the laws of
nineteen hundred seventy-eight, are hereby amended to read, respectively, as
follows:

(b) The board of collective bargaining constituted pursuant to such chapter,
when reviewing such report or recommendation before proceeding to other
issues, shall make a threshold determination as to whether such report or
recommendation for an increase in wages or fringe benefits is within the city’s and or covered organization’s financial ability to pay. If the threshold
determination is in the negative, the matter shall be remitted to the impasse
panel for further consideration. If the threshold determination is in the
affirmative, the further review of the report or recommendation with respect to
other issues, if any, shall proceed as provided by law. Unless the parties
stipulate otherwise, the threshold determination shall be made within thirty
days after submission of the report or recommendation to the board of collective
bargaining.

(f) The court shall make a de novo review of the record solely for the purpose
determining whether an award of an increase in wages or fringe benefits was
within the city’s and or covered organization’s financial ability to pay. The court’s findings as to such issue shall be based upon a preponderance of all
the evidence set forth in the record. Unless the parties stipulate otherwise,
arguments or submission shall be had within fifteen days after commencement
of the special proceeding and the court shall render its decision within fifteen
days thereafter. All questions, other than the question relating to the threshold
determination, shall be reviewed by the appellate division in the same
proceeding in the manner provided by articles seventy-five or seventy-eight of
the civil practice law and rules as may be appropriate, notwithstanding that the
issue would otherwise have been cognizable in the first instance before a special
or trial term of the supreme court. If an appeal shall otherwise lie from such
determination of the appellate division to the court of appeals, notice of such
appeal shall be filed within thirty days after the entry of the final order or
judgment of the appellate division if such appeal is of right or within ten days
after entry of an order granting leave to appeal and such appeal shall have
preference over all other appeals other than appeals relating to the election law.
§ 17. Subdivision four of section seven of such act, as added by chapter two
hundred one of the laws of nineteen hundred seventy-eight, is hereby amended
to read as follows:
4. During [an emergency] a control period, except upon approval by the board in
accordance with the provisions of paragraph e or f of subdivision one of this section,
as the board shall determine, neither the city nor a covered organization shall [not]
enter any agreement or other arrangement, whether or not it creates a debt of
the city or a covered organization, pursuant to which the revenues or credit of the
city may be directly or indirectly pledged, encumbered, committed or promised,
contingently or otherwise, for the payment of obligations of a public benefit
corporation [except upon approval by the board in accordance with the
provisions of paragraph e of subdivision one of this section]. Nothing in this
subdivision shall limit the right of the city to comply with the provisions of any
existing agreement or other arrangement in respect of the obligations of a public
benefit corporation.
§ 18. Section seven of such act is hereby amended by adding thereto a new
subdivision seven to read as follows:
7. The board may appoint qualified individuals to participate as members of such
audit, productivity or similar committees or councils as the city may from time to
time establish in consultation with the board. Such individuals, however, shall not be
deemed to be officers, employees or agents of the board. The board shall review and
report on, not less than annually, the development and implementation of methods
for enhancing the productivity of the city’s labor force proposed by any such
committee or council.
§ 19. Subdivision six of section seven of such act, such subdivision having
been added by chapter two hundred one of the laws of nineteen hundred
seventy-eight, is hereby amended to read as follows:
6. The board shall have the authority to make and execute agreements and all
other instruments which the board deems necessary for the exercise of its powers
and functions [under the act] including, in connection with any agreement by the
federal government or any agency or instrumentality thereof to guarantee the
payment of the principal of or interest on bonds or notes issued by the city or by a
state financing agency, to enter into one or more agreements containing terms and
conditions required by the secretary of the treasury pursuant to the New York City
Loan Guarantee Act of 1978, Public Law 95–339 with the federal government or any
agency or instrumentality thereof with respect to such guarantee or any matters
related thereto and to comply with such terms and conditions.
§ 20. Section seven-a of such act, as added by chapter two hundred one of the
laws of nineteen hundred seventy-eight, is hereby amended to read as follows:
§ 7-a. Reports of the city. [1.] The city shall take such action as may be
necessary to enable a nationally recognized independent certified public
accounting firm or consortium of firms, one of which at least is a nationally
recognized independent certified public accounting firm, to perform an annual
audit in accordance with generally accepted auditing standards and to furnish to
the board the report on such audit prepared by such firm or consortium of firms,
which report shall include an opinion as to whether the city’s financial
statements have been prepared in accordance with generally accepted account-
ing principles [as the application of same may be modified by the board
pursuant to subject to the provisions of subdivision two-a of section eight of this
act and shall state whether the audit of such financial statements was made in
accordance with generally accepted auditing standards and accordingly included
such tests of the accounting records and such other auditing procedures as were
considered necessary under the circumstances. Such report shall note the nature and
extent of variations, if any, from generally accepted accounting principles reflected
in the city's financial statements. The city shall make available for inspection and
copying all books, records, work papers and other data and material as required
by such auditors, and the city shall make its officers and employees available to,
and shall cooperate with such auditors so as to permit such annual audit to be
completed and the report issued to the city and to the board within [one
ten hundred twenty days] four months after the close of the city's fiscal year.

§ 21. The opening paragraph and paragraph a and c of subdivision one of
section eight of such act, the opening paragraph and paragraph a having been
amended by chapter two hundred one of the laws of nineteen hundred seventy-
eight and paragraph c having been added by such chapter, are hereby amended
to read, respectively, as follows:

Pursuant to the procedures contained in subdivision three of this section, each
year the city shall develop, and may from time to time modify, with the
approval of the board during an emergency a control period, a four year
financial plan covering the city and the covered organizations.

a. For its fiscal years ending June thirtieth, nineteen hundred seventy-nine
through June thirtieth, nineteen hundred eighty-one, the city's budget covering all
expenditures other than capital items shall be prepared and balanced so that the
results thereof would not show a deficit when reported in accordance with the
accounting principles set forth in the state comptroller's uniform system of accounts
for municipalities, as the same may be modified by the comptroller, in consultation
with the city comptroller, for application to the city; subject to the provision of
subdivision four of section three thousand thirty-eight of the public authorities law
with respect to contributions by the city or other public employer to any retirement
system or pension fund and subject to the provision of paragraph (c) of subdivision
five of section three thousand thirty-eight of the public authorities law with respect to
expense items included in the capital budget of the city. For the fiscal year ending
June thirtieth, nineteen hundred eighty-two, and for each fiscal year thereafter,
the city's [expense] budget covering all expenditures other than capital items shall
be prepared and balanced so that the results thereof would not show a deficit when
reported in accordance with [principles which are consistent with] generally
accepted accounting principles and that permit comparison of the budget with the
report of actual financial results prepared in accordance with generally
accepted accounting principles. With respect to financial plans that include the
fiscal years ending June thirtieth, nineteen hundred seventy-nine through June
thirtieth, nineteen hundred eighty-one, the city's budget covering all expenditures
other than capital items shall be prepared in accordance with generally accepted
accounting principles and there shall be substantial progress in each such fiscal
year towards achieving a city [expense] budget [balanced in accordance with
such] covering all expenditures other than capital items the results of which would not show a deficit when reported in accordance with generally accepted accounting
principles. The city shall eliminate expense items from its capital budget not later than the commencement of the fiscal year ending June thirtieth, nineteen
hundred eighty-two. For the fiscal year ending June thirtieth, nineteen hundred
eighty-nine, and for each fiscal year thereafter, the [expense] budgets covering all
expenditures other than capital items of each of the covered organizations shall be
prepared and balanced so that the results thereof would not show a deficit when
reported in accordance with [such] generally accepted accounting principles; and
for each fiscal year prior thereto, there shall be substantial progress towards
such goal.

c. Provision shall be made for the payment in full of the debt service on all
bonds and notes of the city and the covered organizations (other than notes held
by the municipal assistance corporation for the city of New York to the extent that
such corporation has evidenced its intention not to present such notes for payment
during the fiscal year in which the determination is made provided that such notes
were held by such corporation on June thirtieth, nineteen hundred seventy-eight or
were issued in exchange for or in refunding or renewal of notes held by such
corporation on such date), [and] for the adequate funding of programs of the city
and the covered organizations which are mandated by state or federal law and
for which obligations are going to be incurred during the [then ensuing] fiscal
year and for payment of a guarantee fee or any other amounts required by the United
States of America or any agency or instrumentality thereof in connection with the
guarantee of the payment of the principal or interest on bonds or notes issued by
the city.
§ 22. Subdivision two-a of section eight of such act, as added by chapter two
hundred one of the laws of nineteen hundred seventy-eight, is hereby amended
to read as follows:
2-a. The city and the board shall confer concerning the projected effect on the
[expense] budgets of the city and the covered organizations of any change in
generally accepted accounting principles, or change in the application [thereof]
of generally accepted accounting principles to the city and the covered organiza-
tions, made after the effective date of this act. If the board determines that
immediate compliance with such change will have a material effect on such
[expense] budgets over a time period insufficient to accommodate the effect
without a substantial adverse impact on the delivery of essential services, the
board may authorize and approve a method of phasing the requirements of such
change into such [expense] budgets over such reasonably expeditious time
period as the board deems appropriate.
§ 23. Subdivision three of section eight of such act, as amended by chapter
two hundred one of the laws of nineteen hundred seventy-eight, is hereby
amended to read as follows:
3. The financial plan shall be developed and, during [an emergency] a control
period, shall be approved, and may from time to time be modified, in accordance
with the following procedures:

a. The city shall, by June first, nineteen hundred seventy-eight, prepare and
submit a financial plan to the board covering the four year period which begins
with the fiscal year ending June thirtieth, nineteen hundred seventy-nine.
Thereafter, at least fifty days prior to the beginning of each fiscal year or on
such other date as the board may approve upon the request of the city, the city
shall prepare and submit a financial plan to the board covering the four year
period beginning with such fiscal year. On such dates the mayor shall also
submit to the board the city’s executive expense, revenue and capital budgets
for the ensuing fiscal year and a certificate of the mayor stating that such
budgets are consistent with the financial plan submitted therewith, that
projections contained in the budgets and financial plan are [reasonable] based
upon reasonable and appropriate assumptions and methods of estimation, and that
operation within the budgets is feasible.

b. [The] (i) During a control period the board shall promptly review each
financial plan and financial plan modification submitted by the city. Not more
than forty-five days after submission of a financial plan or more than thirty
days after submission of a financial plan modification the board shall determine
whether the financial plan or financial plan modification is complete and
complies with the standards set forth in subdivision one of this section and

(ii) At all times other than during a control period the board shall promptly review each financial plan and financial plan modification submitted by the city. If the board determines after such review that the financial plan or financial plan modification submitted by the city is not in accordance with the standards set forth in subdivision one of this section, the board shall promptly so notify the city and may take such other action under this act as it deems appropriate.

c. The board shall disapprove a financial plan or financial plan modification if during an emergency a control period it determines that the financial plan or financial plan modification is incomplete or fails to comply with the provisions of subdivision one of this section. In disapproving a financial plan or a financial plan modification the board may order that one or more of the following actions be taken:

(i) expenditures or reserves to assure availability of amounts required for debt service requirements on all bonds and notes of the city and the covered organizations or expenditures required for adequate funding of programs of the city and the covered organizations mandated by state or federal law and for which obligations are going to be incurred during the fiscal year, be increased to the levels required to provide for their payment in full;

(ii) the revenue projections (or any item thereof) during any period be adjusted to comply with the standards set forth in subdivision one of this section; and

(iii) the aggregate expenditures projected for any period be reduced to conform to revenue estimates certified by the board in order to comply with the standards set forth in subdivision one of this section.

d. During an emergency a control period in the event that the city shall, for any reason, fail to submit a financial plan prior to the beginning of a fiscal year, as required by paragraph a of this subdivision, or in the event that the board has not, for any reason permitted under this act, approved a financial plan submitted by the city prior to the beginning of a fiscal year, the board shall formulate and adopt a financial plan to be effective until the board approves a financial plan submitted by the city. Any financial plan so formulated by the board shall comply with the standards set forth in subdivision one of this section. The budgets and operations of the city and the covered organizations at all times shall be in conformance and compliance with the financial plan then in effect.

e. After the initial adoption by the city, or the approval by the board during an emergency a control period, of a financial plan, projections of revenues and expenditures and other estimates contained in the financial plan shall be reexamined by the board at least quarterly in consultation with the city and the covered organizations, and during an emergency a control period the city shall prepare and submit to the board financial plan modifications at such times, in such detail and within such time periods as the board may require in order to modify the financial plan to conform to the standards set forth in subdivision one of this section. During an emergency a control period in the event the board determines that (i) revenue estimates (or any item thereof) must be
adjusted to ensure compliance with the standards set forth in subdivision one of
this section, or (ii) that the city or a covered organization is expending funds at
a rate that would cause expenditures to exceed the aggregate expenditure
limitation for the city or covered organization provided for in the financial plan
[which has been approved] then in effect, prior to the expiration of the fiscal
year, the city shall submit a financial plan modification to effect such
adjustments in revenue estimates and reductions in total expenditures as may
be necessary to conform to such standards or aggregate expenditure limitations.
If during [an emergency] a control period the city fails to [make] submit such
modification after [reductions] such determination as to adjustments in revenue
estimates or such determination as to rates of expenditures, or to [provide] submit
a financial plan modification in the detail or within the time period specified by
the board, or if such modification is disapproved by the board as not conforming
to the standards set forth in subdivision one of this section, the board may
formulate and adopt such financial plan modification as it deems appropriate to
ensure that the financial plan continues to meet [the] such standards [set forth
in subdivision one of this section]. Such modification shall become effective on
its adoption. Notwithstanding the provisions of this section, in the event the
city shall determine that, due to unforeseen events during a fiscal year,
compliance with the standards set forth in paragraph a of subdivision one of this
section would result in a material adverse impact upon the delivery of essential
services, the city shall notify the board of such determination, together with
such information, projections or analyses relating thereto as the board may
require, and shall submit a modification to the financial plan reflecting such
determination. During [an emergency] a control period the board shall
disapprove any such modification unless it finds that (i) the city's determination
is supported by information, projections and analyses which the board deems
substantially accurate in all material respects and (ii) such events, in its
judgment, warrant such modification to the financial plan to avoid such adverse
impact on the delivery of essential services.

f. The city may, from time to time, submit financial plan modifications for
review by the board. During [an emergency] a control period the board shall
approve such modifications unless it determines that such modifications would
constitute grounds for disapproval of the financial plan pursuant to paragraph c
of this subdivision, or if applicable, pursuant to paragraph e of this subdivision.

g. Anything contained in this act to the contrary notwithstanding, during [an
emergency] a control period the board may at any time disapprove or after
consultation with the city revise the revenue estimates (or any item thereof)
prepared by the city in connection with the preparation of a financial plan or
any modification thereto[.] and determined by the board not to be based on
assumptions and methods of estimation which are reasonable and appropriate under
the circumstances and in view of the objectives and purposes of the act. The board
may after consultation with the city determine the estimated revenues of the
city and the covered organizations provided, however, that any revenues
estimated by the board shall be based on reasonable and appropriate
assumptions and methods of estimation.

§ 24. The section heading and subdivision one of section nine of such act, as
amended by chapter two hundred one of the laws of nineteen hundred seventy-
eight, are hereby amended to read as follows:
Establishment and application of the board fund. 1. There is hereby
established a fund designated the board fund. Commencing on [the effective
date of the financial plan] October twentieth, nineteen hundred seventy-five, and for
the duration of [an emergency] a control period, all revenues received or to be
received by the city or any covered organization shall, unless exempted by order of the board, be revenues of the board fund and shall be for the account of the city [and] the appropriate covered organizations, [but disbursement from the board fund shall be made by the board in accordance with the approved financial plan,] except (i) to the extent expressly prohibited by federal law, (ii) where revenues of the city are deposited in the general debt service fund, the TAN debt service account or the RAN debt service account, or (iii) where such revenues are pledged to the payment of any outstanding bonds, notes or other obligations of covered organizations or state public authorities as defined in section two hundred one of the civil service law. Disbursement from the board fund shall be made by the board in accordance with the approved financial plan except as provided in subdivision five of this section nine. Commencing on [the effective date of the financial plan] October twentieth, nineteen hundred seventy-five, and for the duration of [the emergency] a control period, all funds and accounts established or thereafter established by the city or the covered organizations shall, unless exempted by order of the board, thereafter be funds and accounts of the board fund except to the extent expressly prohibited by federal law or to the extent pledged by covenants or agreements relating to any outstanding bonds, notes or other obligations of covered organizations or public authorities as defined in section two hundred one of the civil service law; and no monies or funds held in the general debt service fund, the TAN debt service account or the RAN debt service account shall be part of the board fund. All such accounts of the board shall have such captions and entries as the board shall determine to be necessary to credit the foregoing revenues and receipts to the board fund. The monies of the fund shall not be deemed to be money of the state or money under its control.

§ 25. Subdivision four of section nine of such act, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

4. Within the board fund there is hereby established a special account designated the debt service repayment account. The board shall from time to time direct, in accordance with procedures adopted by the board, the deposit in the debt service repayment account of such amounts as the board shall, in its discretion, determine to be sufficient to meet the debt service requirements of the covered organizations on their bonds and notes (other than bonds and notes of covered organizations payable from revenues not included in the board fund) as they become due[]. Amounts in the debt service repayment account shall be used to meet such debt service requirements of the covered organizations.

§ 26. Subdivisions one, two, three, four, six, seven, eight and nine of section nine-a of such act, such section having been added by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read, respectively, as follows:

1. Commencing [July] on the first [], nineteen hundred seventy-eight[] day of the first full fiscal quarter subsequent to the first sale of a federally guaranteed city obligation, the city shall establish a general debt service fund for the purpose of paying debt service due or becoming due in the then current fiscal year commencing on such date] and in subsequent fiscal years. All monies in the fund shall be held by the comptroller, who shall administer and maintain the fund in accordance with the provisions of this section.

2. All payments of or on account of real estate taxes or assessments, other than the proceeds of tax anticipation notes, shall be immediately upon receipt deposited in such fund. The comptroller shall retain, disburse and apply monies in the fund during each month as follows:
a. During the first month of each fiscal quarter, there shall be retained in the
fund, subject to the provisions of subdivision three of this section, all real estate
tax payments deposited in the fund until there shall have been retained from
monies so deposited during such month an amount equal to the total monthly
debt service, computed as of the date of any disbursement of money from the
fund, for the second and third months of such fiscal quarter; provided that such
amount shall be reduced by any amount already on deposit in the fund which
may be used to pay the monthly debt service for such months.

For purposes of this section, fiscal quarter shall mean the three-month period
beginning July first, October first, January first or April first, and monthly debt
service shall mean, as of any date of computation, the amount of monies equal
to the aggregate of (i) all interest payable during such month on bonds and
notes of the city, plus (ii) the amount of principal (including payments into
sinking funds) maturing or otherwise coming due during such month on all
bonds of the city (excluding principal payments made from sinking funds required
by the terms of certain city bonds), plus (iii) the amount of principal to be paid on
notes of the city during such month from sources other than the proceeds of
bonds or renewal notes (exclusive of revenue anticipation notes and tax
anticipation notes or renewals thereof issued less than two years prior to the
date of computation), plus (iv) all amounts payable during such month as
sinking fund payments with respect to bonds of the city.

b. During the second and third months of each fiscal quarter, there shall be
retained in the fund, subject to the provisions of subdivision three of this
section, all real estate tax payments deposited in the fund until there shall have
been retained from monies so deposited during such month an amount equal to
the total monthly debt service, computed as of the date of any disbursement of
monies from the fund, for the first month of the next succeeding fiscal quarter;
provided that such amount shall be reduced by any amount already on deposit
in the fund which may be used to pay the monthly debt service for such month.

c. During any month of a fiscal quarter, after the retentions required by
paragraphs a and b of this subdivision have been made for such month, the
comptroller shall deposit any remaining balance of real estate taxes received
during such month, first into the TAN debt service account to the extent
required under subdivision six of this section, and second into the board fund to
be applied in accordance with procedures of the board.

d. The city may at any time pay into the fund any monies required by law to
be used to pay monthly debt service and any other monies available for such
purpose.

e. Subject to agreements made with holders or guarantors of outstanding
notes or bonds issued by or for the benefit of the city after the effective date of
this act, the comptroller shall invest the monies retained in the fund in
accordance with law.

3. The board may approve, subject to agreements made with the holders or
guarantors of outstanding notes or bonds issued by or for the benefit of the city
after the effective date of this act, criteria for calculating a proportion of real
estate tax receipts to be retained in the fund in order to provide for the retention
of amounts required by the provisions of subdivision two of this section in lieu of
the retention of all initial receipts as required by such subdivision; provided, that
if the board at any time determines that retentions in the fund pursuant to the
provisions of such subdivision are or are likely to be insufficient to provide for
the payment of monthly debt service when due, in order to ensure that the
amounts on deposit in the fund will be sufficient to pay monthly debt service
when due, the board shall require (i) that real estate tax receipts be retained in
the fund in greater amounts or at earlier dates than the provisions of such subdivision require, or (ii) that other revenues or cash resources of the city be paid into the fund. The board shall consider the impact of earlier or larger retention of real estate tax receipts on the city’s seasonal borrowing requirements when determining whether it shall require such additional retention or that other revenues or cash resources of the city be paid into the fund. Prior to the issuance by the city of any bonds or notes, the board shall review any criteria then in effect which determine the proportion of real estate tax receipts to be retained in the fund to determine whether the proposed debt service schedule for such bonds or notes is consistent with the monies which will be available therefor or whether such criteria should be revised. The board shall from time to time take such action as it determines is necessary, including disapproval of a proposed issue pursuant to paragraph (f) of subdivision one of section seven, so that the monies in the fund shall be adequate to meet debt service requirements [to be in effect after the issuance of such bonds or notes].

4. Commencing on [August the first, nineteen hundred seventy-eight] day of the second month of the first full fiscal quarter subsequent to the first sale of a federally guaranteed city obligation, the payment of monthly debt service shall be made, first, from amounts retained in the fund. Amounts retained in the fund shall be used only to pay debt service of the city.

5. The city shall determine the date on which the principal due or to become due on an outstanding issue of tax anticipation notes shall equal ninety percent of the available tax levy with respect to such issue, and upon reasonable notice thereof the comptroller shall commence on such date to pay into the TAN debt service account from collections of such taxes and assessments, after retaining amounts required to be deposited in the fund, amounts sufficient to pay when due, the principal of such issue of tax anticipation notes. The payments of the principal of tax anticipation notes shall be made, first, from amounts [on deposit retained in the TAN debt service account.

7. Upon the issuance of any revenue anticipation notes following the effective date of this act, the comptroller shall establish and, so long as any revenue anticipation notes shall be outstanding, shall maintain a revenue anticipation note debt service account within the fund for the purpose of paying the principal of revenue anticipation notes. Each specific type of revenue in anticipation of which such notes are issued and available for such purpose shall be deposited in such account immediately upon receipt by the city. Where such revenue consists of state aid or other revenue to be paid to the city by the comptroller, on the date such revenue is payable to the city, the comptroller shall deposit such revenue directly into such account in lieu of payment to the city. All revenues deposited in the RAN debt service account shall be paid immediately into the board fund except as otherwise provided in subdivision eight of this section.

8. [Commencing on the day when the city determines that] The city shall determine the date on which the principal due or to become due on an outstanding issue of revenue anticipation notes shall equal ninety percent of the total amount of revenue against which such notes were issued remaining to be paid to the city on or before the fifth day prior to the maturity date of such notes, the city shall pay into the RAN debt service account from amounts received by the city for and upon reasonable notice thereof the comptroller shall commence on such date to retain in the RAN debt service account from amounts deposited or to be deposited therein of each specific type of revenue in anticipation of which revenue such anticipation notes were issued, an amount sufficient to pay, when due, the principal of such revenue anticipation notes. Monies retained in such account shall vest immediately in the comptroller in trust for the benefit of the holders of the
revenue anticipation notes in anticipation of which such notes were issued. No
person having any claim of any kind in tort, contract or otherwise against such city
shall have any right to or claim against any monies of the state appropriated by the
state and in anticipation of which such notes have been issued, other than a claim for
payment by the holders of such notes, and such monies shall not be subject to any
order, judgment, lien, execution, attachment, sequestration or counter-claim by any such
person; provided, however, that nothing contained in this paragraph shall be
construed to limit, impair, impede or otherwise adversely affect in any manner the
rights or remedies of the purchasers and holders and owners of any bonds or notes of
the state or any agency, instrumentality, public benefit corporation or political
subdivision thereof, including the city of New York, under which such purchasers
and holders and owners have any right of payment of such bonds or notes by recourse
to state aid or local assistance monies held by the state or for the payment of which
bonds or notes state aid or local assistance monies are a designated source. The
payment of the principal of revenue anticipation notes shall be made first from
amounts [on deposit] retained in the RAN debt service account.
9. Whenever the amount contained in the TAN debt service account or the
RAN debt service account exceeds the amount required to be [on deposit]
retained in such account such excess monies, including earnings on investments of
monies in the fund, shall be withdrawn from such account and paid into the
board fund.
§ 27. Subdivision ten of section nine-a of such act, as added by chapter two
hundred one of the laws of nineteen hundred seventy-eight, is hereby
renumbered to be subdivision eleven and as so renumbered is amended to read as
follows:
11. The limitations imposed upon the city by this section shall be in addition
to any limitations imposed upon the city under the local finance law. In the
event any provisions of the local finance law shall be inconsistent with the
provisions of this section, the provisions of this section shall prevail. The
requirements of this section shall not apply to any note of the city held by the
municipal assistance corporation for the city of New York [on the effective date
of this act] to the extent that such corporation has evidenced its intention not to
present such notes for payment during the fiscal year in which the determination is
made provided that such notes were held by such corporation on June thirtieth,
nineteen hundred seventy-eight or were issued in exchange for or in refunding or
renewal of notes held by such corporation on such date.
§ 28. Paragraph e of subdivision two of section nine-a of such act is hereby
renumbered to be subdivision ten of such section.
§ 29. Section nine-a of such act is hereby amended by adding thereto a new
subdivision twelve to read as follows:
12. Notwithstanding any other provision of this section, the city may, at any time,
subject to approval by the comptroller, designate a trust company or bank having its
principal place of business in the state of New York and having the powers of a trust
company in the state of New York to hold all or any part of the monies in the fund
and to administer and maintain the monies so held in accordance with the applicable
provisions of this section and any agreements made pursuant thereto.
§ 30. Subdivision one of section nine-b of such act, such section having been
added by chapter two hundred one of the laws of nineteen hundred seventy-
eight, is hereby amended to read as follows:
1. The limitations on short-term borrowing imposed upon the city by this
section shall be in addition to the limitations on short-term borrowing imposed
on the city under the local finance law. In the event any provisions of the local
finance law shall be inconsistent with the provisions of this section, the
provisions of this section shall prevail. For the purposes of this section the terms
"bond anticipation notes", "tax anticipation notes", [and] "revenue anticipation
notes" and "budget notes" shall not mean one or more or any of the
respective notes held by the municipal assistance corporation for the city of
New York on [the effective date of this act] June thirtieth, nineteen hundred
seventy-eight or any note of the city held by such corporation issued in exchange for
or in refunding or renewal of any such note.
§ 31. The section heading and subdivisions one and two of section ten-a of
such act, such section having been added by chapter two hundred one of the
laws of nineteen hundred seventy-eight, are hereby amended to read, respective-
ly, as follows:
Covenants, authorizations to agree and remedies. 1. In the event that after the
date on which the provisions of this act become operative, any notes or bonds
are issued by the city prior to July first, nineteen hundred eighty-two, or any
bonds are issued by a state financing agency, the state of New York hereby
authorizes the city and authorizes and requires such state financing agency to
include a pledge and agreement of the state of New York in any agreement
made by the city or such state financing agency with holders or guarantors of
such notes [and] or bonds that the state will not take any action which will (a)
substantially impair the authority of the board during [an emergency] a control
period, as defined in subdivision twelve of section two of this act as in effect on
the date such notes or bonds are issued (i) to approve, disapprove, or modify any
financial plan or financial plan modification, including the revenue [estimates]
projections (or any item thereof) contained therein, [which does not comply with]
subject to the standards [of] set forth in paragraphs a, c, d, e and f of subdivision
one of section eight of this act as in effect on the date such notes or bonds are
issued and paragraph b of such subdivision as in effect from time to time, (ii) to
disapprove a contract of the city or a covered organization if the performance of
such contract would be inconsistent with the financial plan [and] or to approve
or disapprove proposed short-term [and] or long-term borrowing of the city or a
covered organization or any agreement or other arrangement referred to in
subdivision four of section seven of the act, [and] or (iii) to establish and adopt
procedures with respect to the deposit in and disbursement from the board fund
of city revenues; (b) substantially impair the authority of the board to review
financial plans, financial plan modifications, contracts of the city or the covered
organizations and proposed short-term or long-term borrowings of the city.] and
the covered organizations; (e) substantially impair the independent
maintenance of a separate fund for the payment of debt service on bonds and
notes of the city; (d) alter the composition of the board so that the majority of
the voting members of the board are not officials of the state of New York
elected in a state-wide election or appointees of [such officials] the governor; (e)
terminate the existence of the board prior to the time to be determined in
accordance with section thirteen of this act as in effect on the date such notes or
bonds are issued; (f) substantially modify the requirement that the city’s
financial statements be audited by a nationally recognized independent certified
public accounting firm or consortium of firms and that a report on such audit be
furnished to the board; or (g) alter the definition of [emergency] a control period
set forth in subdivision twelve of section two, as in effect on the date such notes
or bonds are issued, or substantially alter the authority of the board, as set forth
in said subdivision to reimpose or terminate [an emergency] a control period;
provided, however, that 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 a bank, trust company or other fiduciary sufficient moneys or
direct obligations of the United States or [an agency thereof] obligations
guaranteed by the United States, 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 of and interest on all
outstanding notes [or] and bonds of the city or such state financing agency
[subject to] containing this pledge and agreement and irrevocable instructions
from the city or such state financing agency to such bank, trust company or
other fiduciary for such payment of such principal and interest with such
moneys shall have been given, or (ii) such notes [or] and bonds, together with
interest thereon, have been paid in full at maturity or have otherwise been
refunded, redeemed, defeased, or discharged; and provided further that the
foregoing pledge and agreement shall be of full force and effect upon its inclusion
in any agreement made by the city or state financing agency with holders or
guarantors of such notes or bonds.

Upon payment for such obligations issued pursuant to this act by the original and
all subsequent holders inclusions of the foregoing covenant shall be deemed conclusive
evidence of valuable consideration received by the state and city for such covenant and
of reliance upon such pledge and agreement by any such holder. The state hereby
grants any such benefited holder the right to sue the state in a court of competent
jurisdiction and enforce this covenant and agreement and waives all rights of defense
based on sovereign immunity in such an action or suit.

2. Every such bond or note which shall [have the benefit of] contain the
pledge and agreement referred to in subdivision one above shall be callable for
redemption [at] commencing not later than the eleventh anniversary of its date
of issuance and shall contain on its face a recital to such effect, together with the
terms and conditions under which such obligation may be redeemed.

§ 32. Subdivision three of section ten-a of such act is hereby renumbered to be
subdivision seven and such section is hereby amended by adding thereto four
new subdivisions three, four, five and six, to read, respectively, as follows:

3. The finance board of the city is hereby authorized to enter into agreements and
to make covenants with any purchaser, holder or guarantor of obligations issued by
the city or by a state financing agency to protect and safeguard the security and rights
of a purchaser, holder or guarantor or to protect and safeguard the source of payment
of such obligations or as deemed appropriate by the finance board which agreements
or covenants may contain provisions providing for (a) the compliance by the city with
any of the provisions of this act or of the New York City Loan Guaranty Act of
nineteen hundred seventy-eight, Public Law 96-386, or, in any agreements with the
guarantor of such obligations but only in such agreements unless otherwise
authorized by law, the compliance with any of the terms and conditions required by
the secretary of the treasury pursuant to such act, (b) restrictions on the issuance by
the city of its obligations, limitations on the inclusion of expense items in its capital
budgets and financial records, reporting and disclosure requirements in addition to
any such restrictions, limitations or requirements contained in this act, (c)
compliance by the city with its financial plan as modified from time to time, (d)
conditions that would give rise to an event of default on such obligations, and (e)
remedies available to a purchaser, holder or guarantor of such obligations, other than
acceleration or the required elimination or reduction of specific municipal
expenditures, including the circumstances, if any, under which a trustee or trustees
or a fiscal agent may be appointed or may act as a representative of holders of
obligations issued by the city in connection with an issue or issues of obligations of
the city and the rights, powers and duties which may be vested in such trustee,
trustees or fiscal agent as such representative. The state of New York hereby pledges
and agrees that it will take no action that would impair the power of the city to
comply with or to perform any covenant or agreement made pursuant to this subdivision, or any right or remedy of a purchaser, holder or guarantor to enforce such covenant or agreement; and the city or a state financing agency is hereby authorized to include such pledge and agreement in any agreement made pursuant to this subdivision. Nothing contained in this subdivision 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 shall preclude the state from validly exercising its police powers.

4. Notwithstanding any other provision of law, the trustees of any retirement, pension or annuity fund or system of the state of New York or of the city of New York are hereby authorized to enter into commitments to purchase and to purchase notes, bonds or other obligations of the city of New York or of a state financing agency, the payment in whole or in part, of interest, principal, or both, is guaranteed by the secretary of the Treasury of the United States of America pursuant to the New York City Loan Guarantee Act of 1978, Public Law 95–359, as presently in effect or hereafter amended or to purchase other bonds or notes of such city or of a state financing agency prior to June thirtieth, nineteen hundred eighty-two. Such commitments to purchase shall be binding upon and enforceable against successor trustees of such retirement, pension or annuity funds or systems of the state of New York or city of New York.

5. The secretary of the treasury shall have the right to initiate a proceeding in the supreme court of the state of New York in and for the county of New York or the court of claims of the state of New York to obtain a court order or other relief in connection with any agreements or other transactions entered into by the secretary relative to his guarantee of the principal, interest, or both of city indebtedness.

6. Notwithstanding any other provision of law to the contrary, the governor shall have the authority in connection with any agreement by the federal government or any agency or instrumentality thereof to guarantee the payment of the principal or interest on bonds or notes issued by the city of New York or by a state financing agency, to enter into one or more agreements containing terms and conditions required by the secretary of the treasury pursuant to the New York City Loan Guarantee Act of 1978, Public Law 95–359, approved by the comptroller and approved as to form by the attorney general, with the federal government or any agency or instrumentality thereof with respect to such guarantee or any matters related thereto and to comply with such terms and conditions.

§ 33. Subdivisions one and three of section eleven of such act, subdivision one having been amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read, respectively, as follows:

1. During [an emergency] a control period, (i) no officer or employee of the city or of any of the covered organizations shall make or authorize an obligation or other liability in excess of the amount available therefor under the financial plan as then in effect; (ii) no officer or employee of the city or of any of the covered organizations shall involve the city or any of the covered organizations in any contract or other obligation or liability for the payment of money for any purpose required to be approved by the board unless such contract, obligation or liability has been so approved or deemed to be approved as provided in paragraphs e and f of subdivision one of section seven and unless such contract or obligation or liability is in compliance with the financial plan as then in effect.

3. In addition to any penalty or liability under other law, any officer or employee of the city or any of the covered organizations who shall knowingly and willfully violate subdivision one or two of this section shall be subject to
appropriate administrative discipline, including, when circumstances warrant,
suspension from duty without pay or removal from office by order of either the
governor or the mayor[,] and [any officer or employee of the city or any of the
covered organizations who shall knowingly and willfully violate subdivision one
or two of this section] shall, upon conviction, be guilty of a misdemeanor.

§ 34. Subdivision a of section twelve of such act, such section having been
added by chapter two hundred one of the laws of nineteen hundred seventy-
eight, is hereby amended to read as follows:

a. The state shall save harmless and indemnify members, officers and
employees of and representatives to the board, all of whom shall be deemed
officers and employees of the state for purposes of section seventeen of the
public officers law, against any claim, demand, suit, or judgment arising by
reason of any act or omission to act by such member, officer, employee or
representative occurring in the discharge of his duties and within the scope of his
service on behalf of such [corporation] board including any claim, demand, suit
or judgment based on allegations that financial loss was sustained by any person
in connection with the acquisition, disposition or holding of securities or other
obligations. In the event of any such claim, demand, suit or judgment, a
member, officer or employee of or representative to the board shall be saved
harmless and indemnified, notwithstanding the limitations of subdivision one of
section seventeen of the public officers law, unless such individual is found by a
final judicial determination not to have acted, in good faith, for a purpose which
he reasonably believed to be in the best interest of the board or not to have had
reasonable cause to believe that his conduct was lawful.

§ 35. Section thirteen of such act, as added by chapter two hundred one of the
laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

§ 13. Termination. This act shall terminate on the earlier of (a) [on] July first,
two thousand eight or (b) the date (i) when all bonds and notes containing the
pledge and agreement authorized by subdivision one of section ten-a of this act
are refunded, redeemed, discharged or otherwise defeased, or (ii) when there shall
no longer be outstanding any guarantee by the United States of America or any
agency or instrumentality thereof as to payment of principal of or interest on any
note or bond issued by the city or a state financing agency, whichever of (i) or (ii)
shall occur [earlier] later.

§ 30. Such act is hereby amended by adding thereto two new sections fourteen
and fifteen to read, respectively, as follows:

§ 14. Separability. If any clause, sentence, paragraph, subdivision, or other part
of this act shall for any reason be adjudged by any court of competent jurisdiction to
be unconstitutional or otherwise invalid, such judgment shall not affect, impair, or
invalidate the remainder of this act, but shall be confined in its operation to the
clause, sentence, paragraph, subdivision or part thereof directly involved in the
controversy in which such judgment shall have been rendered and it shall be construed
to have been the legislative intent to pass this act without such unconstitutional, or
invalid part therein.

§ 15. 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
appeal of such judgment or order shall have preference over all other causes in any
court of this state. 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.

§ 37. Section 54.10 of the local finance law, as added by chapter two hundred
one of the laws of nineteen hundred seventy-eight, is hereby amended to read as
follows:
§ 54.10 Costs of sales. Subject to the provisions of the financial emergency act for
the city of New York but notwithstanding any other law to the contrary:
(a) To facilitate the marketing of any issue of bonds or notes of the city of
New York issued on or before June thirtieth, nineteen hundred eighty-two,
without further approval, the mayor and comptroller of such city may, subject to
the limitations on private sales of bonds provided by law:
(i) arrange for the underwriting of its bonds or notes [at private sale] through
negotiated agreement[,] or public letting, and provide for compensation for
services rendered in connection with such underwriting [to be provided] by
negotiated fee or by sale of such bonds or notes to an underwriter at a price of
less than the sum of par value of, and the accrued interest on, such obligations;
or
(ii) arrange for the private sale of its bonds or notes through negotiated
agreement, and provide for compensation for services rendered in connection with
such sales [to be provided] by negotiated fee, if required.
The cost of such underwriting or private placement shall be deemed a
preliminary cost for purposes of section 11.00 of this chapter.
(b) Without further approval the mayor and comptroller of the city of New
York may provide for or enter into agreements which provide for the payment of a
guarantee fee or any other amounts required by the United States of America or any
agency or instrumentality thereof in connection with any guarantee of the payment of
the principal of or interest on bonds or notes issued by such city or the municipal
assistance corporation for the city of New York.
(c) Without further approval the mayor and comptroller of the city of New
York may provide for or enter into agreements which provide for the payment of
compensation by negotiated fee or otherwise to a financial advisor to such city
engaged pursuant to any agreement with the secretary of the Treasury in connection
with the guarantee by the United States of America or any agency or instrumentality
thereof of the principal of or interest on bonds or notes issued by such city or the
municipal assistance corporation for the city of New York or to enhance the city's
ability to market its obligations to the public.
(d) Without further approval the mayor and the comptroller of the city of New
York may provide for or enter into agreements which provide for the compensation by
negotiated fee or otherwise of a trust company or bank having the powers of a trust
company in the state of New York to hold, maintain and administer funds in
accordance with the provisions of section nine-a of the New York state financial
emergency act for the city of New York.
(e) Without further approval the mayor and the comptroller of the city of New
York may provide for or enter into agreements which provide for the payment of any
amount required in exchange for a commitment to purchase bonds or notes of the city.
§ 38. Section 85.00 of such law, as amended by chapter eight hundred seventy
of the laws of nineteen hundred seventy-five, is hereby amended to read as
follows:
§ 85.00 Limitation of provisions; emergency period. No provisions of this title,
other than section 86.80, shall be applicable to the city of New York. The provisions
of this title shall be applicable (a) only to a municipality, other than the city of
New York, with respect to which the legislature has declared that a state of
financial emergency exists, and (b) only during [the] such emergency period [as
that term is defined in section two of the New York state financial emergency
act for the city of New York or as such period] as may be specified by the
legislature for any [other] municipality, other than the city of New York, [to
which the provisions of this title may be applicable]; provided, however, that
the provisions of section 85.80 of this title shall apply to any municipality,
including the city of New York, at any time. As used in this title, the term
"emergency financial control board" shall mean any such board established by
state law for the municipality, and the term "covered organization" shall mean
any such organization as defined in the act declaring that a state of financial
emergency exists for such municipality. Nothing contained in this title shall be
construed to limit or stay any emergency financial control board from doing any
act or commencing or continuing any action or special proceeding against or
involving the municipality or any covered organization.

§ 30. Section 85.80 of such law, as added by chapter eight hundred sixty-eight
of the laws of nineteen hundred seventy-five, is hereby amended to read as
follows:

§ 85.80 Authority for municipality or emergency financial control board to file
petition under federal statute. [In addition to, or in lieu of, filing a petition
under this title, a] A municipality or its emergency financial control board in
addition to, or in lieu of, filing a petition under this title, or the city of New York or
the New York state financial control board, may file any petition with any United
States district court or court of bankruptcy under any provision of the laws of
the United States, now or hereafter in effect, for the composition or adjustment
of municipal indebtedness. Nothing contained in this title shall be construed to
limit the authorization granted by this section.

§ 40. Paragraph c of section 90.00 of such law, as amended by chapter six
hundred nine of the laws of nineteen hundred forty-four, is hereby amended to
read as follows:

c. Bonds issued on or after January first, nineteen hundred thirty-nine, shall
not be refunded within five years after the date of original issue. This restriction
shall not apply to bonds issued by the city of New York or to bonds issued to
refund:

1. Bonds issued, or
2. Bonds issued to redeem notes, certificates or other evidences of temporary
indebtedness issued prior to January first, nineteen hundred thirty-nine.

§ 41. Subdivision three of paragraph g of section 90.00 of such law, as
amended by chapter two hundred one of the laws of nineteen hundred seventy-
eight, is hereby amended to read as follows:

3. Outstanding bonds may, pursuant to a power to recall and redeem or with
the consent of the holders thereof, be exchanged for refunding bonds (i) if the
refunding bonds are to bear interest at a rate equal to or lower than that borne
by the bonds to be refunded or (ii) if, in the case of the city of New York prior to
July first, nineteen hundred eighty-two, the annual payment required for
principal and interest on the refunding bond is less than the annual payment
required for principal and interest on the bond to be refunded, in each case such
annual payments to be determined by dividing the total principal and interest
payments due over the remaining life of the bond by the number of years to
maturity of the bond or (iii) if, the bonds to be refunded were issued by the city
of New York after June thirtieth, nineteen hundred seventy-eight and prior to
July first, nineteen hundred eighty-two and contain covenants referring to the
existence of the New York state emergency financial control board for the city
of New York or any other covenants relating to matters other than the prompt
payment of principal and interest on the obligations when due and the refunding
bond [is] without a covenant referring to the existence of New York state
emergency financial control board for the city of New York or any other
covenant relating to matters other than the prompt payment of principal and
interest on the obligation when due] omits or modifies any such covenant or (iv) if,
in the case of the city of New York, the bond to be refunded is guaranteed by the
§ 42. Subdivision one of paragraph b of section 90.10 of such law, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

1. A municipality, school district or district corporation may issue serial bonds on or before June thirtieth, nineteen hundred seventy-nine, and the city of New York may, in addition, issue serial bonds [on or before June thirtieth, nineteen hundred eighty-two] during such period as the payment of principal or interest on any of its bonds or notes shall be guaranteed by the federal government, to refund all or any portion of an issue of outstanding serial bonds issued on or after January first, nineteen hundred seventy, in the manner and subject to the limitations and conditions set forth in this section. The principal amount of refunding bonds shall not exceed an amount sufficient to pay the sum of (a) the principal amount of the bonds to be refunded, which is outstanding as of the date of issue of the refunding bonds, (b) the aggregate amount of unmatured interest payable on the bonds to be refunded to and including either the date or dates such bonds mature or, if such bonds are to be called for redemption prior to their maturities, the date or dates set for such redemption in accordance with the refunding financial plan, (c) redemption premiums, if any, payable on the bonds to be refunded as of such redemption date or dates, and (d) costs and expenses incidental to the issuance of the refunding bonds, including the development of the refunding financial plan, and of executing and performing the terms and conditions of the escrow contract and all fees and charges of the escrow holder.

§ 43. Subparagraph (b) of subdivision two of paragraph b of section 90.10 of such law, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

(b) Notwithstanding the provisions of subparagraph (a) of this subdivision, the city of New York may also issue refunding bonds (i) if the annual payment required for principal and interest on the refunding bond is less than the annual payment required for principal and interest on the bond to be refunded, in each case such annual payments to be determined by dividing the total principal and interest payments due over the remaining life of the bond by the number of years to maturity of the bond or (ii) if the bond to be refunded contains a covenant referring to the existence of the New York state emergency financial control board for the city of New York or any other covenant relating to matters other than the prompt payment of principal and interest on the obligation when due, and the refunding bond [contains no covenant relating to matters other than the prompt payment of principal and interest on the obligation when due] omits or modifies any such covenant or (iii) if the bond to be refunded is guaranteed by the federal government.

§ 44. Subdivision three of paragraph j of section 90.10 of such law, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

3. Outstanding bonds may, with the consent of the holders thereof, be exchanged for refunding bonds (i) if the refunding bonds are to bear interest at a rate equal to or lower than that borne by the bonds to be refunded, or (ii) if, in the case of the city of New York, the annual payment required for principal and interest on the refunding bond is less than the annual payment required for principal and interest on the bond to be refunded, in each case such annual payments to be determined by dividing the total principal and interest payments due over the remaining life of the bond by the number of years to maturity of the bond, or (iii) if, in the case of the city of New York, the bond to be refunded contains a covenant referring to the existence of the New York state
emergency financial control board for the city of New York or any other
pervent relating to matters other than the prompt payment of principal and
interest on the obligation when due, and the refunding bond [contains no
pervent relating to matters other than the prompt payment of principal and
interest on the obligations when due] omits or modifies any such covenant, or (iv)
if, in the case of the city of New York, the bond to be refunded is guaranteed by the
federal government.
§ 45. Section 165.20 of such law, as added by chapter two hundred one of the
laws of nineteen hundred seventy-eight, is hereby amended to read as follows:
§ 165.20 Exchange of certain bonds or notes. Notwithstanding any other
provisions of this chapter, the city of New York prior to July first, nineteen
hundred eighty-two shall be authorized to exchange bonds or notes of such city
for any notes of such city held by the municipal assistance corporation for the
city of New York as provided in [section] sections three thousand thirty-five and
three thousand thirty-seven of the public authorities law.
§ 46. Paragraph j of section 25.00 of such law is hereby repealed.
§ 47. Section three-a of the general municipal law, as separately amended by
chapters seven and eleven hundred two of the laws of nineteen hundred sixty-
ine, is hereby amended to read as follows:
§ 3-a. Rate of interest on judgments and accrued claims against municipal
corporations. 1. Except as provided in [subdivision] subdivisions two and four of
this section, the rate of interest to be paid by a municipal corporation upon any
judgment or accrued claim against the municipal corporation shall not exceed
three per centum per annum.
2. The rate of interest to be paid upon any judgment or accrued claim against
the municipal corporation arising out of condemnation proceedings or action to
recover damages for wrongful death shall not exceed six per centum per annum.
3. The term “municipal corporation” as used in this section shall mean and
include a city, county, village, town, school district, fire district, a special or
public district organized for the purpose of financing the costs of public
improvements or a pension or retirement system supported in whole or in part
by any such city, county, village, town, school district or special or public
district.
4. Payments of interest or principal on any note or bond of the city of New York
issued on or after the effective date of this act which is guaranteed under the New
York City Loan Guarantee Act of 1978, Public Law 95-539, and which such city
has not paid or made funds available to pay when due, shall accrue interest at the
rate borne for principal by such obligation from such due date until (i) there shall
have been deposited with an independent trustee sufficient monies to cover such
overdue payment and any interest accrued thereon to the date of such deposit and (ii)
the making of such deposit shall have been announced for three days in succession in
a newspaper of general circulation in the city of New York.
§ 48. Section one of chapter fifty of the laws of nineteen hundred seventy-
eight relating to State Purposes is hereby amended to read as follows:
FEDERAL COUNTERCYCLICAL ASSISTANCE FUND
For payments for the purposes herein stated in accordance with
the following schedule.................................................. 111,000,000
Schedule
[Department of Taxation and Finance
For the payment to counties, cities, towns, and villages of a
portion of the per capita contribution for the support of local
government in accordance with section fifty-four of the state
finance law. Notwithstanding the provisions of such section, the amount payable to any city, county, town or village from this appropriation during the state fiscal year commencing April first, nineteen hundred seventy-eight shall be calculated by multiplying the amount payable to such city, county, town or village pursuant to such section by thirty-three million dollars and dividing the resultant amount by an amount equivalent to the total amount payable to all such cities, counties, towns and villages pursuant to such section during such state fiscal year. Any amount payable from this appropriation shall be paid in addition to any other amount payable pursuant to this chapter.

33,000,000

Department of Social Services

For the payment of state aid to the city of New York and payments to the federal government for expenditures made pursuant to the social services law and the state plan for the individual and family grant program under the federal disaster relief act of 1974. The moneys hereby appropriated are to be available for payment of state aid hereinafter accrued or hereafter to accrue.

33,000,000

§ 40. Section one of chapter fifty-three of the laws of nineteen hundred seventy-eight relating to Local Assistance is hereby amended to read as follows:

DEPARTMENT OF TAXATION AND FINANCE

For the payment to counties, cities, towns, and villages of a portion of the per capita contribution for the support of local government in accordance with section fifty-four of the state finance law. Notwithstanding the provisions of such section, the amount payable to any city, county, town or village from this appropriation during the state fiscal year commencing April first, nineteen hundred seventy-eight shall be calculated by multiplying the amount payable to such city, county, town or village pursuant to such section by fifty-eight million dollars and dividing the resultant amount by an amount equivalent to the total amount payable to all such cities, counties, towns and villages pursuant to such section during such state fiscal year and provided that for any city with a population in excess of one million, and for all counties, towns, and all other municipalities with a fiscal year ending December thirty-first the entitlement period for any payment pursuant to this appropriation shall commence July first, nineteen hundred seventy-eight.

Any amount payable from this appropriation shall be paid in addition to any other amount payable pursuant to this chapter.

Notwithstanding the provisions of any other law, no part of the appropriation made herein shall be available for the purpose designated until a certificate of approval of availability shall have been issued by the director of the budget, and a copy of such certificate filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee, which certificate shall set forth the date or dates during the state fiscal year commencing April first, nineteen hundred seventy-eight on which monies appropriated pursuant to this paragraph shall
be paid. Such certificate may be amended from time to time
by the director of the budget, and a copy of each such
certificate shall be filed with the aforesaid state officials.

For the payment to counties, cities, towns, and villages of a portion
of the per capita contribution for the support of local government in
accordance with section fifty-four of the state finance law.
Notwithstanding the provisions of such section, the amount payable
to any city, county, town or village from this appropriation during
the state fiscal year commencing April first, nineteen hundred
seventy-eight shall be calculated by multiplying the amount payable
to such city, county, town or village pursuant to such section by
thirty-three million dollars and dividing the resultant amount by an
amount equivalent to the total amount payable to all such cities,
counties, towns and villages pursuant to such section during such
state fiscal year. Any amount payable from this appropriation
shall be paid in addition to any other amount payable pursuant to
this chapter. For any city with a population in excess of one
million, and for all towns, counties, and all other municipalities
with a fiscal year ending December thirty-first the entitlement
period for any payment pursuant to this appropriation shall
commence July first, nineteen hundred seventy-eight.

§ 50. Section forty-one-a of the executive law, as added by chapter eight
hundred sixty-eight of the laws of nineteen hundred seventy-five, subdivision
one having been amended by chapter eight hundred sixty-nine of the laws of
nineteen hundred seventy-five, is hereby amended to read as follows:
§ 41-a. Special deputy comptroller for the city of New York. 1. In addition to
the deputies otherwise authorized by law, the comptroller shall, by and with the
advice and consent of the senate, appoint a special deputy comptroller for the
city of New York. Such deputy may be removed or replaced by the comptroller
and shall receive an annual salary to be fixed by the comptroller within the
amounts appropriated therefor. Such deputy may perform any of the powers or
duties of the comptroller and he shall assist the New York state [emergency]
financial control board created pursuant to section five of the New York state
financial emergency act for the city of New York in carrying out and exercising
the responsibilities assigned and powers granted to such board.

2. Six months after the termination of the [emergency] control period defined
in section two of the New York state financial emergency act for the city of New
York, the authorization for the special deputy comptroller for the city of New
York contained in subdivision one of this section shall terminate.

§ 51. Section sixty-four of chapter two hundred one of the laws of nineteen
hundred seventy-eight, relating to the municipal assistance corporation for the
city of New York, as amended by chapter four hundred forty-nine of the laws of
nineteen hundred seventy-eight, is hereby amended to read as follows:
§ 64. This act shall take effect immediately, provided however that with the
exception of sections two, five, forty-six and forty-seven hereof the provisions of
this act shall [not become operative until such date as there shall be duly
enacted and signed into law federal legislation authorizing the United States of
America to guarantee obligations issued by the city of New York or the state
financing agency, as defined in subdivision twenty of section two of the New
York state financial emergency act for the city of New York, as the fact of
enactment into law of such federal act has been certified by the emergency
financial control board for the city of New York. In the event that no such
federal legislation has been duly enacted and signed into law by December
thirty-first, nineteen hundred seventy-eight, the provisions of this act shall
expire on such date] become effective upon the enactment into law of a chapter of the
laws of nineteen hundred seventy-eight, entitled "AN ACT to amend the public
authorities law, in relation to the issuance of obligations by the municipal assistance
corporation for the city of New York; to amend chapter eight hundred sixty-eight of
the laws of nineteen hundred seventy-five relating to the New York state financial
emergency act for the city of New York and assistance to certain municipalities
during periods of financial emergency, in relation to legislative findings and
statement of purpose; to amend the New York state financial emergency act for the
city of New York, in relation to certain definitions contained therein, certain
activities and practices of the control board and making technical and conforming
changes therein; to amend the local finance law, in relation to the four year financial
plan of the city of New York and to repeal paragraph j of section 25.00 thereof
relating to the issuance of revenue anticipation notes by the city of New York; to
amend the general municipal law, in relation to interest payments in the event of
default; to amend chapter fifty of the laws of nineteen hundred seventy-eight (State
Purposes) and chapter fifty-three of the laws of nineteen hundred seventy-eight
(Local Assistance), in relation to the appropriation of certain revenues; and to
amend the executive law, in relation to making a conforming change and chapter two
hundred one of the laws of nineteen hundred seventy-eight relating to municipal
assistance corporation for the city of New York, in relation to changing the effective
date thereof".

§ 52. Paragraph (c) of subdivision three of section thirty hundred thirty-three
of the public authorities law, as amended by chapter two hundred one of the,
laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

(c) [A note or bond] Whenever all or a portion of a series of notes or bonds of the
corporation is issued for a purpose set forth in section three thousand thirty-
seven of this article, to the extent that the payment of the proceeds of [which]
such series is evidenced by a bond or bonds of the city [shall mature not later
than one year after the date on which such city bond matures and shall provide
that], not more than one year following a scheduled payment of principal on any
such city bond (including sinking fund installments), a substantially equal
payment of principal (including sinking fund installments) shall be scheduled
with respect to [such note or bond] the notes or bonds included in such series of
the corporation.

§ 53. This act shall take effect immediately.
IN SENATE—Introduced by COMMITTEE ON RULES—read twice and ordered printed, and when printed to be committed to the Committee on Finance

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

AN ACT to amend the New York state financial emergency act for the city of New York, in relation to making certain technical and conforming amendments thereto

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

Section 1. Subdivisions three and four of section ten-a of section two of chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, constituting the New York state financial emergency act for the city of New York, such subdivisions having been added by senate bill 3—assembly bill 3 enacted during the second extraordinary session of nineteen hundred seventy-eight relating to the New York state financial emergency act for the city of New York, are hereby amended to read, respectively, as follows:

3. The finance board of the city is hereby authorized to enter into agreements issued by the city by a state financing agency to protect and safeguard the security and rights of a purchaser, holder or guarantor or to protect and safeguard the proceeds of such obligations as are deemed appropriate by the finance board which agreements or covenants may contain provisions providing for (a) (i) the compliance by the city with any of the provisions of this act or of the New York City Loan Guaranty Act of nineteen hundred seventy-eight, Public Law 95-339, or, (ii) in any agreements with the guarantor of such obligations but only in such agreements unless otherwise authorized by law, the compliance with any of the terms and conditions required by the secretary of the treasury pursuant to such act, (b) restrictions on the issuance by the city of its obligations, limitations on the inclusion of expense items in its capital budgets and financial records, reporting and disclosure requirements in addition to any such restrictions, limitations or requirements contained in this act, (c)

EXPLANATION—Matter in italics is new; matter in brackets [1] is old law to be omitted.
compliance by the city with its financial plan as modified from time to time, (d) conditions that would give rise to an event of default on such obligations, and (e) remedies available to a purchaser, holder or guarantor of such obligations, other than acceleration or the required elimination or reduction of specific municipal expenditures, including the circumstances, if any, under which a trustee or trustees or a fiscal agent may be appointed or may act as a representative of holders of obligations issued by the city in connection with an issue or issues of obligations of the city and the rights, powers and duties which may be vested in such trustee, trustees or fiscal agent as such representative. The state of New York hereby pledges and agrees that it will take no action that would impair the power of the city to comply with or to perform any covenant or agreement made pursuant to this subdivision, or any right or remedy of a purchaser, holder or guarantor to enforce such covenant or agreement; and the city or a state financing agency is hereby authorized to include such pledge and agreement in any agreement made pursuant to this subdivision. Nothing contained in this subdivision 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 shall preclude the state from validly exercising its police powers.

4. Notwithstanding any other provision of law, the trustees of any retirement, pension or annuity fund or system of the state of New York or of the city of New York are hereby authorized to enter into commitments to purchase and to purchase notes, bonds or other obligations of the city of New York or of a state financing agency, the payment in whole or in part, of interest, principal, or both, is guaranteed by the secretary of the Treasury of the United States of America pursuant to the New York City Loan Guarantee Act of 1978, Public Law 95–399, as presently in effect or hereafter amended or to purchase other bonds or notes of such city or of a state financing agency prior to June thirtieth, nineteen hundred eighty-two, or in the case of the trustees of any retirement, pension or annuity fund or system of the city of New York, to enter into commitments to purchase such other bonds or notes of such city or of a state financing agency prior to June thirtieth, nineteen hundred eighty-two. Such commitments to purchase shall be binding upon and enforceable against successor trustees of such retirement, pension or annuity funds or systems of the state of New York, or city of New York.

§ 2. This act shall take effect on the same date as a chapter of the laws of nineteen hundred seventy-eight enacted by senate bill 3—assembly bill 3 during the second extraordinary session of nineteen hundred seventy-eight relating to the New York state financial emergency act for the city of New York.
AN ACT to amend the public authorities law, in relation to the issuance of obligations by the municipal assistance corporation for the city of New York, in relation to the amount of short-term obligations that may be issued by the city of New York and obligations that may be issued by such municipal assistance corporation, in relation to the purposes for which such municipal assistance corporation may pay moneys to the city of New York, in relation to the obligations of such city which may be acquired by such municipal assistance corporation and in relation to indemnification; to amend chapter eighty-three of the laws of nineteen hundred seventy-five, relating to the New York state financial emergency act for the city of New York and assistance to certain municipalities during periods of financial emergency, in relation to legislative findings and statement of purposes; to amend the New York state financial emergency act for the city of New York, in relation to the financial assistance required by the city of New York during an emergency period and repealing subdivisions fourteen and fifteen of section two and section twelve of such act relating thereto; to amend the local finance law, in relation to the sale of municipal obligations by or on behalf of the city of New York; and to enable such city to refund or exchange certain indebtedness; to amend the state finance law, in relation to authorization of the advancement of payment of state moneys; and to amend the public authorities law, in relation to making certain technical and conforming changes necessitated for certain administrative functions of the municipal assistance corporation for the city of New York and such city and repealing paragraph (e) of subdivision five of section three thousand thirty-eight of such law relating thereto.

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

Section 1. Subdivision two of section three thousand thirty-three of the public authorities law, as amended by chapter four hundred fifty-six of the laws of nineteen hundred seventy-seven, is hereby amended to read as follows:

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.
2. Subject to the provisions of any contract with note holders or bondholders, the corporation shall not issue bonds and notes in an aggregate principal amount exceeding [five] eight billion eight hundred million dollars, excluding (i) bonds and notes issued to refund outstanding bonds and notes and (ii) notes issued for the purpose described in subparagraph (d) of section three thousand thirty-seven of this article.

§ 2. Section three thousand thirty-three of such law is hereby amended by adding a new subdivision two-a to read as follows:

2-a. In addition to the authority provided in subdivision two of this section, the corporation may, until June thirtieth, nineteen hundred seventy-eight, issue notes in an aggregate principal amount which the mayor certifies to the corporation is required by the city to provide, without interruption, services essential to its inhabitants while meeting its obligation to the holders of its outstanding securities to June thirtieth, nineteen hundred seventy-eight, but not to exceed five hundred million dollars. Such notes shall finally mature no later than June thirtieth, nineteen hundred seventy-eight. Such notes shall not be renewable. The terms of issuance of such notes shall not contain any provision creating rights in the holders of such notes to convert such notes to or exchange such notes for bonds of the corporation. The corporation shall pay the proceeds of such notes to the city to be used to provide services essential to its inhabitants without regard to the provisions of section three thousand thirty-seven of this title.

§ 3. Subdivision three of section three thousand thirty-three of such law, as amended by chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

3. (a) No note or bond (i) shall mature more than [twenty] thirty years from the date of the original issue of such note or bond and, in any event, not later than July first, two thousand eight or (ii) shall be issued on a date later than [five years after the effective date of this act] June thirtieth, nineteen hundred eighty-two, unless such note or bond is a renewal or refunding of an outstanding note or bond.

(b) No bond shall be issued by the corporation for a purpose set forth in subparagraph (d) of section three thousand thirty-seven of this article and any note issued for such a purpose shall mature not later than the end of the fiscal year in which it is originally issued.

(c) A note or bond issued for a purpose set forth in section three thousand thirty-seven of this article, the payment of the proceeds of which is evidenced by a bond of the city shall mature not later than one year after the date on which such city bond matures and shall provide that, not more than one year following a scheduled payment of principal on such city bond (including sinking fund installments), a substantially equal payment of principal (including sinking fund installments) shall be scheduled with respect to such note or bond of the corporation.

§ 4. Section three thousand thirty-three of such law is hereby amended by adding thereto a new subdivision five to read as follows:

5. No bonds other than bonds issued to refund outstanding bonds shall be issued pursuant to a resolution of the corporation other than the general bond resolution dated July second, nineteen hundred seventy-five, or the second general bond resolution dated November twenty-fifth, nineteen hundred seventy-five, each as herebefore and hereafter supplemented and amended.

§ 5. Subdivision two of section three thousand thirty-five of such law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

2. (a) Upon or at any time after receipt of the short-term obligations of the city exchanged in accordance with subdivision one hereof, the corporation may deliver any or all of such short-term obligations to the city [which], for
cancellation, without receiving payment of principal or interest in respect thereof, in
which event the city shall thereupon cancel such obligations without making any
payment of principal amount or accrued interest thereon and the city shall have
no further liability with respect thereto. Notwithstanding the foregoing, the
corporation shall not deliver at any time bond anticipation notes received
pursuant to subdivision one to the city for cancellation unless the city pays the
principal amount and accrued interest thereon or pays accrued interest and
exchanges such bond anticipation notes for other bond anticipation notes of the
city in equal principal amounts and at not less than the same interest rate in
refunding or renewal thereof without receiving payment of principal or interest in
respect thereof unless the mayor and the city comptroller shall have requested in
writing that such short-term obligations be delivered for cancellation.

(b) Upon or at any time after receipt of the short-term obligations of the city ex-
changed in accordance with subdivision one hereof the corporation may exchange
any or all of such short-term obligations for other short-term obligations issued by the
city pursuant to the local finance law and the corporation may exchange any or all of
such bond anticipation notes included in such short-term obligations for bonds of the
city issued pursuant to the local finance law, all on such terms and conditions as the
corporation may deem proper.

§ 6. Section three thousand thirty-six of such law, as added by chapter one
hundred sixty-nine of the laws of nineteen hundred seventy-five, subdivisions
three and five as amended by chapter eight hundred sixty-eight of the laws of
nineteen hundred seventy-five, is hereby amended to read as follows:
§ 3036. Payments to the corporation; funds of the corporation. 1. Not less
than one hundred twenty days before the beginning of each fiscal year of the
 corporation (but not later than July 1, 1975 for the fiscal year ending June 30,
 1976), the chairman of the board of directors of the corporation shall certify to
the state comptroller and to the mayor a schedule setting forth the cash
requirements of the corporation for such fiscal year and the time or times when
such cash is required. The total amount so certified by such chairman for such
fiscal year shall be equal to: (i) the amounts which are required to be deposited
in the capital reserve fund authorized to be created and established pursuant to
subdivision three of this section during such fiscal year in order to maintain the
capital reserve fund of the corporation at the level required in accordance
with subdivision five of this section; (ii) the amounts required to be deposited in
the debt service fund of the corporation to pay all interest and all payments of
principal and redemption premium, if any, on notes and bonds secured by such
debt service fund maturing or otherwise coming due during such fiscal year; and
(iii) the amounts required to be deposited in the operating fund of the
 corporation, as determined by the corporation, to meet the operating
requirements and other expenses of the corporation during such fiscal year. If
any increase shall occur in the cash requirements specified above, or if payments
are required at a time or times earlier than previously certified or if the city shall
for any reason fail to make timely payment of the principal and accrued interest
due on any obligation issued by the city to the corporation and maturing within
the same fiscal year, such chairman shall certify a revised schedule of cash
requirements for such fiscal year to the state comptroller and to the mayor. The
schedule accompanying each certification (or revision thereof) shall provide for
such payment dates as the corporation deems appropriate to assure that
sufficient funds will be available from the sources identified below to enable it to
meet its current obligations as they come due. Upon receipt of such certification,
or any revision thereof, the state comptroller shall pay such amount to the
 corporation for deposit in the appropriate funds, in accordance with such
certification from the special account established for the corporation in the
municipal assistance tax fund, in accordance with subdivision one of section ninety-two-d of the state finance law, including any amount transferred to the municipal assistance tax fund from the stock transfer tax fund pursuant to subdivision four of section 92-b of the state finance law. Any such payment shall be made within thirty days of receipt of the certification or at the time specified in the certification, whichever is later; provided that any such amounts shall have been first appropriated by the state for such purpose or shall have been otherwise made available. Any amount so paid to the corporation shall be deducted from the amount otherwise payable to the city from the municipal assistance tax fund established by section ninety-two-d of the state finance law and shall not obligate the state to make, nor entitle the city to receive, any additional payments.

2. Notwithstanding subdivision one of this section, prior to any transfers from the stock transfer tax fund to the municipal assistance tax fund, moneys, if any, payable to any other public benefit corporation from such fund pursuant to the provision of any law, the effective date of which is prior to the effective date of this title, shall be paid in full to such other corporation.

3. The corporation shall create and establish a special fund (herein referred to as capital reserve fund), and shall pay into such capital reserve fund (i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (iii) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds secured by such capital reserve fund of the corporation, as the same mature or otherwise become due, the purchase of such bonds of the corporation, the payment of interest of such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. If the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision three of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes, such excess moneys may be withdrawn from the capital reserve fund by the corporation; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amounts as would reduce the amount of such fund to less than the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing otherwise due or becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the corporation to any other fund of the corporation to the extent it does not reduce the amount of the capital reserve fund below the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding.

4. In order further to assure the maintenance of the capital reserve fund, there shall be annually appropriated and paid to the corporation for deposit in the capital reserve fund such sum, if any, as shall be certified by the chairman to the governor and director of the budget as necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. The chairman of the board of directors 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 sum, if any, required to restore the capital reserve fund to the amount aforesaid; and the sum or sums so certified, if any, shall be appropriated and paid to the corporation during the then current state fiscal year.

5. The corporation shall not issue bonds at any time if the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation secured by such capital reserve fund then outstanding will exceed the amount of the capital reserve fund requirement with respect to such capital reserve fund at the time of issuance, unless the corporation, at the time of such issuance, shall deposit in the capital reserve 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 amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation secured by such capital reserve fund then outstanding (such amount is herein sometimes referred to as the capital reserve fund requirement). Notwithstanding the foregoing provisions of this subdivision for each of the calendar years set forth below the capital reserve fund requirement, as of any date of calculation, shall equal the percentage set forth opposite such calendar year of the amount of principal and interest maturing or otherwise due or becoming due during such calendar year on all bonds of the corporation secured by such capital reserve fund outstanding on such date:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0%</td>
</tr>
<tr>
<td>1976</td>
<td>0%</td>
</tr>
<tr>
<td>1977</td>
<td>25%</td>
</tr>
<tr>
<td>1978</td>
<td>50%</td>
</tr>
<tr>
<td>1979</td>
<td>75%</td>
</tr>
<tr>
<td>1980</td>
<td>100%</td>
</tr>
</tbody>
</table>

6. In computing the amount of the capital reserve fund for the purposes of this section securities in which all or a portion of such fund shall be invested shall be valued at par [or] if purchased at other than par, at amortized value.

7. The corporation shall create a debt service fund and an operating fund and may create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

8. The fiscal year of the corporation shall be the same as the fiscal year of the city.

§ 7. Section three thousand thirty-seven of such law, as amended by chapter eight hundred ninety-one of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

§ 3037. Payments to or purchases of obligations of the city. In the event that the mayor from time to time certifies to the corporation an amount required by the city to enable it (a) to pay, at maturity, the principal of and interest on any short-term obligations of the city, or (b) to pay for any item which is permitted by law to be included in the city's capital budget for the fiscal year for which such certification is made, including payments to reimburse the general fund for moneys advanced and expended for any such item, or (c) to make any payment in a fiscal year to the extent the mayor certifies such payment will have the effect of reducing from the then existing level the city's requirements for an advance by the state, during such fiscal year or the succeeding fiscal year, of state assistance moneys payable to the city, or (d) to meet its seasonal borrowing requirements for the fiscal year in which such certification is made, or (e) to pay operating expenses of the city other than those
included in subparagraph (b), (c) or (d) hereof, the corporation may (i) pay to the
city, or (ii) purchase from the city obligations hereafter issued by the city in an
amount equivalent to, part or all of such certified amount. Moneys paid to the
city pursuant to clause (i) or (ii) of this section shall be held in trust for the
payment of short-term obligations or shall be used to pay operating expenses of
the city. Make the payment for which such moneys have been so certified. Any
obligations issued by the city and purchased by the corporation pursuant to this
section in consideration of the payments made to the city pursuant to subparagraph
(a) or (e) hereof shall mature on a date not later than fifteen years from the
original date of issue of such obligations. The corporation shall not make any
payment to the city, or purchase any obligations from the city, pursuant to this
section unless the city shall have agreed to observe the conditions set forth in
section three thousand thirty-eight of this chapter, subject to such modifications
as are permitted thereunder. The outstanding amounts paid to the city for
operating expenses which are described in subparagraph (e) hereof pursuant to
clause (i) and clause (ii) of this section shall not exceed two billion dollars,
provided that not more than nine hundred million dollars shall be obligations
maturing in a fiscal year succeeding the fiscal year in which issued (of which not
less than seven hundred fifty million dollars shall be applied for welfare or public
education purposes, as to which state assistance payments have been or will be
advanced to the city) and shall be evidenced by city obligations, and any balance
shall be short-term obligations payable in the fiscal year in which issued.

The outstanding amounts paid to the city for a purpose set forth in subparagraph
(b) hereof, other than to pay for expense items permitted to be included in the capital
budget of the city pursuant to subdivision five of section three thousand thirty-eight of
this article, shall be evidenced by city bonds. Nothing herein shall be construed to
prevent the corporation from acquiring from the city obligations issued by the city
pursuant to the local finance law which evidence amounts paid to the city by the
corporation for other purposes.

Nothing contained in this article shall be deemed to create an object or purpose or to
establish or extend a period for which a city bond may be issued pursuant to the local
finance law, or to create authority for the city to issue a bond payable from a tax on
real estate levied outside the limit imposed by the state constitution on the amount to be
raised by tax on real estate for local purposes other than debt service, or to modify,
amend, repeal, or rescind any other provision of the local finance law governing the
issuance by the city of its bonds or the payment of principal and interest thereon.

At all times after receipt of short-term obligations, other than bond anticipation
notes, of the city acquired pursuant to this section, the corporation shall have the same
rights and powers with respect to such short-term obligations as the corporation shall
have with respect to short-term obligations, other than bond anticipation notes, of the
city received pursuant to subdivision one of section three thousand thirty-five of this
article. The corporation shall have the same rights and powers with respect to bond
anticipation notes and bonds so received as the corporation shall have with respect to
bond anticipation notes received pursuant to subdivision one of section three thousand
thirty-five; provided that the corporation shall not deliver any bond received pursuant
to this section for cancellation unless the city pays the principal amount and accrued
interest thereon or pays accrued interest and exchanges such bond for another bond of
the city in equal principal amounts in refunding thereof, and provided further that the
corporation may not sell or transfer to any person other than the city any bond of the
city acquired by it pursuant to this section unless the mayor and the city comptroller
have requested in writing that the corporation sell or transfer such bond and, if such
bond be sold or transferred at private sale, unless the terms of such sale have been
approved by the city comptroller.

For purposes of this section, the term "seasonal borrowing requirements" means
amounts which are required by the city to enable it to pay current operating expenses,
provided such expenses are included in an expense budget of the city balanced in accordance with the provisions of section three thousand thirty-eight of this title and such amounts are required solely because the city’s revenues and expenditures, even when in balance on an annual basis, are not received and disbursed at equivalent rates throughout the year.

§ 8. Paragraphs a and b of subdivision nine of section three thousand thirty-eight of such law, as amended by chapter four hundred fifty-six of the laws of nineteen hundred seventy-seven, are hereby amended to read as follows:

a. The city shall not, at any time [permit] issue any short-term obligations which would cause the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, renewed, redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with noteholders or bondholders and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for a purpose set forth in subparagraph (b) of section three thousand thirty-seven of this article, and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, and less any short-term obligations of the city then held by the corporation to exceed (i) six billion six hundred million (hereinafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty per cent of the base debt limit, during the fiscal year ending June 30, 1978 the additional amount may not exceed twenty-five per cent of the base debt limit, during the fiscal year ending June 30, 1979, the additional amount may not exceed twenty per cent of the base debt limit, during the fiscal year ending June 30, 1980 the additional amount may not exceed fifteen per cent of the base debt limit.

b. In addition to the foregoing limitation the city shall not, at any date, [permit] issue any short-term obligations which would cause the aggregate principal amount of its outstanding short-term obligations (excluding bond anticipation notes) plus the aggregate principal amount of all notes and bonds issued by the corporation (less (i) any notes or bonds which have been refunded or renewed and any notes or bonds in an amount equal to the aggregate principal amount of bond anticipation notes of the city acquired by the corporation, whether or not then held by the corporation (except bond anticipation notes of the city acquired by the corporation in consideration of the surrender by the corporation to the city of bond anticipation notes of the city), and any notes or bonds issued for a purpose set forth in subparagraph (b), (c) or (d) of section three thousand thirty-seven of this article, and less any notes or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, (ii) any short-term obligations of the city then held by the corporation other than bond anticipation notes and (iii) any short-term obligations of the city issued and payable within the same fiscal year) to exceed four billion five hundred million dollars plus, in the discretion of the board of directors, an additional amount not exceeding five hundred million dollars plus, in the discretion of the board of directors, until June thirtieth, nineteen hundred seventy-six, a further additional amount not exceeding two hundred million dollars.

§ 9. Subdivision three of section three thousand twenty of such law, as added by chapter one hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

3. a. The state shall save harmless and indemnify directors, officers and employees of and representatives to a corporation [pursuant to], all of whom shall
be deemed officers and employees of the state for purposes of section seventeen of the public officers law, against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such director, officer, employee or representative occurring in the discharge of his duties and within the scope of his service on behalf of such corporation. In the event of, including any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations of a corporation (or those of any other public corporation if such loss allegedly resulted from its dealing with a municipal assistance corporation). In the event of any such claim, demand, suit or judgment, a director, officer or employee of or representative to a municipal assistance corporation shall be saved harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he reasonably believed to be in the best interest of such corporation or not to have had reasonable cause to believe that his conduct was lawful.

b. In connection with any such claim, demand, suit, or judgment, any director, officer or employee of or representative to the corporation shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the attorney general determines based upon his investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such individuals be represented by the same counsel. If the individual or group of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall certify to the comptroller. Reasonable attorney's fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the individual is entitled to representation under the terms and conditions of this section by the chairman of the board of directors of the corporation upon the audit and warrant of the comptroller.

The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon directors, officers or employees of and representatives to the corporation by section seventeen of the public officers law, by action of the corporation, or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of and representatives to the corporation, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 10. Chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, relating to the New York state financial emergency act for the city of New York and assistance to certain municipalities during periods of financial emergency, is hereby amended by adding a new section one-a to read as follows:

§ 1-a. Legislative findings and statement of purposes. It is hereby found and declared that a financial emergency and an emergency period continue to exist in the city of New York. Since a financial emergency and an emergency period were first declared to exist in the city of New York by chapter eight hundred sixty-eight of the laws of the state of New York of nineteen hundred seventy-five the city has been unable to regain access to the public credit markets. The city without the receipt of federal guarantees of its obligations, or the obligations of a state financing agency which it authorized to assist the city, additional long-term financing, continued federal seasonal financing, which terminates on June thirtieth, nineteen hundred seventy-eight pursuant to the New York city seasonal financing act of 1975, or other seasonal
financing is unable to obtain the funds needed by the city to continue to provide
essential services to its inhabitants or to meet its obligations to the holders of
outstanding securities. Unless such funds are obtained the city will soon (i) fail to
pay salaries and wages to employees and amounts owed vendors and suppliers to the
city, (ii) fail to pay amounts due to persons receiving assistance from the city, (iii)
default on the interest and principal payments due to holders of outstanding
obligations of the city and (iv) fail to make payments to other governmental agencies
which rely upon the receipt of such revenues from the city to maintain their
operations.

If such failures and defaults were to occur, the effect on the city and its inhabitants
would be devastating: (i) unpaid employees might refuse to work; (ii) unpaid vendors
and suppliers might refuse to sell their goods and render services to the city; (iii)
unpaid recipients of public assistance would be unable to provide themselves with the
basic necessities of life; and (iv) unpaid holders of city obligations would seek judicial
enforcement of their legal rights as to city revenues. These events would effectively
force the city to stop operating as a viable governmental entity and create a clear and
present danger to the health, safety and welfare of its inhabitants.

The difficulties of finding solutions to such events are compounded by the
likelihood that the city, as well as the municipal assistance corporation for the city of
New York, would be foreclosed indefinitely from obtaining funds in the public
markets sufficient to meet the city's requirements. The elimination of the public
markets as well as federal financing as a source of funds would leave the city with no
foreseeable way to pay its outstanding indebtedness. Thus, the city might be unable for
an extended period to cure defaults on its outstanding obligations and that event could
almost permanently destroy the fiber of the city. The status of the city as the financial
capital of the nation and of the world and as the headquarters of American and
international commerce would be severely shaken. Just as significantly, the exodus
from the city of corporate and individual taxpayers would increase, thereby having the
affect of imposing a greater burden on the remaining taxpayers.

It is a matter of substantial and imperative state concern that the city not fail to
meet its obligations and thereby suffer the above consequences. Such a failure could
require the state to provide costly financial assistance to the city to ameliorate the
emergency conditions that would result. Aside from the avoidance of that expense, it is
the concern of the state that the above-described events not occur, because the city
represents a major part of the state. In addition to being the state's largest city, the city
is the commercial, financial, cultural, communications and transportation center of
the state. If the city were unable, because of the lack of funds, to function in its normal
manner, the economy of the state would, therefore, be drastically harmed.

A failure by the city to meet its obligations would also affect the state's own ability
to raise funds in the public markets. Defaults by the city would adversely affect the
ability of all public issuers within the state to market securities to meet their cash
requirements. To the extent the state and other public issuers within the state would be
able to market their securities at all, the interest rates would significantly exceed those
which otherwise would be paid. This effect has already been clearly demonstrated
since the urban development corporation defaulted on its obligations in February
nineteen hundred seventy-five. Notwithstanding that such default was soon cured as
the result of state action, other public authorities were unable to market their securities
or were required to pay much higher interest rates for a considerable period thereafter
and numerous municipalities, school districts and sewer districts throughout the state
were similarly affected.

This situation continues to create a state of emergency. To end this disaster, to
bring the emergency under control, to restore investor confidence in the city's
obligations to meet the requirements for a federal guarantee of its obligations or those
of a state financing agency, and to respond to the overriding state concern described
above, the state must continue to undertake an extraordinary exercise of its police and
emergency powers under the state constitution, and exercise controls and supervision
over the financial affairs of the city of New York, but in a manner intended to
preserve the ability of city officials to determine programs and expenditure priorities
within available financial resources.

Since a financial emergency and an emergency period were first declared to exist in
the city of New York in nineteen hundred seventy-five, the city has taken the following
steps toward recovery: (i) its workforce has been reduced by sixty-one thousand
employees which is over twenty per centum of the level of its workforce in nineteen
hundred seventy-five; (ii) welfare recipients have been reduced from a high of one
million two hundred sixty-five thousand three hundred in nineteen hundred seventy-
two to nine hundred thirty-one thousand six hundred; (iii) tuition fees have been
imposed at City University; (iv) the subway fare has been increased by forty per
centum; (v) nineteen fire companies have been closed and funding for seventy-seven
day care centers has been eliminated; (vi) a demonstration program of “absence
control” in four city agencies yielded an overall reduction of thirty-three per centum
in absences, and the program has now been expanded to all city agencies; (vii) fringe
benefits to city employees have been reduced by forty-one million dollars; (viii) the
city’s deficit has been reduced by one billion dollars on the basis of generally accepted
accounting principles; and (ix) accounting practices have been reformed and a new
financial management and control system has been installed.

Despite these steps toward recovery, the city has been unable to regain access to the
public credit markets. Two principal impediments to the city’s access to these markets
are (1) the inability of the city to balance its budget in accordance with generally
accepted accounting principles and (2) the city’s large annual financing requirements
which is presently three billion dollars for both seasonal and long term purposes, an
amount which is more than the market can reasonably be expected to absorb. The city
has developed a four year financial plan covering fiscal years ending June thirty,
nineteen hundred seventy-nine through June thirty, nineteen hundred eighty-two to
remove these impediments. The plan calls for a balanced budget in accordance with
generally accepted accounting principles by the end of the fiscal year beginning
July first, nineteen hundred eighty-one and the elimination of more than one-half of
the city’s present annual financing needs. The plan also mandates the removal of
operating expenses from the city’s capital budget by July first, nineteen hundred
eighty-one and commits funds to improve and to prevent further decay to its physical
plant so as to provide essential governmental services to support the city’s economy
and to stimulate its economic development.

To accomplish these goals the city will require long-term financing which it hopes to
obtain in part from the guarantee by the federal government of the principal of and
interest on its bonds or the bonds of a state financing agency which is authorized to
aid the city. Leaders of the United States Senate and the House of Representatives
have advised the city that the United States Congress will not authorize federal
financial assistance in the form of federal guarantees of city obligations unless the
state covenants that it will not repeal, invalidate or otherwise substantially impair the
authority of the board to control the fiscal affairs of the city during the entire period
for which federal assistance will be outstanding. Bill number H.R. 12426 requires
this agreement on the part of the state as a condition for the federal guarantee of
obligations of the city or a state financing agent, as defined in bill number H.R.
12426. The plan also proposes the continuation through June thirtieth, nineteen
hundred eighty-two of federal seasonal loan financing which will otherwise terminate
on June thirty, nineteen hundred seventy-eight.

The financial program embodied in this act provides the necessary statutory
classes to permit the financial assistance required by the city at this time, including
the receipt of federal guarantees on its bonds or obligations of a state financing
agency, restoration of investor confidence in its long-term obligations, and the
investment of a portion of the funds of the state and city retirement systems in
obligations of the city of New York and of the municipal assistance corporation for
the city of New York and provides for (i) the continued existence of a state board with
some city representation to review, control and supervise the financial management of
the city, (ii) the adoption, with the approval of such board, of four-year financial
plans that will provide the basis for a return of the city to sound financial condition,
(iii) review, control and supervision by such board of the disbursement of city funds,
under which debt service requirements will be met as a first priority, (iv) review,
control and supervision of city operations by such board to assure that sound
management practices are observed or restored and that operations are conducted in
accordance with the plan and, (v) review by such board of contracts and the terms of
each city long-term and short-term borrowing.

In addition, the act provides that the city must provide for a general reserve fund
and debt service funds and accounts to further assure investors that it will meet its debt
service requirements. Restrictions are placed upon the issuance and renewal of short-
term obligations by the city.

The provisions of the act are proper, reasonable and appropriate means by which
the state can and should exercise 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 thereof 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.

This legislative program is intended to accomplish the objectives described above
and thereby to insure the continuity of governmental operations in the city and to
provide the means by which the present emergency can in time be overcome, the city
restored to financial health and this intervention by the state brought to an end.

§ 11. Subdivision five of section two of section two of chapter eight hundred
sixty-eight of the laws of nineteen hundred seventy-five constituting the New
York State Financial Emergency Act for the city of New York, as amended by
chapter eight hundred seventy of the laws of nineteen hundred seventy-five, is
hereby amended to read as follows:

3. "Covered organization" means any governmental agency, public authority
or public benefit corporation which receives or may receive monies directly,
indirectly or contingently, (other than monies received for the sale of goods or
the rendering of services or the loan of monies to the city) from the city, and in
any event includes, without limitation, the board of education of the city of New
York, the board of higher education of the city of New York, the health and
hospitals corporation, the New York city transit authority, the New York city
housing authority, the New York city housing development corporation, city
university construction fund, Battery park city authority, New York city
convention and exhibition center corporation, Manhattan and Bronx surface
transit operating authority, Staten Island rapid transit operating authority, the
New York city sports authority and the Brooklyn sports center authority but
shall not include (i) any governmental agency, public authority or public benefit
corporation specifically exempted from the provisions of this act by order of the board
upon a finding by the board that such exemption does not materially affect the ability
of the city to adopt and maintain an expense budget pursuant to the provisions of this
act and provided that at the time of such exemption there shall have been and during
the period of such exemption there shall be an annual audit by a nationally recognized
independent certified public accounting firm or consortium of firms, one of which
shall be a nationally recognized firm, of the covered organization's financial
statements performed in accordance with generally accepted auditing standards and
report by such auditor thereon which includes an opinion that the financial statements
so audited have been prepared in accordance with generally accepted accounting
principles as the same may be modified by the board pursuant to subdivision two-a of
section eight and such other information as such auditors deem appropriate, (ii) any
state public authority as defined in section two hundred one of the civil service law, unless specifically named above, or (iii) any governmental agency, authority, commission or instrumentality created by compact or agreement between the state of New York and another state or states; provided, however, that the board may terminate any exemption granted by order of the board pursuant to this subdivision.

§ 12. Subdivision twelve of section two of such act is hereby amended to read as follows:

12. “Emergency period” means the period of time from the effective date of this act until the date when the board determines that the expense budget of the city shall have been in balance for one fiscal year in accordance with the accounting methods prescribed for such budget by the state comptroller pursuant to subdivision two of section three thousand thirty-eight of the public authorities law] (a) there shall no longer be outstanding any guarantee by the United States of America as to payment of principal of or interest on any note or bond issued by the city or a state financing agency, and (b) the board shall determine, based on annual audit reports furnished in accordance with section seven-a, that the expense budget of the city has been in balance in accordance with generally accepted accounting principles (subject to any modification as shall be approved by the board pursuant to the provisions of subdivision two-a of section eight) for each of the three immediately preceding fiscal years. After termination of the emergency period in accordance with the foregoing provisions and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency which are entitled to the benefits of the pledge and agreement authorized by section ten-a hereof, the board shall reimpose an emergency period upon a determination at any time that any of the following events has occurred and that there is a substantial likelihood of such occurrence: (i) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable, (ii) the city shall have incurred an expense budget deficit of more than one hundred million dollars, (iii) the city shall have issued notes in violation of section nine-b of this act as amended from time to time, or (iv) the city shall have otherwise violated any provision of this act and such violation substantially impair the ability of the city to pay principal of or interest on its bonds or notes when due and payable or its ability to adopt or maintain a balanced expense budget. Any such reimposed emergency period shall continue until the board shall determine that no circumstance warranting the reimposition of the emergency period exists. After termination of an emergency period the board shall annually consider items (i) through (iv) above and determine whether, in its judgment, any of the events described in such items have occurred. Notwithstanding any part of the foregoing to the contrary, in no event shall any emergency period continue beyond July first, two thousand eight; or when all bonds and notes containing the pledge and agreement authorized by section ten-a of this act are refunded, redeemed, discharged or otherwise defeased.

§ 13. Subdivisions fourteen and fifteen of section two of such act are hereby repealed.

§ 14. Section two of such act is hereby amended by adding thereto seven new subdivisions, to be subdivisions fourteen, fifteen, sixteen, seventeen, eighteen, nineteen and twenty to read respectively, as follows:

14. “Fund” means the general debt service fund established pursuant to section nine-a of this act.

15. “Board fund” means the emergency financial control board fund established pursuant to section nine of this act.

16. “TAN debt service account” means the tax anticipation note debt service account established within the fund pursuant to section nine-a of this act.
17. "RAN debt service account" means the revenue anticipation note debt service account established within the fund pursuant to section nine-a of this act.

18. "Available funds" means at any date of computation the monies held by the city or a covered organization which (i) are not required (a) to be applied to the fund, the TAN debt service account, the RAN debt service account or otherwise to meet the debt service requirements of the city and the covered organizations on their bonds and notes (other than bonds and notes of covered organizations payable from revenues not included in the fund) as they become due, or (b) to pay other liabilities of the city and the covered organizations having statutory or contractual priority over remaining liabilities of the city and the covered organizations, and (ii) therefore, may be applied to the payment of other obligations on an allocated basis as specified by the city for expenditures in accordance with a financial plan.

19. "Available tax levy" with respect to an issue of tax anticipation notes means at any date of computation the total amount of city real estate taxes or assessments projected to be received in cash on or before the fifth day preceding the maturity date of such tax anticipation note issue, less amounts required during the period between the date of computation and the fifth day preceding such maturity date to pay interest payable on other outstanding city bonds and notes, principal coming due on outstanding city bonds and principal to be paid from sources other than the proceeds of bonds or renewal notes on other outstanding city notes (exclusive of revenue anticipation notes or renewals thereof issued less than two years prior to the date of computation) and sinking fund payments payable on city bonds.

20. "State financing agency" means the municipal assistance corporation for the city of New York or its successor.

§ 15. Section two-a of such act is hereby amended to read as follows:

§ 2-a. Legislative declaration of financial emergency. The legislature hereby finds and declares that a state of financial emergency [exists] continues to exist within the city.

§ 16. Subdivision one of section six of such act, as amended by chapter eight hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

1. The membership of the board shall be the governor, the state comptroller (pursuant to his authority to supervise the accounts of any political subdivision of the state), the mayor, the city comptroller and three members appointed by the governor with the advice and consent of the senate. At least two of the appointed members shall be residents of the city or have their principal place of business in the city. Such appointed members shall serve at the pleasure of the governor. The governor shall be the chairman of the board and the governor or his representative shall preside over all meetings of the board. The board shall act by majority vote of the entire board. The board shall maintain a record of its proceedings in such form as it may determine, but such record shall indicate attendance and all votes cast by each member. Every member of the board, who is otherwise an elected official of the state or city, shall be entitled to designate a representative to attend, in his place, meetings of the board and to vote or otherwise act in his behalf. Written notice of such designation shall be furnished to the board by the designating member prior to any meeting attended by his representative. Any representative shall serve at the pleasure of the designating member. No representative shall be authorized to delegate any of his duties or functions to any other person. The lieutenant governor, temporary president of the senate, the minority leader of the senate, speaker and minority leader of the assembly, the president of the council of the city of New York, the city board of estimate acting by majority vote, and the vice-chairman and the minority leader of the city council, shall each be entitled to appoint a representative to the board. Each such representative shall be entitled to receive notice of and to attend all meetings of the board but shall not be entitled to vote. No representative shall be an employee or officer of the federal, state or
§ 17. Subdivision four of section six of such act is hereby amended to read as follows:
4. The governor and the mayor, jointly, shall appoint an executive director of the board who shall serve at the pleasure of the board and may be removed by the board. The board may delegate to the executive director or to one or more of its other officers, employees, or agents, such powers and duties as the board may deem proper, except any duties inconsistent with the duties and functions prescribed by any other office or position any such person may hold.

§ 18. Paragraph a of subdivision one of section seven of such act is hereby amended to read as follows:

a. As set forth in section eight, the board shall (i) determine, in connection with the development of the financial plan, estimated revenues for the city and the covered organizations, (ii) consult with the city and the covered organizations in the preparation of the financial plan, (iii) and certify to the city the revenue estimates approved therein (iv) prescribe the form of the financial plan and the supporting information required in connection therewith, and (v) exercise the rights of approval, disapproval and modification with respect to the financial plan, including without limitation the revenue estimates contained therein.

§ 19. Paragraph b of subdivision one of section seven of such act is hereby amended to read as follows:

b. [As set forth in section nine, the] The board, to the extent it deems it necessary or desirable in order to accomplish the purposes of this act, shall establish and adopt procedures with respect to the (i) proper maintenance of the board fund, the fund, the TAN debt service account and the RAN debt service account, (ii) the deposit and investment of revenues of the city and the covered organizations in such funds and accounts and (iii) (i) disbursement of monies from the fund such funds and accounts.

§ 20. Paragraph d of subdivision one of section seven of such act is hereby amended to read as follows:

d. [i] The board (i) shall receive from the city and review the report or reports to be prepared on behalf of the city pursuant to section seven-a; (ii) shall receive from the city and the covered organizations and from the special deputy comptroller, and shall review such financial statements and projections, budgetary data, and information, and management reports and materials the board deems necessary or desirable to accomplish the purposes of this act; (iii) inspect and (iv) shall inspect, copy and audit such books and records of the city and the covered organizations as the board deems necessary or desirable to accomplish the purposes of this act.

§ 21. Subparagraphs three and four of paragraph e of subdivision one of section seven of such act are hereby amended to read as follows:

(iii) [The] During an emergency period the board shall, by order, disapprove any contract or other obligation reviewed by it only upon a determination that, in its judgment, the performance of such contract or other obligation would be inconsistent with the financial plan and the city or covered organization shall not enter into such contract or other obligation;

(iv) [If] During an emergency period if the board approves the terms of a reviewed contract or other obligation, the city or covered organization may enter into such contract or other obligation upon the terms submitted to the board.

Failure of the board to notify the city or covered organization within thirty days (or such additional time not exceeding thirty days as the board shall have notified the city or covered organization, that it requires to complete its review and analysis) after submission to it of a contract or other obligation that such
contract or other obligation has been disapproved shall be deemed to constitute
board approval thereof.
§ 22. Paragraphs f and g of subdivision one of section seven of such act,
paragraph f as amended by chapter eight hundred seventy of the laws of nineteen
hundred seventy-five, are hereby amended to read as follows:
f. The board shall review the terms of each proposed long-term and short-term
borrowing by the city and any covered organization to be affected during [the]
an emergency period but after October fifteenth, nineteen hundred seventy-five,
and no such borrowing shall be made unless approved by the board. The board
shall consult and coordinate with the municipal assistance corporation for the
city of New York with respect to borrowings of the city and any covered
organization and shall receive reports from the municipal assistance corporation
for the city of New York on its review of borrowings by the city. No covered
organizations shall be prohibited from issuing bonds or notes to pay outstanding
bonds or notes.
g. The board and the comptroller shall receive quarterly reports from the city
comptroller setting forth the debt service requirements on all bonds and notes of
the city and the covered organizations for the following quarter. Such reports
shall be issued no later than sixty days prior to the start of the quarter to which they
pertain and shall be updated immediately upon each issuance of bonds or notes after
the date of such report to reflect any change in debt service requirements as a result of
such issuances. The board also shall receive from the city monthly and quarterly
reports, which reports shall be made available by the city to the public, containing
substantially the same information as the city is required to submit to the United
States department of the treasury pursuant to the federal credit agreement, entered into
under the New York city seasonal financing act of nineteen hundred seventy-five,
notwithstanding the expiration of such agreement, with such modifications to the form
and content of such reports as the city shall propose and the board shall approve. Each
quarterly report herein required to be submitted to the board must indicate any
tolerance between actual and budgeted revenues, expenses or cash for such quarter.
§ 23. Section seven of such act is hereby amended by adding thereto four new
subdivisions three, four, five and six to read as follows:
8. (a) Notwithstanding any provision of the New York City Collective
Bargaining Law, codified as chapter fifty-four of the New York city administrative
code, or any general or special law to the contrary, any report or recommendation of
an impasse panel constituted pursuant to such chapter which provides for an increase
in wages or fringe benefits of any employee of the city or covered organization, in
addition to considering any standard or factor required to be considered by applicable
law, including the standards enumerated in section 1179-7.0(c)(3)(b) of such chapter,
shall also take into consideration and accord substantial weight to the financial ability
of the city and or covered organization to pay the cost of such increase in wages or
fringe benefits.
(b) The board of collective bargaining constituted pursuant to such chapter, when
reviewing such report or recommendation before proceeding to other issues, shall make
a threshold determination as to whether such report or recommendation for an
increase in wages or fringe benefits is within the city and or covered organization's
financial ability to pay. If the threshold determination is in the negative, the matter
shall be remitted to the impasse panel for further consideration. If the threshold
determination is in the affirmative, the further review of the report or recommendation
with respect to other issues, if any, shall proceed as provided by law. Unless the
parties stipulate otherwise, the threshold determination shall be made within thirty
days after submission of the report or recommendation to the board of collective
bargaining.
(c) Any determination pursuant to article eight of the labor law or any agreement
or stipulation entered into in lieu thereof which provides for an increase in wages or
fringe benefits of any employee of the city or covered organization shall, in addition to
considering any standard or factor required to be considered by applicable law, also
take into consideration and accord substantial weight to the financial ability of the
city and or covered organization to pay the cost of such increase.
(d) Any report or recommendation of a fact finding or similar type panel or any
interest arbitration award which provides for an increase in wages or fringe benefits
of any employee of the city or covered organization not subject to the provisions of the
New York City Collective Bargaining Law, codified as chapter fifty-four of the New
York city administrative code, shall, in addition to considering any standard or factor
required to be considered by applicable law, also take into consideration and accord
substantial weight to the financial ability of the city and or covered organization to
pay the cost of such increase.
(e) Any party to a proceeding before the board of collective bargaining as described
in paragraph (b) or other body as described in paragraphs (c) or (d) hereof may com-
ence a special proceeding in the appellate division, first department, supreme court,
state of New York, to review the threshold determination as to the city and or covered
organization’s financial ability to pay. Such proceeding shall be commenced not later
than thirty days after the final determination has been made by the board of collective
bargaining in the case of paragraph (b) or other body in the case of paragraphs (c) or
(d). Such proceeding shall have preference over all other causes in such appellate
division, other than causes relating to the election law.
(f) The court shall make a de novo review of the record solely for the purpose of
determining whether an award of an increase in wages or fringe benefits was within
the city and or covered organization’s financial ability to pay. The court’s findings as
to such issue shall be based upon a preponderance of all the evidence set forth in the
record. Unless the parties stipulate otherwise, arguments or submission shall be had
within fifteen days after commencement of the special proceeding and the court shall
render its decision within fifteen days thereafter. All questions, other than the
question relating to the threshold determination, shall be reviewed by the appellate
division in the same proceeding in the manner provided by articles seventy-five or
seventy-eight of the civil practice law and rules as may be appropriate,
notwithstanding that the issue would otherwise have been cognizable in the first in-
stance before a special or trial term of the supreme court. If an appeal shall otherwise
lie from such determination of the appellate division to the court of appeals, notice of
such appeal shall be filed within thirty days after the entry of the final order or
judgment of the appellate division if such appeal is of right or within ten days after
entry of an order granting leave to appeal and such appeal shall have preference over
all other appeals other than appeals relating to the election law.
(g) At any stage of any proceeding under paragraphs (a), (b), (c), (d) and (e)
hereof or any appeal from an order or judgment therefrom, the board may intervene as
a party on the issue of the financial ability of the city and or covered organization to
pay the cost of an increase in wages or fringe benefits.
(h) For the purposes of this subdivision, financial ability to pay shall mean the
financial ability of the city and or covered organization to pay the cost of any increase
in wages or fringe benefits without requiring an increase in the level of city taxes ex-
isting at the time of the commencement of a proceeding under paragraph (a), (c) or
(d) hereof.
(i) The provisions of this subdivision shall terminate on December thirty-first,
nineteen hundred eighty-two.
4. During an emergency period the city shall not enter any agreement or other
arrangement, whether or not debt of the city, pursuant to which the revenues or credit
of the city may be directly or indirectly pledged, encumbered, committed or promised,
contingently or otherwise, for the payment of obligations of a public benefit corpo-
ration except upon approval by the board in accordance with the provisions of
paragraph e of subdivision one of this section. Nothing in this subdivision shall limit
the right of the city to comply with the provisions of any existing agreement or other
arrangement in respect of the obligations of a public benefit corporation.
5. The board may employ such consultants as it may deem necessary to assist it in
performing its functions required under this act.
6. The board shall have the authority to make and execute agreements and all other
instruments which the board deems necessary for the exercise of its powers and func-
tions under the act.
§ 24. Such act is hereby amended by adding a new section seven-a, to read as
follows:
§ 7-a. Reports of the city. 1. The city shall take such action as may be necessary to
enable a nationally recognized independent certified public accounting firm or con-
sortium of firms, one of which at least is a nationally recognized independent certified
public accounting firm, to perform an annual audit in accordance with generally
accepted auditing standards and to furnish to the board the report on such audit
prepared by such firm or consortium of firms, which report shall include an opinion
as to whether the city’s financial statements have been prepared in accordance with
generally accepted accounting principles as the application of same may be modified
by the board pursuant to subdivision two-a of section eight of this act. The city shall
make available for inspection and copying all books, records, work papers and other
data and material as required by such auditors, and the city shall make its officers
and employees available to, and shall cooperate with such auditors so as to permit
such annual audit to be completed and the report issued to the city and to the board
within one hundred twenty days after the close of the city’s fiscal year.
§ 25. Subdivision one of section eight of such act, the opening paragraph and
the second undesignated paragraph thereof as amended by chapter eight
hundred seventy-five, is hereby amend-
ed to read as follows:
1. Pursuant to the procedures contained in subdivision three of this section,
the board, in conjunction with each year the city shall develop, and may from
time to time [amend] modify, with the approval of the board during an emergency
period, a four year financial plan [for] covering the city and the covered
organizations [with respect to the fiscal years of the city ending June thirtieth,
nineteen hundred seventy-six, June thirtieth, nineteen hundred seventy-seven
and June thirtieth, nineteen hundred seventy-eight. The board may from time to
time extend the period to be covered by the financial plan through the end of any
fiscal year of the city in which the emergency period terminated].
[The] Each such financial plan and financial plan modification shall [conform
to] comply with the requirements of subdivision four of this section and shall
[constitute a program by which the city will achieve the following objectives],
except as otherwise provided pursuant to subdivision two-a of this section, conform to
the following standards:
a. For [its] the fiscal year ending June thirtieth, nineteen hundred [seventy-
eight] eighty-two, and for each fiscal year thereafter, the city’s expense budget
[will] shall be balanced in accordance with [the accounting system and
procedures prescribed in subdivision two of section three thousand thirty-eight of
the public authorities law, with substantial progress toward that goal to be
achieved in each of the fiscal years ending June thirtieth, nineteen hundred
seventy-six and June thirtieth, nineteen hundred seventy-seven] principles which
are consistent with generally accepted accounting principles and that permit
comparison of the budget with the report of actual financial results prepared in
accordance with generally accepted accounting principles. With respect to financial
plans that include the fiscal years ending June thirtieth, nineteen hundred seventy-
nine through June thirtieth, nineteen hundred eighty-one, there shall be substantial
progress in each such fiscal year towards achieving a city expense budget balanced in
accordance with such principles. [In accordance with subdivision five of section
three thousand thirty-eight of the public authorities law, progress toward the
elimination of] The city shall eliminate expense items from [the] its capital budget
[will also be required during the period during which the financial plan is in
effect] not later than the commencement of the fiscal year ending June thirtieth,
nineteen hundred eighty-two. For the fiscal year ending June thirtieth, nineteen
hundred eighty-nine, the expense budgets of each of the covered organizations shall be
balanced in accordance with such principles; and for each fiscal year prior thereto,
there shall be substantial progress towards such goal.

b. The limitations on its outstanding short-term obligations required by
subdivision nine of section three thousand thirty-eight of the public authorities
law and by section nine-b of this act: shall be observed at all times, as each is
amended from time to time.

c. Provision shall be made for the payment in full of the debt service on all bonds
and notes of the city and the covered organizations and for the adequate funding of
programs of the city and the covered organizations which are mandated by state or
federal law and for which obligations are going to be incurred during the then ensuing
fiscal year.

d. All projections of revenues and expenditures contained in a financial plan shall
be based on reasonable and appropriate assumptions and methods of estimation. All
cash flow projections shall be based upon reasonable and appropriate assumptions as
to sources and uses of cash (including but not limited to the timing thereof), and shall
provide for operations of the city and covered organizations to be conducted within the
cash resources so projected.

e. The city shall provide a general reserve for each fiscal year to cover potential
reductions in its projected revenues or increases in its projected expenditures during
each such fiscal year. The amount provided for such general reserve shall be estimated
by the city in accordance with paragraph d of this subdivision, but in no event shall it
be less than one hundred million dollars at the beginning of any fiscal year.

f. For financial plans beginning with the fiscal year ending June thirtieth,
nineteen hundred eighty-three or any succeeding fiscal year, the first fiscal year
included in any financial plan shall make provision for the repayment of any deficit
incurred by the city during the preceding fiscal year.

§ 26. Subdivision two of section eight of such act is hereby amended to read as
follows:

2. In developing the financial plan the city [and the board] shall seek to
achieve a stabilized work force for the city and, to the extent a reduction in the
work force is required, primary recourse shall be had to the attrition process to
accomplish such reduction.

§ 27. Section eight of such act, is hereby amended by adding a new
subdivision two-a, to read as follows:

2-a. The city and the board shall confer concerning the projected effect on the
expense budgets of the city and the covered organizations of any change in generally
accepted accounting principles, or in the application thereof to the city and the covered
organizations, made after the effective date of this act. If the board determines that
immediate compliance with such change will have a material effect on such expense
budgets over a time period insufficient to accommodate the effect without a substantial
adverse impact on the delivery of essential services, the board may authorize and
approve a method of phasing the requirements of such change into such expense
budgets over such reasonably expeditious time period as the board deems appropriate.

§ 28. Subdivision three of section eight of such act, paragraphs b, e f and
subparagraph (iv) of paragraph c thereof as amended by chapter eight hundred
seventy of the laws of nineteen hundred seventy-five, subparagraph (i) of
paragraph c thereof as amended by chapter eight hundred eighty-eight of the
laws of nineteen hundred seventy-five is hereby amended to read as follows:
3. The financial plan shall be developed and, during an emergency period, shall be adopted and approved, and may from time to time be modified, in accordance with the following procedures:

a. [Not later than September thirtieth] The city shall, by June first, nineteen hundred seventy-five, seventy-eight, [the board shall deliver to the city estimates of revenues of the city and the covered organizations for each month during which the plan is in effect] prepare and submit a financial plan to the board covering the four year period which begins with the fiscal year ending June thirtieth, nineteen hundred seventy-nine. Thereafter, at least fifty days prior to the beginning of each fiscal year or on such other date as the board may approve upon the request of the city, the city shall prepare and submit a financial plan to the board covering the four year period beginning with such fiscal year. On such dates the mayor shall also submit to the board the city's executive expense, revenue and capital budgets for the ensuing fiscal year and a certificate of the mayor stating that such budgets are consistent with the financial plan submitted therewith, that projections contained in the budgets and financial plan are reasonable, and that operation within the budgets is feasible.

b. Based upon the revenues estimated by the board pursuant to paragraph a of this subdivision the city shall, by October fifteenth, nineteen hundred seventy-five, prepare and submit the financial plan to the board. If the board, in its judgment, determine that such financial plan is complete and would achieve the objectives set forth in subdivision one of this section, the board shall approve the financial plan.] The board shall promptly review each financial plan and financial plan modification submitted by the city. Not more than forty-five days after submission of a financial plan or more than thirty days after submission of a financial plan modification the board shall determine whether the financial plan or financial plan modification is complete and complies with the standards set forth in subdivision one of this section and during an emergency period shall approve or disapprove the financial plan or financial plan modification in accordance with the provisions of this section. If the board determines that the financial plan or financial plan modification is complete and complies with the standards set forth in subdivision one of this section, the board shall approve the financial plan or financial plan modification. Upon making such determination the board shall make a certification to the city setting forth revenue estimates approved by the board in accordance with such determination.

c. The board shall disapprove [the] a financial plan [proposed by the city] or financial plan modification if, in the judgment of the board, such plan during an emergency period it determines that the financial plan or financial plan modification is incomplete or fails to comply with the provisions of subdivision one of this section.

In disapproving a financial plan or a financial plan modification the board may order that one or more of the following actions be taken:

(i) [Fails to provide for the payment in full of the debt service requirements on all bonds and notes of the city and the covered organizations or a lesser amount approved by the boards if a moratorium is in effect pursuant to state law suspending or staying the enforcement of rights with respect to such notes or fails to fund adequately programs of the city and the covered organizations mandated by state or federal law] expenditures or reserves to assure availability of amounts required for debt service requirements on all bonds and notes of the city and the covered organizations or expenditures required for adequate funding of programs of the city and the covered organizations mandated by state or federal law and for which obligations are going to be incurred during the fiscal year, be increased to the levels required to provide for their payment in full;

(ii) Fails to provide that operations of the city and the covered organizations will be conducted within the cash resources available according to the board's
revenue estimates; for the revenue projections for any source during any period be adjusted to comply with the standards set forth in subdivision one of this section; and

(iii) [fails to achieve the objectives set forth in subdivision one of this section; or]

the aggregate expenditures projected for any period be reduced to conform to revenue estimates certified by the board in order to comply with the standards set forth in subdivision one of this section.

(iv) in addition to the foregoing limitations, provides for aggregate expenditures (other than amounts required to pay debt service, pension cost, public assistance and care, and such other amounts as the board determines to be required by law) in the expense budget of the city or in the expense budget of any covered organization for any of the years during which the plan is in effect,

above the level contained in the expense budget adopted by the city or by such covered organization for the fiscal year ending June thirty-first, nineteen hundred seventy-six as modified or amended to the effective date of this act. The board may, upon the request of the city, allow (a) an increase in the expense budget (other than amounts required to pay debt service, pension costs, public assistance and care, and such other amounts as the board determines to be required by law) of the city or of a covered organization for any fiscal year during the emergency period (which increase may be cumulative) equal to two percent of the expense budget (other than amounts required to pay debt service, pension costs, public assistance and care, and such other amounts as the board determines to be required by law) adopted by the city or by such covered organization for the fiscal year ending June thirty-first, nineteen hundred seventy-six as modified or amended to the effective date of this act, or (b) such further increases as the board may approve as required to meet the impact of substantial inflation after the effective date of this act, but in either case only if the board determines that increased revenues are available in an amount equal to the requested increase in expenditures.

d. In disapproving the financial plan proposed by the city the board may direct that:

(i) expenditures or reserves to assure availability of amounts required for debt service requirements on all bonds and notes of the city and the covered organizations, or expenditures required for adequate funding of programs of the city and the covered organizations mandated by state or federal law, be increased to the levels required to provide for their payment in full; or

(ii) the aggregate expenditures in any period be reduced to conform to the revenue estimates of the board prepared pursuant to paragraph a of this subdivision or to achieve the objectives set forth in subdivision one of this section.

e. In d. During an emergency period in the event that the city shall, for any reason, fail to submit a financial plan[, as required pursuant to paragraph b of this subdivision, or to adopt a financial plan approved by the board to be effective by October twentieth, nineteen hundred seventy-five, the board shall formulate and adopt the financial plan to be effective October twentieth, nineteen hundred seventy-five. All subsequent operations by the city or a covered organization shall be in conformance and compliance with the financial plan prior to the beginning of a fiscal year, as required by paragraph a of this subdivision, or in the event that the board has not, for any reason, approved a financial plan submitted by the city prior to the beginning of a fiscal year, the board shall formulate and adopt a financial plan to be effective until the board approves a financial plan submitted by the city. Any financial plan so formulated by the board shall comply with the standards set forth in subdivision one of this section. The budgets and operations of the city and the covered organizations at all times shall be in conformance and compliance with the financial plan then in effect.

f. c. After the initial adoption by the city, or the approval by the board during
an emergency period, of [the] a financial plan, [the revenue estimates prepared by]
the board pursuant to paragraph a of this subdivision and projections of revenues
and expenditures and other estimates contained in the financial plan shall be
[regularly] reexamined by the board at least quarterly in consultation with the city
and the covered organizations and during an emergency period the city shall
[provide a modified financial plan] prepare and submit to the board financial plan
modifications at such times, in such detail and within such time [period] periods as
the board may require in order to modify the financial plan to conform to the
standards set forth in subdivision one of this section. Changes in such revenue
estimates shall be made only by the board. During an emergency period [in]
in the event [of reductions in such revenue estimates, or in the event] the board
determines that (i) revenue estimates must be adjusted to ensure compliance with the
standards set forth in subdivision one of this section, or (ii) that the city or a
covered organization [shall expend] is expending funds at a rate that would
cause expenditures to exceed the aggregate expenditure limitation for the city or
covered organization provided for in the financial plan which has been approved,
prior to the expiration of the fiscal year, the city shall [modify the] submit a
financial plan modification to effect such adjustments in revenue estimates and
reductions in total expenditures as may be necessary to conform to such [revised
revenue estimates or] standards or aggregate expenditure limitations. If, within
a time period specified by the board, [an] during an emergency period the city fails to
make such modification after reductions in revenue estimates, or to provide a
[modified] financial plan modification in the detail [and] or within [such] the
time period [required] specified by the board, [or if such modification is
disapproved by the board, the board may formulate and adopt such
modifications] financial plan modification as it deems appropriate to ensure that
the financial plan, such modifications to] continues to meet the standards set forth
in subdivision one of this section. Such modification shall become effective on
[their] its adoption. Notwithstanding the provisions of this section, in the event the
city shall determine that, due to unforeseen events during a fiscal year, compliance
with the standards set forth in paragraph a of subdivision one of this section would
result in a material adverse impact upon the delivery of essential services, the city
shall notify the board of such determination, together with such information,
projections or analyses relating thereto as the board may require, and shall submit a
modification to the financial plan reflecting such determination. During an
emergency period the board shall disapprove any such modification unless it finds
that (i) the city's determination is supported by information, projections and
analyses which the board deems substantially accurate in all material respects and
(ii) such events, in its judgment, warrant such modification to the financial plan.

[k.] f. The city may, from time to time, [modify the expenditures specified in
the financial plan, subject to the approval of the board. The] submit financial
plan modifications for review by the board. During an emergency period the board
shall approve such modifications unless, in the judgment of the board, it
determines that such modifications would constitute grounds for disapproval of
the financial plan pursuant to paragraph c of this subdivision, or if applicable,
pursuant to paragraph e of this subdivision.

§ 29. Subdivision four of section eight of such act, as amended by chapter
eight hundred eighty-eight of the laws of nineteen hundred seventy-five, is
everywhere amended to read as follows:

4. [The] Each financial plan shall be in such form and shall contain such
information for each year during which the financial plan is in effect as the board
may specify. [shall include the city and all the covered organizations] and shall,
in such detail as the board may from time to time prescribe, include [statements]
projections of all estimated revenues [and of all] expenditures and cash [flow
projections] flows (including but not limited to projected capital expenditures and
debt issuances) and a schedule of projected capital commitments of the city and
except in such instances as the board may deem appropriate each of the covered
organizations. [The financial plan may, with the approval of the board, not
include amounts necessary to provide for the payment of debt service on any
notes of the city or any covered organization if a moratorium is in effect pursuant
to state law suspending or staying the enforcement of rights with respect to such
notes.] In addition, each financial plan and financial plan modification shall
include a statement of the significant assumptions and methods of estimation used in
arriving at the projections contained therein, set forth in such form and in such detail
as the board may from time to time prescribe.

§ 30. Subdivision five of section eight of such act is hereby amended to read as
follows:

5. The [financial plan shall], except to the extent waived by the board with
respect to any limited period, include] city and the covered organizations shall
promptly furnish the board with any information which the board may request to
satisfy itself that (i) projected employment levels, collective bargaining
agreements and other action relating to employee costs, capital construction and
such other matters as the board may specify, are consistent with the provisions
made for such obligations costs in the financial plan, (ii) the city and the
covered organizations are taking whatever action is necessary with respect to
programs mandated by state and federal law to ensure that expenditures for such
programs are limited to and covered by the expenditures stated in the financial
plan, and (iii) adequate reserves are provided to maintain programs mandated by
state and federal law and for which obligations are going to be incurred in the fiscal
year and other essential programs in the event revenues have been overestimated
or expenditures underestimated for any period.

§ 31. Subdivision six of section eight of such act, as amended by chapter eight
hundred seventy of the laws of nineteen hundred seventy-five, is hereby
amended to read as follows:

6. [The] For each financial plan and financial plan modification to be prepared
and submitted by the city to the board pursuant to the provisions of this section, the
covered organizations shall submit to the city [and the board] such information
with respect to their [proposed] projected expenditures [and], revenues, cash
flows and a schedule of projected capital commitments for each year [during which
the] covered by such financial plan [is in effect] or modification as the city [or the
board] shall determine, for inclusion in the financial plan proposed by the city.
Notwithstanding any other provision of law limiting the authority of the city
with respect to any covered organization, the city, in the preparation and
submission of the financial plan and modifications thereof, shall (except for debt
service or for other expenditures to the extent that such expenditures are
required by law) have the power to determine the aggregate expenditures to be
allocated to any covered organization in the financial plan and any modifications
thereof.

§ 32. Section nine of such act, subdivision one as amended by chapter eight
hundred seventy of the laws of nineteen hundred seventy-five and subdivision
four as amended by chapter eight hundred eighty-eight of the laws of nineteen
hundred seventy-five, is hereby amended to read as follows:
§ 9. Establishment and application of emergency financial control board fund. 1. There is hereby established a fund designated the emergency financial control board fund. Commencing on the effective date of the financial plan, and for the duration of the emergency period, all revenues received or to be received by the city or any covered organization shall, unless exempted by order of the board, be revenues of the board fund and shall be for the account of the city and the appropriate covered organizations, but disbursement from the board fund shall be made by the board in accordance with the approved financial plan, except (i) to the extent expressly prohibited by federal law, (ii) where revenues of the city are deposited in the general debt service fund, the TAN debt service account or the RAN debt service account, or (iii) where such revenues are pledged to the payment of any outstanding bonds, notes or other obligations of covered organizations or state public authorities as defined in section two hundred one of the civil service law. Commencing on the effective date of the financial plan, and for the duration of the emergency period, all funds and accounts established or thereafter established by the city or the covered organizations shall, unless exempted by order of the board, thereafter be funds and accounts of the board fund except to the extent expressly prohibited by federal law or to the extent prohibited by covenants or agreements relating to any outstanding bonds, notes or other obligations of covered organizations or public authorities as defined in section two hundred one of the civil service law; and no monies or funds held in the general debt service fund, the TAN debt service account or the RAN debt service account shall be part of the board fund. All such accounts of the board shall have such captions and entries as the board shall determine to be necessary to credit the foregoing revenues and receipts to the board fund. The monies of the board fund shall not be deemed to be money of the state or money under its control.

2. The deposit of revenues into the board fund and the investment or deposit of monies therein shall be made in accordance with and pursuant to procedures established by the board.

3. In order to assure compliance with the financial plan, the board shall from time to time adopt procedures controlling the disbursement of monies from the board fund. The board shall authorize the city to make all disbursements of city revenues from the board fund, which disbursements shall be made in accordance with the approved financial plan; provided, that the board may withdraw such authorization if it determines that (a) any disbursements made or to be made by the city have not been or are likely not to be in compliance with the approved financial plan, (b) the city has violated any other provisions of this act, or (c) the city has violated an agreement with any holder or guarantor of bonds or notes issued by the city or a state financing agency.

4. Within the board fund there is hereby established a special account designated the debt service repayment account. The board shall from time to time direct, in accordance with procedures adopted by the board, the deposit in the debt service repayment account of such amounts as the board shall, in its discretion, determine to be sufficient to meet the debt service requirements of the city and the covered organizations on their bonds and notes (other than bonds and notes of covered organizations payable from revenues not included in the fund) as they become due, for if a moratorium is in effect pursuant to state law suspending or staying the enforcement of rights with respect to any such notes, such amounts as may be required pursuant to a schedule designed by the board to pay or to accumulate before the expiration of the moratorium an amount sufficient for the payment of such notes upon the expiration of the moratorium.

Amounts in the debt service repayment account shall be used to meet such debt service requirements of the city and the covered organizations.

5. If at any time the board determines that the amount then held in the board
fund or the amount estimated by the board to be held in the board fund is or will be insufficient to meet the expenditures in the amounts and at the times required by the financial plan, the board shall require disbursements from the board fund to be made in the following order or priority unless otherwise required by law of the United States of America: (i) the payment of amounts from the board fund to the debt service repayment account, the general debt service fund, the TAN debt service account and the RAN debt service account, to maintain therein the amount required [by subdivision four of this section], to meet debt service requirements of the city and the covered organizations on their bonds and notes as they may become due, (ii) the payment of other liabilities having statutory or contractual priority over remaining liabilities of the city and the covered organizations whose monies are included in the board fund, and (iii) the payment of other obligations on an allocated basis as specified by the city for expenditures in accordance with the financial plan provided that, in the event that the city fails to so specify, the board may withhold payment of any of such other obligations or may direct their payment pro rata.

6. The board shall cause to be performed such pre-audit and post-audit reviews of the board funds and disbursements therefrom as it may determine.

§ 33. Such act is hereby amended by adding thereto a new section, to be section nine-a, to read as follows:

§ 9-a. Establishment and application of a general debt service fund. 1. Commencing July first, nineteen hundred seventy-eight, the city shall establish a general debt service fund for the purpose of paying debt service due or becoming due in the fiscal year commencing on such date and in subsequent fiscal years. All monies in the fund shall be held by the comptroller, who shall administer and maintain the fund in accordance with the provisions of this section.

2. All payments of or on account of real estate taxes or assessments, other than the proceeds of tax anticipation notes, shall be immediately upon receipt deposited in such fund. The comptroller shall retain, disburse and apply monies in the fund during each month as follows:

a. During the first month of each fiscal quarter, there shall be retained in the fund, subject to the provisions of subdivision three of this section, all real estate tax payments deposited in the fund until there shall have been retained from monies so deposited during such month an amount equal to the total monthly debt service, computed as of the date of any disbursement of money from the fund, for the second and third months of such fiscal quarter; provided that such amount shall be reduced by any amount already on deposit in the fund which may be used to pay the monthly debt service for such months.

For purposes of this section, fiscal quarter shall mean the three-month period beginning July first, October first, January first or April first, and monthly debt service shall mean, as of any date of computation, the amount of monies equal to the aggregate of (i) all interest payable during such month on bonds and notes of the city, plus (ii) the amount of principal maturing or otherwise coming due during such month on all bonds of the city, plus (iii) the amount of principal to be paid on notes of the city during such month from sources other than the proceeds of bonds or renewal notes (exclusive of revenue anticipation notes and tax anticipation notes or renewals thereof issued less than two years prior to the date of computation), plus (iv) all amounts payable during such month as sinking fund payments with respect to bonds of the city.

b. During the second and third months of each fiscal quarter, there shall be retained in the fund, subject to the provisions of subdivision three of this section, all real estate tax payments deposited in the fund until there shall have been retained from monies so deposited during such month an amount equal to the total monthly debt service, computed as of the date of any disbursement of monies from the fund, for the first month of the next succeeding fiscal quarter; provided that such amount shall be...
reduced by any amount already on deposit in the fund which may be used to pay the
monthly debt service for such month.

c. During any month of a fiscal quarter, after the retentions required by
paragraphs a and b of this subdivision have been made for such months, the
comptroller shall deposit any remaining balance of real estate taxes received during
such month, first into the TAN debt service account to the extent required under
subdivision six of this section, and second into the board fund to be applied in
accordance with procedures of the board.

d. The city may at any time pay into the fund any monies required by law to be
used to pay monthly debt service and any other monies available for such purpose.

e. Subject to agreements made with holders or guarantors of outstanding notes or
bonds issued by or for the benefit of the city after the effective date of this act, the
comptroller shall invest the monies retained in the fund in accordance with law.

3. The board may approve, subject to agreements made with the holders or
 guarantors of outstanding notes or bonds issued by or for the benefit of the city after
the effective date of this act, criteria for calculating a proportion of real estate tax
receipts to be retained in the fund in order to provide for the retention of amounts
required by the provisions of subdivision two of this section in lieu of initial receipts
as required by such subdivision; provided, that if the board at any time determines
that retentions in the fund pursuant to the provisions of such subdivision are or are
likely to be insufficient to provide for the payment of monthly debt service when due,
in order to ensure that the amounts on deposit in the fund will be sufficient to pay
such obligation, the board shall require (i) that real estate tax receipts
be retained in the fund in greater amounts or at earlier dates than the provisions of
such subdivision require, or (ii) that other revenues or cash resources of the city be
paid into the fund. The board shall consider the impact of earlier or larger retention
of real estate tax receipts on the city’s seasonal borrowing requirements when
determining whether it shall require such additional retention or that other revenues or
cash resources of the city be paid into the fund. Prior to the issuance by the city of any
bonds or notes, the board shall review any criteria then in effect which determine the
proportion of real estate tax receipts to be retained in the fund to determine whether the
proposed debt service schedule for such bonds or notes is consistent with the monies
which will be available therefor or whether such criteria should be revised. The board
shall take such action as is necessary, including disapproval of a proposed issue, so
that the monies in the fund shall be adequate to meet debt service requirements to be in
effect after the issuance of such bonds or notes.

4. Commencing August first, nineteen hundred seventy-eight, the payment of
monthly debt service shall be made, first, from amounts retained in the fund. Amounts
retained in the fund shall be used only to pay debt service of the city.

5. Upon the issuance of any tax anticipation notes following the effective date of
this act, the comptroller shall establish and, so long as any tax anticipation notes shall
be outstanding, shall maintain a tax anticipation note debt service account within the
fund for the purpose of paying the principal of tax anticipation notes.

6. The city shall determine the date on which the principal due or to become due on
an outstanding issue of tax anticipation notes shall equal ninety percent of the
available tax levy with respect to such issue, and upon reasonable notice thereof the
comptroller shall commence on such date to pay into the TAN debt service account
from collections of such taxes and assessments, after retaining amounts required to be
deposited in the fund, amounts sufficient to pay when due, the principal of such issue
of tax anticipation notes. The payments of the principal of tax anticipation notes
shall be made, first, from amounts on deposit in the TAN debt service account.

7. Upon the issuance of any revenue anticipation notes following the effective date
of this act, the comptroller shall establish and, so long as any revenue anticipation
notes shall be outstanding, shall maintain a revenue anticipation note debt service
account within the fund for the purpose of paying the principal of revenue
anticipation notes.
8. Commencing on the day when the city determines that the principal due or to become due on an outstanding issue of revenue anticipation notes shall equal ninety percent of the total amount of revenue against which such notes were issued remaining to be paid to the city or on before the fifth day prior to the maturity date of such notes, the city shall pay into the RAN debt service account from amounts received by the city for each specific type of revenue in anticipation of which revenue such anticipation notes were issued, an amount sufficient to pay, when due, the principal of such revenue anticipation notes. The payment of the principal of revenue anticipation notes shall be made first from amounts on deposit in the RAN debt service account.

9. Whenever the amount contained in the TAN debt service account or the RAN debt service account exceeds the amount required to be on deposit in such account such excess monies shall be withdrawn from such account and paid into the board fund.

10. The limitations imposed upon the city by this section shall be in addition to any limitations imposed upon the city under the local finance law. In the event any provisions of the local finance law shall be inconsistent with the provisions of this section, the provisions of this section shall prevail. The requirements of this section shall not apply to any note of the city held by the municipal assistance corporation for the city of New York on the effective date of this act.

§ 34. Such act is hereby amended by adding thereto a new section, to be section nine-b, to read as follows:

§ 9-b. Limitations on short-term borrowing. 1. The limitations on short-term borrowing imposed upon the city by this section shall be in addition to the limitations on short-term borrowing imposed on the city under the local finance law. In the event any provisions of the local finance law shall be inconsistent with the provisions of this section, the provisions of this section shall prevail. For the purposes of this section the terms “bond anticipation notes”, “tax anticipation notes”, and “revenue anticipation notes” shall not mean one or more of or any of the respective notes held by the municipal assistance corporation for the city of New York on the effective date of this act.

2. a. No tax anticipation notes shall be issued by the city in anticipation of the collection of taxes or assessments levied for a fiscal year which would cause the principal amount of such issue of tax anticipation notes to exceed an amount equal to ninety per cent of the available tax levy with respect to such issue.

b. Tax anticipation notes and renewals thereof shall mature not later than the last day of the fiscal year in which they were issued.

3. a. No revenue anticipation note shall be issued by the city in anticipation of the collection or receipt of revenue in a fiscal year which would cause the principal amount of revenue anticipation notes outstanding to exceed ninety per cent of the available revenues for such fiscal year. For purposes of this subdivision, available revenues shall be the revenues other than real estate taxes and assessments which have been estimated in the financial plan to be realized in cash during such year, less revenues previously collected, other than revenues on deposit in the RAN debt service account or any special fund established pursuant to law for the payment of interest and/or principal of revenue anticipation notes.

b. Each issue of revenue anticipation notes shall be issued only in anticipation of the receipt of a specific type or types of revenue and the amount of revenue, the source of revenue and the anticipated date of payment shall be stated in the proceedings authorizing the issuance of such notes.

c. Revenue anticipation notes shall mature not later than the last day of the fiscal year in which they were issued, and may not be renewed or extended to a date more than ten days after the anticipated date of receipt of such revenue. No such renewal note shall mature after the last day of such fiscal year unless the board shall certify that the revenue against which such renewal note is issued has been properly accrued and estimated in the financial plan in effect on the date of issuance of such renewal note.

not; provided that in no event shall any such renewal notes mature later than one
year subsequent to the last day of the fiscal year during which such revenue ant-
icipation notes were originally issued.

4. a. No bond anticipation note shall be issued by the city in any fiscal year which
would cause the principal amount of bond anticipation notes outstanding, together
with interest due or to become due thereon, to exceed fifty per cent of the principal
amount of bonds issued by the city in the twelve months immediately preceding the
month in which the note is to be issued.

b. The proceeds of each bond issue shall be (i) held in trust for the payment, at
maturity, of the principal and interest on any bond anticipation notes of the city
issued in anticipation of such bonds and outstanding at the time of the issuance of
such bonds, (ii) paid into the general fund of the city in repayment of any advance
made from such fund pursuant to section 105.10 of the local finance law, and (iii)
any balance shall be expended for the object or purpose for which such bonds were
issued.

c. Bond anticipation notes shall mature not later than six months after their date of
issuance and may be renewed for a period not to exceed six months.

5. Budget notes issued pursuant to section 29.00 of the local finance law may only
be issued to fund projected expense budget deficits. No budget notes or renewals
thereof, shall mature later than sixty days prior to the last day of the fiscal year next
succeeding the fiscal year during which such budget notes were originally issued.

6. The city shall issue no obligations which shall be inconsistent with the financial
plan or with the limitations set forth in subdivisions one through five of this section.

§ 35. Section ten of such act is hereby amended by adding thereto a new
subdivision, to be subdivision three, to read as follows:

3. The provisions of this section shall terminate on July first, nineteen hundred
seventy-eight.

§ 36. Such act is hereby amended by adding thereto a new section ten-a to
read as follows:

§ 10-a. Covenants. 1. In the event that after the date on which the provisions of this
act become operative, any notes or bonds are issued by the city prior to July first,
nineteen hundred eighty-two, or any bonds are issued by a state financing agency, the
state of New York hereby authorizes the city and authorizes and requires such state
financing agency to include a pledge and agreement of the state of New York in any
agreement made by the city or such state financing agency with holders or guarantors
of such notes and bonds that the state will not take any action which will (a)
substantially impair the authority of the board during an emergency period, as
defined in subdivision twelve of section two of this act as in effect on the date such
notes or bonds are issued (i) to disapprove or modify any financial plan or financial
plan modification, including the revenue estimates contained therein, which does not
comply with the standards of paragraphs a, c, d, e and f of subdivision one of section
eight of this act as in effect on the date such notes or bonds are issued, (ii) to
disapprove a contract of the city or a covered organization if the performance of such
contract would be inconsistent with the financial plan and to approve or disapprove a
proposed short-term and long-term borrowing of the city or a covered organization,
and (iii) to establish and adopt procedures with respect to the deposit in and
disbursement from the board fund of city revenues; (b) substantially impair the
authority of the board to review financial plans, financial plan modifications,
contracts of the city or the covered organizations and proposed short-term or long-term
borrowings of the city, and the covered organizations; (c) substantially impair the
independent maintenance of a separate fund for the payment of debt service on bonds
and notes of the city; (d) alter the composition of the board so that the majority of the
voting members of the board are not officials of the state of New York or appointees of
such officials; (e) terminate the existence of the board prior to the time to be
determined in accordance with section thirteen of this act as in effect on the date such
notes or bonds are issued; (f) substantially modify the requirement that the city's
financial statements be audited by a nationally recognized independent certified
public accounting firm or consortium of firms and that a report on such audit be
furnished to the board; or (g) alter the definition of emergency period set forth in
subdivision twelve of section two, as in effect on the date such notes or bonds are
issued, or substantially alter the authority of the board, as set forth in said subdivision
to re impose or terminate an emergency period; provided, however, that 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 a bank, trust company or other fiduciary
sufficient moneys or direct obligations of the United States or an agency thereof, 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 of and interest on all outstanding notes or bonds of the city or such state
financing agency subject to this pledge and agreement and irrevocable instructions
from the city or such state financing agency to such bank, trust company or other
fiduciary for such payment of such principal and interest with such moneys shall
have been given, or (ii) such notes or bonds, together with interest thereon, have been
paid in full at maturity or have otherwise been refunded, redeemed, defeased, or
discharged; and provided further that the foregoing pledge and agreement shall be of
full force and effect upon its inclusion in any agreement made by the city or state
financing agency with holders or guarantors of such notes or bonds.

2. Every such bond or note which shall have the benefit of the pledge and agreement
referred to in subdivision one above shall be callable for redemption at not later than
the eleventh anniversary of its date of issuance and shall contain on its face a recital to
such effect, together with the terms and conditions under which such obligation may be
redeemed.

3. Nothing in this section contained shall preclude the state from authorizing the
board or the city to exercise, or the board or 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 a further exercise of its powers
under article eight, section twelve, of the state constitution.

§ 37. Subdivision one of section eleven of such act is hereby amended to read
as follows:

1. During the emergency period (i) no officer or employee of the city or of
any of the covered organizations shall make or authorize an obligation or other
liability in excess of the amount available therefor under the financial plan as
then in effect; (ii) no officer or employee of the city or of any of the covered
organizations shall involve the city or any of the covered organizations in any
contract or other obligation or liability for the payment of money for any
purpose required to be approved by the board unless such contract, obligation or
liability has been so approved or deemed to be approved as provided in
[paragraphs] paragraphs e and f of subdivision one of section seven and unless such
contract or obligation or liability is in compliance with the financial plan as then
in effect.

§ 38. Section twelve of such act is hereby repealed.

§ 39. Such act is hereby amended by adding thereto a new section, to be
section twelve, to read as follows:

§ 18. a. The state shall save harmless and indemnify members, officers and
employees of and representatives to the board, all of whom shall be deemed officers and
employees of the state for purposes of section seventeen of the public officers law,
against any claim, demand, suit, or judgment arising by reason of any act or
omission to act by such member, officer, employee or representative occurring in the
discharge of his duties and within the scope of his service on behalf of such
corporation including any claim, demand, suit or judgment based on allegations that
financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations. In the event of any such claim, demand, suit or judgment, a member, officer or employee of or representative to the board shall be saved harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted in good faith, for a purpose which he reasonably believed to be in the best interest of the board or to have had reasonable cause to believe that his conduct was lawful.

b. In connection with any such claim, demand, suit, or judgment, any member, officer or employee of or representative to the board shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the attorney general determines based upon his investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the comptroller. Reasonable attorney fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the individual is entitled to representation under the terms and conditions of this section by the chairman of the board, upon the audit and warrant of the comptroller. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon members, officers, or employees of and representatives to the board by section seventeen of the public officers law, by action of the board or otherwise. The provisions of this subdivision shall inure only to members, officers and employees of and representatives to the board, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 40. Such act is hereby amended by adding thereto a new section thirteen to read as follows:

§ 13. Termination. This act shall terminate (a) on July first, two thousand eight or (b) when all bonds and notes containing the pledge and agreement authorized by section ten-a of this act are refunded, redeemed, discharged or otherwise defeased, whichever shall occur earlier.

§ 41. Such law is hereby amended by adding thereto a new section 54.10 to read as follows:

§ 54.10 Costs of sales. To facilitate the marketing of any issue of bonds or notes of the city of New York issued on or before June thirtieth, nineteen hundred eighty-two, such city may, subject to the limitations on private sales of bonds provided by law, (i) arrange for the underwriting of its bonds or notes at private sale through negotiated agreement, compensation for such underwriting to be provided by negotiated fee or by sale of such bonds or notes to an underwriter at a price of less than the sum of par value of, and the accrued interest on, such obligations; or (ii) arrange for the private sale of its bonds or notes through negotiated agreement, compensation for such sales to be provided by negotiated fee, if required. The cost of such underwriting or private placement shall be deemed a preliminary cost for purposes of section 11.00 of this chapter.

§ 42. Paragraph a of section 57.00 of such law, as amended by chapter nine hundred two of the laws of nineteen hundred seventy-two, is hereby amended to read as follows:

a. Bonds shall be sold only at public sale and in accordance with the procedure set forth in this section and sections 58.00 and 59.00 of this chapter, except as
otherwise provided in this paragraph. Bonds may be sold at private sale to the
United States government, the state of New York municipal bond bank agency
[or], to any sinking fund or pension fund of the municipality, school district or
district corporation selling such bonds, or, in the case of sales by the city of New
York prior to July first, nineteen hundred eighty-two, also to the municipal
assistance corporation for the city of New York or to any other purchaser with the
consent of the mayor and the comptroller of such city and approval of the New York
state emergency financial control board for the city of New York, or, in the case of
bonds or other obligations of a municipality issued for the construction of any
sewage treatment works, sewage collecting system, storm water collecting
system, water management facility, air pollution control facility or solid waste
disposal facility, also to the New York state environmental facilities corporation.
Bonds of a river improvement or drainage district established by or under the
supervision of the department of environmental conservation may be sold at
private sale to the State of New York as investments for any funds of the state
which by law may be invested, provided, however, that the rate of interest on
any such bonds so sold shall be approved by the water power and control
commission and the state comptroller. Bonds may also be sold at private sale as
provided in section 63.00 of this chapter. No bonds shall be sold on option or on a
deferred payment plan, except that options to purchase, effective for a period not
exceeding one year, may be given:
1. in any case to the state of New York municipal bond bank agency with
respect to any bonds or bond anticipation notes; and
2. in the case of a municipality to the New York state environmental facilities
corporation with respect to bonds or other obligations issued for the construction
of any sewage treatment works, sewage collecting system, storm water collecting
system, water management facility, air pollution control facility or solid waste
disposal facility. A loan commitment may also be entered into by and between a
municipality, and the state of New York municipal bond bank agency and by
and between a municipality and the New York state environmental facilities
corporation, such commitment to be fulfilled by the purchase of the bonds or
other obligations referred to therein by such agency or such corporation, as the
case may be. As used in this paragraph, the term “sinking fund” means a fund
required by law to be established and maintained for the purpose of amortizing
indebtedness evidenced by sinking fund bonds issued pursuant to the provisions
of this chapter or issued by any municipality, school district or district
corporation under any other law.
§ 43. Paragraph b of section 57.00 of such law, as amended by chapter one
hundred ninety-one of the laws of nineteen hundred seventy-eight, is hereby
amended to read as follows:
b: Bonds shall be sold at a rate of interest not to exceed five per centum per
annum, and for a sum not less than the par value of, and accrued interest on,
such obligations except as authorized by section 54.10 of this chapter, except that
bonds may be sold at any time after the thirtieth day of June, nineteen hundred
seventy-six, and prior to the first day of July, nineteen hundred seventy-nine or,
in the case of the city of New York, prior to July first, nineteen hundred eighty-two,
without limitation as to the rate of interest and may also be sold by
municipalities at private sale to the state of New York municipal bond bank
agency, and in addition by the city of New York prior to July first, nineteen hundred
eighty-two, to the municipal assistance corporation for the city of New York, at such
rate or rates of interest as may be agreed upon by and between the issuing
municipality and either of such agency agencies. When sold at public sale, the
rate of interest shall be determined in the manner provided in section 59.00 of
this chapter. However, the agency prescribing the terms, form and contents of
such bonds, subject to the foregoing provisions of this paragraph, may fix a
maximum rate of interest at which such bonds shall be sold.
§ 44. Paragraph b. of section 60.00 of such law, as amended by chapter one
hundred ninety-one of the laws of nineteen hundred seventy-eight, is hereby
amended to read as follows:
b. Notes shall be sold at a rate of interest not to exceed five per centum per
annum, and for a sum not less than the par value of, and the accrued interest on,
such obligations except as authorized by section 54.10 of this chapter, except that
notes may be sold at any time after the thirtieth day of June, nineteen hundred
seventy-six, and prior to the first day of July, nineteen hundred seventy-nine or,
in the case of the city of New York, prior to July first, nineteen hundred eighty-two,
without limitation as to the rate of interest and bond anticipation notes of
municipalities may be sold to the state of New York municipal bond bank
agency, and in addition by the city of New York prior to July first, nineteen hundred
eighty-two, to the municipal assistance corporation for the city of New York, at such
rate or rates of interest as may be agreed upon by and between the issuer and
either of such [agency] agencies.
§ 45. Subdivision three of paragraph g of section 90.00 of such law, as
amended by chapter seven hundred eleven of the laws of nineteen hundred forty-
three, is hereby amended to read as follows:
3. Outstanding bonds may, pursuant to a power to recall and redeem or with the
consent of the holders thereof, be exchanged for refunding bonds (i) if the
refunding bonds are to bear interest at a rate equal to or lower than that borne by
the bonds to be refunded (ii) if, in the case of the city of New York prior to July
first, nineteen hundred eighty-two, the annual payment required for principal and
interest on the refunding bond is less than the annual payment required for principal
and interest on the bond to be refunded; in each case such annual payments to be
determined by dividing the total principal and interest payments due over the
remaining life of the bond by the number of years to maturity of the bond or (iii) if, the
bonds to be refunded were issued by the city of New York after June thirtieth, nineteen
hundred seventy-eight and prior to July first, nineteen hundred eighty-two and
contain covenants referring to the existence of the New York state emergency financial
control board for the city of New York or any other covenants relating to matters other
than the prompt payment of principal and interest on the obligations when due and
the refunding bond is without a covenant referring to the existence of the New York
state emergency financial control board for the city of New York or any other covenant
relating to matters other than the prompt payment of principal and interest on the
obligation when due.
§ 46. Paragraph d. of section 107.00 of such law is hereby amended by adding
a new subdivision eight to read as follows:
8. Notwithstanding any other provision of law, the financing by the city of New
York prior to July first, nineteen hundred eighty-two of any object or purpose which
has a period of probable usefulness determined by law by the issuance of any bonds or
notes, including (i) the issuance of bonds or notes to obtain reimbursement for funds
heretofore advanced for the object or purpose for which the bonds or notes are being
issued, (ii) the issuance of bonds or notes to redeem notes previously issued for the
object or purpose for which the bonds or notes are being issued or (iii) the issuance of
bonds to refund bonds previously issued for the object or purpose for which bonds are
being issued.
§ 47. Such law is hereby amended by adding thereto a new section 165.20 to
read as follows:
§ 165.20 Exchanges of certain bonds or notes. Notwithstanding any other
provisions of this chapter, the city of New York prior to July first, nineteen hundred
eighty-two shall be authorized to exchange bonds or notes of such city for any notes of
such city held by the municipal assistance corporation for the city of New York as provided in section three thousand thirty-five of the public authorities law.

§ 48. Subdivision one of paragraph b of section 90.10 of such law, as added by chapter two hundred sixty-four of the laws of nineteen hundred seventy-seven, is hereby amended to read as follows:

1. A municipality, school district or district corporation may issue serial bonds on or before June thirtieth, nineteen hundred seventy-nine, and the city of New York may, in addition, issue serial bonds on or before June thirtieth, nineteen hundred eighty-two, to refund all or any portion of an issue of outstanding serial bonds issued on or after January first, nineteen hundred seventy, in the manner and subject to the limitations and conditions set forth in this section. The principal amount of refunding bonds shall not exceed an amount sufficient to pay the sum of (a) the principal amount of the bonds to be refunded, which is outstanding as of the date of issue of the refunding bonds, (b) the aggregate amount of unmatured interest payable on the bonds to be refunded and including either the date or dates such bonds mature or, if such bonds are to be called for redemption prior to their maturities, the date or dates set for such redemption in accordance with the refunding financial plan, (c) redemption premiums, if any, payable on the bonds to be refunded as of such redemption date or dates, and (d) costs and expenses incidental to the issuance of the refunding bonds, including the development of the refunding financial plan, and of executing and performing the terms and conditions of the escrow contract and all fees and charges of the escrow holder.

§ 49. Subdivision two of paragraph b of section 90.10 of such law, as added by chapter two hundred sixty-four of the laws of nineteen hundred seventy-seven, is hereby amended to read as follows:

2. (a) Refunding bonds shall be issued only in the event that the present value of the total payments of both principal and interest to become due on the refunding bonds, excluding all such principal and interest payments to be made from income received as a result of the investment of the proceeds from the sale of the refunding bonds, shall be less than the present value of the principal and interest payments to become due at their stated maturities on the principal amount of bonds to be refunded which are outstanding as of the date of issue of the refunding bonds after deducting therefrom all costs and expenses incidental to the issuance of the refunding bonds, including the development of the refunding financial plan, and of executing and performing the terms and conditions of the escrow contract and all fees and charges of the escrow holder, but only to the extent such costs and expenses are not paid from the proceeds of the refunding bonds. The present value of debt service payments pursuant to the foregoing provisions of this subdivision shall be computed by discounting the principal and interest payments on both the refunding bonds and the bonds to be refunded from the respective maturities thereof to the date of issue of the refunding bonds at a rate equal to the effective interest cost of the refunding bonds. The effective interest cost of the refunding bonds shall be that rate which is arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the maturity dates thereof to the date of issue of the refunding bonds and to the price bid including estimated accrued interest.

(b) Notwithstanding the provisions of subparagraph (a) of this subdivision, the city of New York may also issue refunding bonds (i) if the annual payment required for principal and interest on the refunding bond is less than the annual payment required for principal and interest on the bond to be refunded, in each case such annual payments to be determined by dividing the total principal and interest payments due over the remaining life of the bond by the number of years to maturity of the bond or (ii) if the bond to be refunded contains a covenant referring to the existence
of the New York state emergency financial control board for the city of New York or
any other covenant relating to matters other than the prompt payment of principal and
interest on the obligation when due, and the refunding bond contains no covenant
relating to matters other than the prompt payment of principal and interest on the
obligation when due.

§ 50. Subdivision five of paragraph e of section 90.10 of such law, as added by
chapter two hundred sixty-four of the laws of nineteen hundred seventy-seven, is
hereby amended to read as follows:
5. The financial plan for the refunding proposed, showing the sources and
amounts of all moneys required to accomplish such refunding, together with
and except where such refunding bonds are issued by the city of New York pursuant
to subparagraph (b) of subdivision two of paragraph b of this section an estimate of
the present value of the total debt service savings anticipated, computed in
accordance with subparagraph (a) of subdivision two of paragraph b of this
section.

§ 51. Paragraph g of section 90.10 of such law, as added by chapter one
hundred eighty-one of the laws of nineteen hundred seventy-eight, is hereby
amended to read as follows:

g. [No] Except where such refunding bonds are issued by the city of New York
pursuant to subparagraph (b) of subdivision two of paragraph b of this section, no
refunding bonds shall be issued pursuant to this section unless the chief fiscal
officer of the issuer shall have first filed with the finance board a certificate,
approved by the state comptroller, which shall be final and conclusive upon all
parties, setting forth the present value of the total debt service savings to the
issuer resulting from the issuance of the refunding bonds computed in accordance
with the provisions of subparagraph (a) of subdivision two of paragraph b of this
section, except that the actual amount, rather than an estimate, of the amount of
accrued interest to be paid on such bonds shall be used in determining the
effective interest cost thereof. The certificate shall be in the form and shall
contain such information as shall be prescribed by the state comptroller. The
certificate shall not be approved until ten days after the filing of such certificate
in the office of the state comptroller.

§ 52. Subdivision three of paragraph j of section 90.10 of such law, as added
by chapter two hundred sixty-four of the laws of nineteen hundred seventy-
seven, is hereby amended to read as follows:
3. Outstanding bonds may, with the consent of the holders thereof, be
exchanged for refunding bonds (i) if the refunding bonds are to bear interest at a
rate equal to or lower than that borne by the bonds to be refunded (ii) if, in the
case of the city of New York, the annual payment required for principal and interest
on the refunding bond is less than the annual payment required for principal and interest
on the bond to be refunded, in each case such annual payments to be
determined by dividing the total principal and interest payments due over the
remaining life of the bond by the number of years to maturity of the bond or (iii) if, in
the case of the city of New York, the bond to be refunded contains a covenant referring
to the existence of the New York state emergency financial control board for the city of
New York or any other covenant relating to matters other than the prompt payment of
principal and interest on the obligation when due, and the refunding bond contains no
covenant relating to matters other than the prompt payment of principal and interest
on the obligations when due.

§ 53. The state finance law is hereby amended by adding a new section fifty-
four-d to read as follows:
§ 64-d. Advance payment of state moneys; authorization only by law.
Notwithstanding any other provision of law to the contrary no payment of state
moneys to any county, city, town, village or school district shall be made prior to the
date such moneys are due and payable unless expressly authorized by an act of the
legislature.
§ 54. Section three thousand thirty-four of the public authorities law is
hereby amended by adding a new subdivision three to read as follows:
3. The corporation shall have the power to make and execute contracts to pay the
expenses of operation of the emergency financial control board for the city of New
York, within the appropriation available therefor and including the repayment to the
state of any advance to such board under any agreement between the board and the
director of the budget, out of any revenues available to the corporation and not,
otherwise pledged except the proceeds of its notes and bonds.
§ 55. The opening paragraph of section three thousand thirty-eight of such
law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred
seventy-five, is hereby amended to read as follows:
The corporation shall, at the time of any exchange of the corporation's bonds
and notes for short-term obligations of the city pursuant to subdivision two of
section three thousand thirty-five of this chapter or any payment of funds of the
corporation to the city or of any purchase from the city of its obligations
pursuant to section three thousand thirty-seven of this chapter, require the city
to agree to observe and perform the conditions set forth below in this section,
with such limitations as to the implementation of such conditions as the
corporation may, subject to any contract with bondholders or note holders, then
approve; provided, however, that no such specific limitations shall be so
substantial as to effectively constitute a waiver of any such conditions. Any such
conditions may thereafter, in the discretion of the corporation, subject to any
contract with bondholders or note holders, be further limited. Such conditions
shall cease to apply when all notes and bonds have been repaid or when the
corporation has accumulated in its capital reserve [fund] funds or otherwise an
amount equal to the principal of all outstanding notes and bonds and interest
accrued thereon. The city shall have the right at any time to pay the corporation
an amount which, when added to the capital reserve [fund] funds, shall equal the
principal of all outstanding notes and bonds and interest accrued thereon and
redemption premium if any. If the city makes such payment at a time when the
corporation has outstanding notes or bonds that are not then callable, the city
shall agree to pay the corporation on demand an amount equal to the amount, if
any, by which the amount of interest on such notes or bonds shall exceed the
corporation's income from the investment of its funds. Subject to the foregoing,
the conditions that the corporation shall require the city to observe and perform
shall be as follows:
§ 56. Subdivision two of section three thousand thirty-eight of such law, as
added by chapter one hundred sixty-nine of the laws of nineteen hundred
seventy-five, is hereby amended to read as follows:
2. (a) The city shall, within ninety days after the first such agreement,
initiate steps to adopt as the city's method of accounting for purposes of
reporting to the corporation with respect to the city's financial condition and
compliance with the conditions of this section, the accounting principles set forth
in the state comptroller's uniform system of accounts for municipalities, as the
same may be modified by the state comptroller, in consultation with the city
comptroller, for application to the city. The city shall complete the transition to
such accounting method as promptly as reasonably practicable thereafter and, in
any event, so that the audited financial statements for the fiscal year ending
June thirtieth, nineteen hundred seventy-eight [and for each subsequent fiscal
year that is to be provided to the corporation pursuant to subdivision three of
this section three thousand thirty-eight] shall be prepared in accordance with
such accounting methods, except as provided below in this subdivision. It is
recognized that the adoption of such accounting principles may result in
substantial adjustments from the accounting principles now followed by the city.
The corporation and the city shall consult, over the course of the introduction
and adoption of such accounting system, in order to and the accounting methods
referred to in section eight of the New York state financial emergency act for the city of
New York, and until the expiration of the fiscal year ending June thirtieth, nineteen
hundred seventy-eight, the corporation and the city may formulate a mutually
acceptable method of phasing such adjustments into such the accounting
system described in this paragraph over such reasonable period, not exceeding ten
years, as the corporation may determine to be appropriate and the financial
statements and other information to be furnished to the corporation may,
notwithstanding any other provision of this section three thousand thirty-eight
be prepared in accordance with such determination.

(b) For the fiscal year ending June thirtieth, nineteen hundred seventy-nine, and
for each fiscal year thereafter, the city’s expense budget shall be prepared in
accordance with the provisions of section eight of the New York state financial
emergency act for the city of New York.

§ 57. Subdivision four of section three thousand thirty-eight of such law, as
amended by chapter one hundred eighty-five of the laws of nineteen hundred
seventy-seven, is hereby amended to read as follows:

4. Beginning with the fiscal year ending June thirtieth, nineteen hundred
seventy-seven and for each fiscal year thereafter, the city shall deliver a proposed
expense budget to the corporation. Delivery to the corporation shall be made
concurrently with the initial submission of the proposed expense budget to the
board of estimate and the city council, but in any event not later than forty-
five days prior to the beginning of such fiscal year or such other date as the
 corporation may approve upon the request of the city. Beginning with the fiscal year
ending June thirtieth, nineteen hundred seventy-eight, and for each fiscal year
thereafter, the proposed expense budget submitted to the corporation shall be
prepared in accordance with the accounting methods referred to in subdivision two of this section [(except as may be modified by the
application of subdivision five of this section)]. Such budget shall be identical to
the proposed expense budget submitted to the board of estimate and city council
(except for any differences resulting from the application of such accounting
principles]. The proposed expense budget delivered to the corporation shall be
accompanied by (i) a statement setting forth in detail the assumptions of income
and expense used in its preparation, (ii) for the fiscal year ending June thirtieth,
nineteen hundred seventy-eight, a reconciliation of the differences, if any, between
such proposed expense budget and the proposed expense budget [submitted to
the board of estimate and the city council] based on the applicable accounting
methods set forth in subdivision two of this section but without adjustments or
modifications permitted by this title, and for each subsequent fiscal year a
reconciliation between such proposed expense budget and the proposed budget based
on the principles described in section eight of the New York state financial emergency
act for the city of New York, and (iii) a certificate of the mayor stating that such
assumptions are reasonable and that operation within the budget is feasible and
explaining the reasons for any differences therein from the proposed expense
budget [submitted to the board of estimate and the city council] described in
clause (ii) above. (The] Subject to and in accordance with the provisions of section
eight of the New York state financial emergency act for the city of New York, as the
same may be amended from time to time, the city shall in every fiscal year adopt and
maintain an expense budget in which the total of all income items equals or
exceeds the total of all expenditure items. For the fiscal year ending June
thirtieth, nineteen hundred seventy-eight and each subsequent fiscal year the
total of all income items shall also equal or exceed the total of all expenditure
items in each expense budget as adopted by the city, after the adjustments, if
any, required to conform to the accounting methods referred to in subdivision two of this section (except as may be modified by the
application of subdivision five of this section) and the city shall also maintain a
budget balanced in accordance with such accounting principles.

[Notwithstanding] Prior to July first, nineteen hundred eighty-two and
notwithstanding any other provision of this section to the contrary, any expense
item in the expense budget for any fiscal year, which item relates to
contributions by the city or other public employer to any retirement system or
pension fund, shall include only the amounts which, under the provisions of law,
rules or regulations expressly prescribing the method of determining employer
contributions to such retirement system or pension fund and the time of
payment thereof, are due and payable in such fiscal year, and no such expense
item shall include amounts for any such contribution which, under such laws,
rules or regulations, do not become due and payable in such fiscal year.

§ 58. The opening paragraph of subdivision five of section three thousand
thirty-eight of such law, as added by chapter one hundred sixty-nine of the laws
of nineteen hundred seventy-five, is hereby amended to read as follows:

The city shall, over a period of ten fiscal years (except as provided in
paragraph (e) of this subdivision), beginning with its fiscal year ending June
thirtieth, nineteen hundred seventy-seven, eliminate from its capital budget
those expenses that are properly includable only in its expense budget, as
determined in accordance with the accounting principles set forth in the state
comptroller’s uniform system of accounts for municipalities, as the same may be
modified by the state comptroller, in consultation with the city comptroller, for
application to the city. The determination of which items are properly includable
only in the city’s expense budget shall be made in accordance with the aforesaid
accounting principles regardless of any act of the legislature prior or subsequent
to the effective date of this title otherwise classifying such items. To implement
the foregoing:

§ 59. Paragraph (e) of subdivision five of section three thousand thirty-eight
of such law, as amended by chapter one hundred eighty-five of the laws of
nineteen hundred seventy-seven, is hereby amended to read as follows:

(c) Unless the corporation shall approve the inclusion of a greater amount
with respect to any such fiscal year, the aggregate amount of all such expense
items included in the capital budget, including judgments and claims related to
other than capital projects, for the fiscal year ending June thirtieth, nineteen
hundred seventy-seven and for each fiscal year thereafter shall be reduced at
the cumulative rate of ten percent per year from the aggregate amount for the
nineteen hundred seventy-six fiscal year set forth in the report provided for
under paragraph (b) of this subdivision (or set forth in the certification under
paragraph (a) of this subdivision if such report has not then been prepared). For
the fiscal year ending June thirtieth, nineteen hundred seventy-nine the maximum
aggregate amount of all such expense items included in the capital budget shall be four
hundred fifty million dollars and for each of the following two fiscal years the
aggregate amount of all such expense items included in the capital budget shall be
substantially reduced from the aggregate amount for the nineteen hundred seventy-
nine fiscal year. For the fiscal year ending June thirtieth, nineteen hundred
eighty-six eighty-two and thereafter, no such expense items shall be included in
the city’s capital budget;

§ 60. Paragraph (e) of subdivision five of section three thousand thirty-eight
of such law is hereby repealed and paragraph (f) is hereby relettered (e).

§ 61. Subdivision eight of section three thousand thirty-eight of such law, as
added by chapter one hundred sixty-nine of the laws of nineteen hundred
seventy-five, is hereby amended to read as follows:
8. The city shall comply in all material respects with the expenditure limitations in its budgets as adopted or modified in accordance with subdivisions four and six of this section, except as far as any noncompliance is the result of (a) such unanticipated circumstance occurring during such fiscal year that would permit the issuance of budget notes, or (b) a mandatory increase in expenditures by reason of state or federal legislation enacted after the adoption of the city’s budget for such fiscal year, and with section eight of the New York state financial emergency act for the city of New York as the same may from time to time be amended.

§ 62. Subdivision two of section three thousand forty of such law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

2. If, within forty-five days after such receipt of a proposed expense budget, report on expense items, expenditure plan or operations report, or, if within thirty days after such receipt of a proposed modification, the board of directors shall, in its judgment, determine that any such expense budget will not be balanced in accordance with the provisions of subdivision four of section three thousand thirty-eight, either by its terms or because income is overestimated or expenditures are underestimated therein, or that a report of proposed modification pursuant to subdivision six of section thirty-eight of this chapter reflects that the expense budget would thereafter not be balanced in accordance with the provisions of subdivision four of section three thousand thirty-eight, or that a condition imposed pursuant to such section has not been met or will not be met, with respect to such fiscal year, then the corporation shall promptly notify the mayor of such determination and shall review with him the manner in which corrective action may be taken in order to comply with such conditions.

§ 63. If any provision of this act is declared unconstitutional, no other provisions of this act shall be rendered ineffective, unless inseparable from the provision declared to be unconstitutional.

§ 64. This act shall take effect immediately, provided however that with the exception of section two hereof the provisions of this act shall not become operative until such date as there shall be duly enacted and signed into law federal legislation authorizing the United States of America to guarantee obligations issued by the city of New York or the state financing agency, as defined in subdivision twenty of section two of the New York state financial emergency act for the city of New York, as the fact of enactment into law of such federal act has been certified by the emergency financial control board for the city of New York. In the event that no such federal legislation has been duly enacted and signed into law by December thirty-first, nineteen hundred seventy-eight, the provisions of this act shall expire on such date.
AN ACT

to amend the public authorities law, in relation to the issuance of obligations by the municipal assistance corporation for the city
of New York; to amend chapter eight
hundred sixty-eight of the laws of
nineteen hundred seventy-five
relating to the New York state
financial emergency act for the city
of New York and assistance to certain
municipalities during periods of
financial emergency, in relation to
legislative findings and statement
of purpose; to amend the New York
state financial emergency act for the
city of New York, in relation to
certain definitions contained
therein, certain activities and
practices of the control board
and making technical and
conforming changes therein; to amend
the local finance law, in relation
to the four year financial
plan of the city of New York
and to repeal paragraph j of
section 25.00 thereof relating to
the issuance of revenue anticipation
notes by the city of New York;
to amend the general municipal
law, in relation to interest
payments in the event of default;
to amend chapter fifty
or the laws of nineteen hundred seventy-eight (State Purposes) and chapter fifty-three of the laws or nineteen hundred seventy-eight (Local Assistance), in relation to the appropriation of certain revenues; to amend the executive law, in relation to making a conforming change and chapter two hundred one or the laws of nineteen hundred seventy-eight relating to the municipal assistance corporation for the city of New York, in relation to changing the effective date thereof.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:
Section 1. Section three thousand ten of the public authorities law, as enacted by chapter one hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended by renumbering subparagraph eighteen thereof as subparagraph nineteen and by adding thereto a new subparagraph eighteen to read as follows:

[(18) in connection with any agreement by the federal government or any agency or instrumentality thereof to guarantee the payment of the principal or the interest on the obligations issued by the municipality for which the municipal assistance corporation was created, to enter into one or more agreements with the federal government or any agency or instrumentality thereof in respect of such guarantee containing terms and conditions required by the secretary of the treasury pursuant to the federal act authorizing the issuance of such guarantees and to comply with such terms and conditions, including, without limitation, a requirement that the corporation make deposits or cause monies to be deposited in a fund or funds established in connection with the issuance of guaranteed obligations or funds pursuant to the terms and conditions of such guarantee, and]

Sec. 2. Paragraph (a) of subdivision one of section three thousand twelve of such law, such section having been added by
chapter one hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

(a) A municipal assistance corporation shall have the power and is hereby authorized from time to time to issue its notes and bonds in conformity with applicable provisions of the uniform commercial code, in such principal amounts as such corporation shall determine to be necessary within the limits of authorized indebtedness prescribed in the special law creating such corporation, to provide sufficient funds for achieving its corporate purposes, including the making of payments to or purchase of obligations of, the municipality for which the corporation was created, to make payments of interest on its notes and bonds, and to establish reserves to secure such notes and bonds and to make deposits into a fund or funds established pursuant to any agreement entered into by such corporation with the federal government or an agency or instrumentality thereof in accordance with subparagraph eighteen of section three thousand ten of this article.

Sec. 3. Subdivision three of section thirty hundred thirty-eight of such law, such section having been added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

3. The city shall take such action as may be necessary to enable the state comptroller, or at his election an independent certified public accounting firm retained by the city but
satisfactory to the state comptroller, to perform an annual audit and to furnish to the corporation an annual report, for the fiscal year ending June thirtieth, nineteen hundred seventy-eight and for each subsequent fiscal year upon the financial statements of the city. For each subsequent fiscal year the city shall take such action as may be necessary to enable a nationally recognized independent certified public accounting firm selected and retained by the city at its cost in accordance with the provisions of section seven-a of the New York state financial emergency act for the city of New York to perform an annual audit and to furnish to the corporation an annual report upon the financial statements of the city. Each such report shall be prepared in accordance with the accounting method prescribed under subdivision two of this section. The city shall make available for inspection and copying all books, records, work papers and other data and material as required by the state comptroller or the independent certified public accounting firm conducting such audit and the city shall make its officers and employees available to and shall cooperate with such auditors so as to permit such annual audit to be completed and the report issued to the city and to the corporation within one hundred twenty days after the close of the fiscal year. Such report shall be made available to the public promptly thereafter.

Sec. 4. Paragraphs a and b of subdivision nine of section three thousand thirty-eight of such law, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read as follows:
a. The city shall not, at any time issue any short-term obligations which would cause the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, renewed, redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with noteholders or bondholders and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for a purpose set forth in subparagraph (b) of section three thousand thirty-seven or in subparagraph eighteen of section three thousand ten of this article, and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, and less any short-term obligations of the city then held by the corporation) to exceed (i) six billion six hundred million (hereinafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty percent of the base debt limit, during the fiscal year ending June 30, 1978 the additional amount may not exceed twenty-five percent of the base debt limit, during the fiscal year ending June 30, 1979, the additional amount may not exceed twenty percent of the base debt limit, and during the fiscal year ending June 30,
LV80 the additional amount may not exceed fifteen per cent of the base debt limit.

b. In addition to the foregoing limitation the city shall not, at any date, issue any short-term obligations which would cause the aggregate principal amount of its outstanding short-term obligations (excluding bond anticipation notes) plus the aggregate principal amount of all notes and bonds issued by the corporation (less (i) any notes or bonds which have been refunded or renewed and any notes or bonds in an amount equal to the aggregate principal amount of bond anticipation notes of the city acquired by the corporation, whether or not then held by the corporation (except bond anticipation notes of the city acquired by the corporation in consideration of the surrender by the corporation to the city of bond anticipation notes of the city), and any notes or bonds issued for a purpose set forth in subparagraph (b), (c) or (d) of section three thousand thirty-seven, in subdivision two-a of section three thousand thirty-three, or subparagraph eighteen of section three thousand ten of this article, and less any notes or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, (ii) any short-term obligations of the city then held by the corporation other than bond anticipation notes and (iii) any short-term obligations of the city issued and payable within the same fiscal year) to exceed four billion five hundred million dollars plus, in the discretion of the board of directors, an additional amount not exceeding five hundred million dollars plus, in the discretion of the board of
directors, until June thirtieth, nineteen hundred seventy-six, a
further additional amount not exceeding two hundred million
dollars.

Sec. 5. Section one-a of chapter eight hundred sixty-eight
of the laws of nineteen hundred seventy-five relating to the New
York state financial emergency act for the city of New York and
assistance to certain municipalities during periods of financial
emergency, as added by chapter two hundred one of the laws of
nineteen hundred seventy-eight, is hereby amended to read as
follows:

Sec. 1-a. Legislative findings and statement of purposes.
It is hereby found and declared that a financial emergency and--an
emergency--period--continue continues to exist in the city of New
York. Since a financial emergency and--an-emergency--period--were
was first declared to exist in the city of New York by chapter
eight hundred sixty-eight of the laws of nineteen hundred
seventy-five the city has been unable to regain access to the
public credit markets. The city without the receipt of federal
guarantees of its obligations, or the obligations of a state
financing agency which is authorized to assist the city,
additional long-term financing and continued federal seasonal
financing, the federal source of which terminates terminated on
June thirtieth, nineteen hundred seventy-eight pursuant to the
New York city seasonal financing act of 1975, or--other--seasonal
financing is unable to obtain the funds needed by the city to
continue to provide essential services to its inhabitants or to
meet its obligations to the holders of outstanding securities. Unless such funds are obtained the city will soon (i) fail to pay salaries and wages to employees and amounts owed vendors and suppliers to the city, (ii) fail to pay amounts due to persons receiving assistance from the city, (iii) default on the interest and principal payments due to holders of outstanding obligations of the city and (iv) fail to make payments to other governmental agencies which rely upon the receipt of such revenues from the city to maintain their operations.

If such failures and defaults were to occur, the effect on the city and its inhabitants would be devastating: (i) unpaid employees might refuse to work; (ii) unpaid vendors and suppliers might refuse to sell their goods and render services to the city; (iii) unpaid recipients of public assistance would be unable to provide themselves with the basic necessities of life; and (iv) unpaid holders of city obligations would seek judicial enforcement of their legal rights as to city revenues. These events would effectively force the city to stop operating as a viable governmental entity and create a clear and present danger to the health, safety and welfare of its inhabitants.

The difficulties of finding solutions to such events are compounded by the likelihood that the city, as well as the municipal assistance corporation for the city of New York, would be foreclosed indefinitely from obtaining funds in the public markets sufficient to meet the city's requirements. The elimination of the public markets as well as federal financing as a source of funds would leave the city with no foreseeable way to pay its outstanding indebtedness. Thus, the city might be unable
for an extended period to cure defaults on its outstanding obligations and that event could almost permanently destroy the fiber of the city. The status of the city as the financial capital of the nation and of the world and as the headquarters of American and international commerce would be severely shaken. Just as significantly, the exodus from the city of corporate and individual taxpayers would increase, thereby having the effect of imposing a greater burden on the remaining taxpayers.

It is a matter of substantial and imperative state concern that the city not fail to meet its obligations and thereby suffer the above consequences. Such a failure could require the state to provide costly financial assistance to the city to ameliorate the emergency conditions that would result. Aside from the avoidance of that expense, it is the concern of the state that the above-described events not occur, because the city represents a major part of the state. In addition to being the state's largest city, the city is the commercial, financial, cultural, communications and transportation center of the state. If the city were unable, because of the lack of funds, to function in its normal manner, the economy of the state would, therefore, be drastically harmed.

A failure by the city to meet its obligations would also affect the state's own ability to raise funds in the public markets. Defaults by the city would adversely affect the ability of all public issuers within the state, including the municipal assistance corporation for the city of New York, to market securities to meet their cash requirements. To the extent the state, the municipal assistance corporation and other public
issuers within the state would be able to market their securities at all, the interest rates would significantly exceed those which otherwise would be paid. This effect has already been clearly demonstrated since the urban development corporation defaulted on its obligations in February nineteen hundred seventy-five. Notwithstanding that such default was soon cured as the result of state action, other public authorities were unable to market their securities or were required to pay much higher interest rates for a considerable period thereafter and numerous municipalities, school districts and sewer districts throughout the state were similarly affected.

This situation continues to create a state of emergency. To end this disaster, to bring the emergency under control, to restore investor confidence in the city's obligations, to meet the requirements for a federal guarantee of its obligations or those of a state financing agency, and to respond to the overriding state concern described above, the state must continue to undertake extraordinary the exercise of its police and emergency powers under the state constitution, and exercise controls and supervision over the financial affairs of the city of New York, but in a manner intended to preserve the ability of city officials to determine programs and expenditure priorities within available financial resources.

Among the fundamental causes of the emergency described above were the failure of the city to plan for and adhere to balanced budgets covering all expenditures other than capital items, the inclusion of expense items in the city's capital budget and the issuance of short-term indebtedness at unmanageable levels to
tung resulting deficits. In view of the continuing overriding state concern as described above and the duty of the legislature under article eight section twelve of the state constitution to restrict the power of taxation, assessment, borrowing money, contracting indebtedness, and loaning the credit of cities so as to prevent abuses in taxation and assessments and in contracting of indebtedness by them, it is appropriate, desirable and necessary to provide for and implement ongoing oversight and regulation of the estimation of revenues, the preparation of financial plans, providing for balanced expense budgets covering all expenditures other than capital items, in accordance with generally accepted accounting principles and the incurrence of indebtedness and entering into of contracts by the city.

Since a financial emergency and an emergency period were was first declared to exist in the city of New York in nineteen hundred seventy-five, the city has taken the following steps toward recovery: (i) its workforce has been reduced by sixty-one thousand employees which is over twenty per centum of the level of its workforce in nineteen hundred seventy-five; (ii) welfare recipients have been reduced from a high of one million two hundred sixty-five thousand three hundred in nineteen hundred seventy-two to nine hundred thirty-one thousand six hundred; (iii) tuition fees have been imposed at City University; (iv) the subway fare has been increased by forty per centum; (v) nineteen fire companies have been closed and funding for seventy-seven day care centers has been eliminated; (vi) a demonstration program of "absence control" in four city agencies yielded an overall
reduction of thirty-three per centum in absences, and the program
has now been expanded to all city agencies; (vii) fringe benefits
to city employees have been reduced by forty-one million dollars;
(viii) the city’s deficit has been reduced by one billion dollars
on the basis of generally accepted accounting principles; and
(ix) accounting practices have been reformed and a new financial
management and control system has been installed.

Despite these steps toward recovery, the city has been unable
to regain access to the public credit markets. Two principal
impediments to the city’s access to these markets are (1) the
inability of the city to balance its budget in accordance with
generally accepted accounting principles and (2) the city’s large
annual financing requirements which are presently three
approximately two and one half billion dollars for both seasonal
and long term purposes, an amount which is more than the market
can reasonably be expected to absorb. The city has developed a
tour year financial plan covering fiscal years ending June
thirty, nineteen hundred seventy-nine through June thirty,
nineteen hundred eighty-two to remove these impediments. The
plan calls for a balanced budget in accordance with generally
accepted accounting principles by the end of the fiscal year
beginning July first, nineteen hundred eighty-one and the
elimination of more than one-half of the city’s present annual
financing needs. The plan also mandates the removal of operating
expenses from the city’s capital budget by July first, nineteen
hundred eighty-one and commits funds to improve and to prevent
further decay to its physical plant so as to provide essential
governmental services to support the city's economy and to stimulate its economic development.

To accomplish these goals the city will require long-term financing which it hopes to obtain in part from the guarantee by the federal government of the principal of and interest on its bonds or the bonds of a state financing agency which is authorized to assist the city. Leaders of the United States Senate and the House of Representatives have advised the city that the United States Congress would not authorize federal financial assistance in the form of federal guarantees of city obligations unless the state covenants that it would not repeal, invalidate or otherwise substantially impair the authority of the board to control the fiscal affairs of the city during the entire period for which federal assistance will be outstanding. Public Law number 95-242 requires this agreement on the part of the state as a condition for the federal guarantee of obligations of the city or a state financing agent, as defined in number--Hv--Rw--t242 Public Law 95-339. The city's financing plan also proposes the continuation through June thirtieth, nineteen hundred eighty-two of federal seasonal loan financing which otherwise terminate on June thirty, nineteen hundred seventy-eight. Public Law 95-339 also authorizes federal guarantees of certain seasonal loans made on or prior to January first, nineteen hundred seventy-nine.
As enacted by the Congress in July, 1978, Public Law 95-339 provides that pursuant to the act, up to $1.65 billion principal amount of outstanding city indebtedness may be federally guaranteed as to the payment of principal and interest for periods of up to fifteen years through the issuance of guaranteed bonds during the city's 1979 to 1981 fiscal years and the issuance of guaranteed notes not to exceed $325 million in outstanding principal amount in the city's 1979 fiscal year, under certain circumstances.

Section 103 of Public Law 95-339 specifies conditions of eligibility which must be met before the Secretary of the Treasury may guarantee city indebtedness. One of the conditions is the existence of an independent fiscal monitor which has demonstrated to the satisfaction of the Secretary that it has the authority to control the fiscal affairs of the city for the entire period during which assistance under Public Law 95-339 will be outstanding. The independent fiscal monitor is defined in Public Law 95-339 to be an agency, board, or other entity, authorized by the law of the state, which has the authority to control the fiscal affairs of the city during the entire period for which assistance under Public Law 95-339 will be outstanding and which authority the state has covenanted will not be substantially impaired during such period.

Public Law 95-339 further provides that as a condition of eligibility for the guarantee of city obligations, the Secretary of the Treasury is authorized to require from the city such other
terms, conditions, and agreements as he deems appropriate, pursuant to such authority, and to facilitate the sale or other disposition by the employee pension funds of the city and of the state of the federally guaranteed obligations so that such guarantees may terminate at the earliest practicable date, the secretary has required that the covenant of the state that the authority of the independent fiscal monitor will not be substantially impaired shall be included in all such guaranteed obligations so that such covenant will continue to be available as an important security provision to subsequent purchasers of the obligations notwithstanding the lapse of the federal guarantee upon such sale or other disposition. The secretary has also required as a condition of eligibility for the guarantee that an agreement be entered into between the city and the secretary on behalf of the United States of America which will contain various financial covenants of the city which the secretary considers to be important security provisions.

Another condition of eligibility prior to the issuance of guarantees under Public Law 95-339 is that the independent fiscal monitor is requiring the city to adopt and adhere to budgets covering all expenditures other than capital items, the results of which would not, for fiscal years of the city beginning after June 30, 1981, show a deficit when reported in accordance with generally accepted accounting principles and, for fiscal years of the city beginning on or prior thereto but after June 30, 1978, to make substantial progress toward that goal, and, for each fiscal year of the city beginning prior to June 30, 1981, but
after June 30, 1978 is requiring the city to adopt and adhere to
budgets covering all expenditures other than capital items the
results of which would not show a deficit when reported in
accordance with accounting principles established under state
laws.

A third requirement is that the city has submitted to the
secretary, with the approval of the independent fiscal monitor, a
plan for bringing all of its expenditures other than capital
items into balance with its revenues for each of the first three
full fiscal years of the city beginning after June 30, 1978.

A further condition of eligibility is the submission by the
city, with the approval of the independent fiscal monitor, in
accordance with generally accepted accounting principles, of a
plan for bringing all of its expenditures other than capital
items into balance with its revenues no later than the final
fiscal year of the four-year period which begins with the fiscal
year beginning July 1, 1978.

Public Law 95-339 further provides that whenever city
indebtedness is guaranteed the secretary of the Treasury shall
assess and collect from the issuer a guarantee fee computed
daily at a rate of no less than one-half of one percent on the
outstanding principal amount of city indebtedness.

The city must agree to do the following, among others, as
further conditions of eligibility for federal guarantees: (A)
submit annually an opinion of independent public accountants setting forth the results of an audit by such accountants of the financial statements of the city for such fiscal years; (8) establish an audit committee and productivity council as prescribed by Public Law 95-339, and (C) implement a program of refunding any outstanding guaranteed city indebtedness as soon as practicable for the purpose of achieving complete repayment of such indebtedness at the earliest practicable date.

In the case of guarantees issued after June 30, 1979, Public Law 95-339 requires the state to give to the secretary of the treasury satisfactory assurances that the amount of financial assistance to be provided by the state to the city during the fiscal year in which such guarantee is to be issued will not be less than the amount of such assistance which was provided during the fiscal year ending June 30, 1979 unless the city's budget is balanced in accordance with generally accepted accounting principles. Public Law 95-339 also provides that the state or an agency of the state shall deposit in a fund approved by the secretary an amount which shall equal not less than five percent of the principal and of one year's interest on the city's then outstanding guaranteed indebtedness.

The city's four year financing plan contemplates receipt of a substantial amount of funds from the municipal assistance corporation for the city of New York. To the extent that such corporation can borrow such amounts on a private placement basis from financial institutions or in the public markets, the amount
which would otherwise need to be provided by the state or from other sources will be reduced.

Representatives of the municipal assistance corporation for the city of New York have requested certain financial institutions, including the eleven New York clearing house banks and various savings banks and insurance companies, to purchase an aggregate of $1,750,000,000 principal amount of long-term bonds of the municipal assistance corporation for the city of New York during the city's nineteen hundred seventy-nine through nineteen hundred eighty-two fiscal years. The participation of these financial institutions is an essential part of the city's four-year financing program. Without such participation, neither the city nor the municipal assistance corporation for the city of New York will be able to market a sufficient amount of their respective bonds and notes to meet the long-term and seasonal financing requirements of the city during the four fiscal years.

Such institutions have informed representatives of the municipal assistance corporation for the city of New York and the state that they would not be prepared to make these essential investments in the amounts or at the interest rates contemplated in the city's four-year financing program unless they are also provided with assurance by a state covenant that the state will not repeal, invalidate or otherwise substantially impair the authority of the board to control the fiscal affairs of the city during a control or reimposed control period during the entire period the bonds they are being asked to purchase are
outstanding. Substantial sales of the bonds of the municipal assistance corporation for the city of New York are also contemplated to be made during the four-year fiscal program in the public markets. The state should provide the same covenant to public purchasers as it provides to the financial institutions.

The city's financial plan calls for the sale to public and private investors of substantial amounts of unguaranteed bonds and notes of the city. In order to assure prospective investors that the city will plan for and adhere to balanced budgets as provided herein and thereby provide important assurance to such investors, the city should be authorized to insert the aforesaid state covenant in bonds and notes to be issued and sold by it.

It is in the interest of the state, as well as the city and the municipal assistance corporation for the city of New York, to provide such assurance. The existence of a state board to assure annual balanced budgets of the city during a control period when guaranteed city bonds and bonds of the municipal assistance corporation for the city of New York are outstanding will assist importantly in the maintenance of the financial and economic health and viability of the city during the period. The level of business activity in the city affects levels of the sales and other taxes from which revenues of the municipal assistance corporation for the city of New York are derived. The financial condition of the city has an effect on the financial condition of the state and the marketability of obligations of the state and
its agencies, including the municipal assistance corporation for the city of New York, as to which statutory provisions have been made whereby the state may be called upon to deposit monies for deposit into its capital reserve fund in order to provide monies for the payment of the principal of and interest on its bonds. Accordingly, the effective monitoring of the fiscal affairs of the city will also contribute to the financial health of the state, including its capacity to provide appropriate amounts of customary state aid to the city. Finally, the state has an interest in the municipal assistance corporation's being able to raise funds at reasonable rates. The market and market price for such bonds have been and may be affected by financial developments affecting the city. Assurance that the board will remain in existence during the life of bonds being sold under the financial program will serve to assure that the municipal assistance corporation for the city of New York will be able to sell the maximum amount of its bonds to the financial institutions and in the public markets at the best obtainable interest rates. Because of all of the foregoing, and the substantial amounts of additional bonds of the municipal assistance corporation for the city of New York that will be issued and outstanding as a result of the city's four-year financing program, the state acknowledges that the state covenant is an important additional security provision with respect to such additional bonds. Therefore, in order to induce the contemplated purchase of such bonds, it is essential that the corporation include such state covenant in bonds issued by it.
during the nineteen hundred seventy-nine through nineteen hundred eighty-two fiscal years.

The financial program embodied in this act provides the necessary statutory changes to permit the financial assistance required by the city at this time, including the receipt of federal guarantees on its bonds or the obligations of a state financing agency, restoration of investor confidence in its long-term obligations, and the investment of a portion of the funds of the state and city retirement systems in obligations of the city of New York and of the municipal assistance corporation for the city of New York and provides for (i) the continued existence of a state board with some city representation to review, control and supervise the financial management of the city, (ii) the adoption, with the approval of such board, of four-year financial plans that will provide the basis for a return of the city to sound financial condition, (iii) review, control and supervision by such board of the disbursement of city funds, under which debt service requirements will be met as a first priority, (iv) the review, control and supervision of city operations by such board to assure that sound management practices are observed or restored and that operations are conducted in accordance with the plan and, (v) review, approval or disapproval by such board of city contracts and the-terms-of-each-city long-term and short-term borrowing.

In addition, the act provides that the city must provide for a general reserve fund and debt service funds and accounts to
further assure investors that it will meet its debt service
requirements. Restrictions are placed upon the issuance and
renewal of short-term obligations by the city.

The provisions of the act are necessary, proper, reasonable
and appropriate means by which the state can and should implement
its overriding state concern with respect to the financial
condition of the city and can and should exercise 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 and of the municipal assistance corporation for the city of
New York.

This legislative program is intended to accomplish the
objectives described above and thereby to insure the continuity
or governmental operations in the city and to provide the means
by which the present emergency can in time be overcome and the
city restored to financial health and this intervention by the
state-brought-to-end-end.

Sec. 6. Subdivision five of section two of section two of
chapter eight hundred sixty-eight of the laws of nineteen hundred
seventy-five constituting New York State Financial Emergency Act
for the City or New York, as amended by chapter two hundred one
or the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

5. "Covered organization" means any governmental agency, public authority or public benefit corporation which receives or may receive monies directly, indirectly or contingently, (other than monies received for the sale of goods or the rendering of services or the loan of monies to the city) from the city, and in any event includes, without limitation, the board of education of the city of New York, the board of higher education of the city of New York, the health and hospitals corporation, the New York city transit authority, the New York city housing authority, the New York city housing development corporation, city university construction fund, Battery park city authority, New York city convention and exhibition center corporation, Manhattan and Bronx surface transit operating authority, Staten Island rapid transit operating authority, the New York city sports authority and the Brooklyn sports center authority but shall not include (i) any governmental agency, public authority or public benefit corporation specifically exempted from the provisions of this act by order of the board upon application of such agency, authority, or corporation to the board or at the board's own motion upon a finding by the board that such exemption does not materially affect the ability of the city to adopt and maintain an-expense a budget pursuant to the provisions of this act and provided that at the time of such exemption there shall have been and during the period of such exemption there shall be an annual audit by a nationally recognized independent certified public accounting
firm or consortium of firms, one of which shall be a nationally recognized firm, of the covered organization's financial statements performed in accordance with generally accepted auditing standards and report by such auditor thereon which includes an opinion that the financial statements so audited have been prepared in accordance with generally accepted accounting principles as-the-same-may-be-modified-by-the-board-pursuant-to (subject to the provisions of subdivision two-a of section eight of this act) and such other information as such auditors deem appropriate; (ii) any state public authority as defined in section two hundred one of the civil service law, unless specifically named above, or (iii) any governmental agency, authority, commission or instrumentality created by compact or agreement between the state of New York and another state or states; provided, however, that the board may terminate any exemption granted by order of the board pursuant to this subdivision upon a determination that the circumstances upon which such exemption was granted are no longer applicable.

Sec. 7. Subdivision twelve of section two of such act, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

12. "Emergency Control period" means the period of time from the effective date of this act until the date when (a) there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal or interest on any note or bond issued by the city or a state.
financing agency, and (b) the board shall determine, based on annual audit reports furnished in accordance with section seven-
a, that the expense-budget-of-the-city-has--been--in-balance--in accordance-with-generally-accepted-accounting-principles--subject to-anything-modification-as-shall-be-approved-by-the-board-pursuant-to the-provisions-of-subdivision-two-a-of-section-eight, for each of the three immediately preceding fiscal years, the city has adopted and adhered to budgets covering all expenditures other than capital items, the results of which did not show a deficit when reported in accordance with generally accepted accounting principles subject to the provisions of subdivision two-a of section eight of this act and (c) the comptroller of the state and the comptroller of the city jointly shall determine that securities sold by or for the benefit of the city during the fiscal year immediately preceding such date and the then current fiscal year in the general public market satisfied the capital and seasonal financing requirements of the city during such period and that there is a substantial likelihood that such securities can be sold in the general public market from such date through the end of the next succeeding fiscal year in amounts which will satisfy substantially all of the capital and seasonal financing requirements of the city during such period in accordance with the financial plan then in effect, provided that for these purposes sales to any fund whose governing body includes any designated representative of the state or city or to any financial institution which participates in a private placement for the purchase of securities for the benefit of the city during its nineteen hundred seventy-nine fiscal year shall
not be deemed sales in the general public market, unless in the case or sales to such a financial institution such controllers jointly determine at the time of such sale that a sale could have been made in such amount and on reasonably comparable terms in the general public market. After termination of the emergency control period in accordance with the foregoing provisions and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency which are entitled to the benefits of the pledge and agreement authorized by section ten-a hereof, the board shall reimpose an emergency control period upon a determination at any time that any of the following events has occurred and or that there is a substantial likelihood and imminence of such occurrence: (i) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable other than notes held by the municipal assistance corporation for the city of New York to the extent that such corporation has evidenced its intention not to present such notes for payment during the fiscal year in which the determination is made provided that such notes were held by such corporation on June thirtieth, nineteen hundred seventy-eight or were issued in exchange for or in refunding or renewal of notes held by such corporation on such date, (ii) the city shall have incurred an expense budget deficit of more than one hundred million dollars during its fiscal year in the results of operations covered by a budget covering all expenditures other than capital items as reported in accordance with generally accepted accounting principles, subject to the provisions of subdivision two-a of section eight of this act, (iii) the city
shall have issued notes in violation of section nine-b of this act as amended from time to time, or (iv) the city shall have otherwise violated any provision of this act and such violation substantially impairs the ability of the city to pay principal of or interest on its bonds or notes when due and payable or its ability to adopt or maintain—balanced-expense adhere to a budget covering all expenditures other than capital items balanced in accordance with this act or (v) the controllers, joint determination at any time, at the request of the board or on their joint initiative, which determination shall be made from time to time as promptly as circumstances warrant and reported to the board, that on the basis of facts existing at such time they could not make the determination described by clause (cl) of the preceding sentence. Any—such—reimposed emergency—period shall continue until the board shall determine that no circumstance warranting the re-imposition of the emergency period exists. The board shall terminate any such reimposed control period when it determines that none of the conditions which would permit the board to re-impose a control period exist. After termination of an emergency a control period the board shall annually consider items (i) through (iv) above and determine whether, in its judgment, any of the events described in such items have occurred and the board shall publish each such determination. Each such determination by the controllers hereunder shall be made after taking into account a report and opinion of a nationally recognized independent expert in the marketing of municipal securities selected by the board as well as any other information which may be available to them and each
such determination by the comptrollers shall have annexed thereto the report and opinion of such expert and shall be made public when delivered to the board. Notwithstanding any part of the foregoing to the contrary, in no event shall any emergency control period continue beyond the earlier of (a) July first, two thousand eight, or (b) the date (i) when all bonds and notes containing the pledge and agreement authorized by section ten-a or this act are refunded, redeemed, discharged or otherwise decreased or (ii) when there shall no longer be outstanding any guarantee by the United States of America or any agency or instrumentality thereof as to payment of principal of or interest on any note or bond issued by the city or a state financing agency, whichever of (i) or (ii) shall occur later.

Sec. 8. Subdivision fifteen of section two of such act, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

15. "Board fund" means the emergency-financial-control board fund established pursuant to section nine of this act.

Sec. 9. Subdivision nineteen of section two of such act, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

19. "Available tax levy" with respect to an issue of tax anticipation notes means at any date of computation the total amount of city real estate taxes or assessments projected
consistent with the financial plan then in effect, to be received in cash on or before the fifth day preceding the maturity date of such tax anticipation note issue, less amounts required during the period between the date of computation and the fifth day preceding such maturity date to be paid into the general debt service fund or otherwise required to pay interest payable on other outstanding city bonds and notes, principal (including payments into sinking funds) coming due on outstanding city bonds and principal to be paid from sources other than the proceeds of bonds or renewal notes on other outstanding city notes (exclusive of revenue anticipation notes or renewals thereof issued less than two years prior to the date of computation) and-sinking-fund payments-payable-on but not including payments from sinking funds required by the terms of certain city bonds. For the purposes of this subdivision such amounts required shall not include principal of or interest on any notes of the city held by the municipal assistance corporation for the city of New York to the extent that such corporation has evidenced its intention not to present such notes for payment of principal or interest during the fiscal year in which the computation is made provided that such notes were held by such corporation on June thirtieth, nineteen hundred seventy-eight or were issued in exchange for or in refunding or renewal of notes held by such corporation on such date.

Sec. 10. Section two-a of of such act, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:


Sec. 2-a. Legislative declaration of financial emergency. The legislature hereby finds and declares that a state of financial emergency continues to exist within the city. The legislature further finds and declares that the maintenance by the city of a balanced budget in accordance with generally accepted accounting principles and the city's borrowing practices are and will continue to be a matter of overriding state concern, and that it is also appropriate and desirable for the legislature to exercise its duty under Section twelve of Article eight of the state constitution to restrict the powers of the city to prevent abuses in taxation and assessments, and in contracting of indebtedness by the city.

Sec. 11. Subdivision one of section three of such act is hereby amended to read as follows:

1. Neither the city nor any covered organization shall borrow or expend any monies, or in any way, directly or indirectly, expressly or implicitly, engage its credit during the emergency any control period except in compliance with the provisions of this act.

Sec. 12. Section five of such act is hereby amended to read as follows:

Sec. 5. New York state emergency financial control board; created. There is hereby created the New York state emergency financial control board. The board shall be a governmental
agency and instrumentality of the state and it shall have such powers and functions as are set forth in this act.

Sec. 13. Subdivision one of section six of such act, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

1. The membership of the board shall be the governor, the state comptroller (pursuant to his authority to supervise the accounts of any political subdivision of the state), the mayor, the city comptroller and three members appointed by the governor with the advice and consent of the senate. At least two of the appointed members shall be residents of the city or have their principal place of business in the city. Such appointed members shall serve at the pleasure of the governor. The governor shall be the chairman of the board and the governor or his representative shall preside over all meetings of the board. The board shall act by majority vote of the entire board. The board shall maintain a record of its proceedings in such form as it may determine, but such record shall indicate attendance and all votes cast by each member. Every member of the board, who is otherwise an elected official of the state or city, shall be entitled to designate a representative to attend, in his place, meetings of the board and to vote or otherwise act in his behalf. Written notice of such designation shall be furnished to the board by the designating member prior to any meeting attended by his representative. Any such representative shall serve at the pleasure of the designating member. No such representative shall
be authorized to delegate any of his duties or functions to any other person. The lieutenant governor, temporary president of the senate, the minority leader of the senate, speaker and minority leader of the assembly, the president of the council of the city of New York, the city board of estimate acting by majority vote, and the vice-chairman and the minority leader of the city council of the city of New York, shall each be entitled to appoint a representative to the board. Each such representative shall be entitled to receive notice of and to attend all meetings of the board but shall not be entitled to vote. No representative shall be an employee or officer of the federal, state or city governments. Each representative shall serve at the pleasure of the appointing official or body, shall be eligible for reappointment, and shall hold office until his successor has been appointed.

Sec. 14. Paragraphs a, b and c of subdivision one of section seven of such act, paragraphs a and b having been amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read, respectively, as follows:

a. As set forth in accordance with the provisions of section eight of this act, the board shall (i) consult with the city and the covered organizations in the preparation of the financial plan, and certify to the city the revenue estimates approved therein, (ii) prescribe the form of the financial plan and the supporting information required in connection therewith, and (iii) exercise the rights of approval, disapproval and
modification with respect to the financial plan, including without limitation but not limited to the revenue estimates contained therein.

b. The board, to the extent it deems it necessary or desirable appropriate in order to accomplish the purposes of this act, shall establish and adopt procedures with respect to the (i) proper maintenance of the board fund, the fund, the debt service account and the debt service account (ii) the deposit and investment of revenues in such funds and accounts fund and (iii) disbursement of monies from such funds and accounts fund.

c. The board shall, from time to time and to the extent it deems necessary or desirable appropriate in order to accomplish the purposes of this act, (i) review the operations, management, efficiency and productivity of such city operations and of such covered organizations or portions thereof as the board may determine, and make reports thereon; (ii) audit compliance with the financial plan in such areas as the board may determine; (iii) recommend to the city and the covered organizations such measures relating to their operations, management, efficiency and productivity as it deems appropriate to reduce costs and improve services so as to advance the purposes of this act; and (iv) obtain information of the financial condition and needs of the city and the covered organizations. Nothing herein shall diminish the powers of the comptroller otherwise provided by law.
and the board may request the assistance of the comptroller in performing the above functions.

Sec. 15. Paragraphs e, f and g of subdivision one of section seven of such act, the opening paragraph and subparagraph (i) of paragraph e having been amended by chapter eight hundred seventy or the laws of nineteen hundred seventy-five, subparagraphs (iii) and (iv) of paragraph e and paragraphs f and g having been amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read, respectively, as follows:

e. All contracts entered into by the city or any covered organization must be consistent with the provisions of this act and must comply with the requirements of the financial plan as approved by the board. With respect to all contracts or other obligations to be entered into by the city or any covered organization after October fifteenth, nineteen hundred seventy-five, requiring the payment of funds or the incurring of costs by the city or any covered organization:

(i) Within twenty days from the effective date of this act the mayor shall present to the board proposed regulations respecting the categories and types of contracts and other obligations required to be reviewed by the board pursuant to this subdivision e. Within thirty days from the effective date of this act, the board shall approve or modify and approve such proposed regulations or promulgate its own in the event that such
proposed regulations are not submitted to it within the twenty
days as provided for herein. Such regulations may thereafter be
modified by the board from time to time on not less than thirty
days notice to the mayor and the mayor may from time to time
propose modifications to the board. Unless expressly disapproved
or modified by the board within thirty days from the date of
submission by the mayor, any such proposed regulations or
modifications shall be deemed approved by the board;

(ii) Prior to entering into any contract or other obligations
subject to review of the board under its regulations, the city
or any covered organization shall submit a copy of such contract
or other obligation to the board accompanied by an analysis of
the projected costs of such contract or other obligation and a
certification that performance thereof will be in accordance with
the financial plan, all in such form and with such additional
information as the board may prescribe. The board shall promptly
review the terms of such contract or other obligation and the
supporting information in order to determine compliance with the
financial plan;

(iii) During an-emergency a control period the board shall,
by order, disapprove any contract or other obligation reviewed by
it only upon a determination that, in its judgment, the
performance of such contract or other obligation would be
inconsistent with the financial plan and the city or covered
organization shall not enter into such contract or other
obligation;
(iv) During an emergency control period if the Board approves the terms of a reviewed contract or other obligation, the city or covered organization may enter into such contract or other obligation upon the terms submitted to the Board. Failure of the Board to notify the city or covered organization within thirty days (or such additional time not exceeding thirty days as the Board shall have notified the city or covered organization, that it requires to complete its review and analysis) after submission to it of a contract or other obligation that such contract or other obligation has been disapproved shall be deemed to constitute board approval thereof.

Upon submission thereof by the city, the Board shall review the terms of each proposed long-term and short-term borrowing by the city and any covered organization to be affected during an emergency control period but after October fifteenth, nineteen hundred seventy-five, and no such borrowing shall be made unless approved by the Board. Each such proposed borrowing by a covered organization shall be submitted to the city by the covered organization before it may be considered by the Board, not more than thirty days after any such submission by a covered organization the city shall transmit any such proposed terms of borrowing to the Board together with the certification of the city as to whether such proposed terms of borrowing are in accordance with the financial plan and are consistent with the objectives and purposes of this Act. Any such submission to the city shall be accompanied by a certification of the covered organization that the terms thereof are in accordance with the
financial plan and are consistent with the objectives or purposes of this act. The transmittal by the city to the board shall include a recommendation by the city for the approval or disapproval of such proposed terms of borrowing pursuant to the terms of this paragraph. In the event the city does not make such transmittal within such thirty-day period, such covered organization may submit such proposed borrowing directly to the board. The board shall disapprove any borrowing if it determines that such borrowing is inconsistent with the financial plan or the objectives or purposes of this act. The board shall consult and coordinate with the municipal assistance corporation for the city of New York with respect to borrowings of the city and any covered organization and shall receive reports from the municipal assistance corporation for the city of New York on its review of borrowings by the city. No covered organizations shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes.

q. The board and the comptroller shall receive quarterly reports from the city comptroller setting forth the debt service requirements on all bonds and notes of the city and the covered organizations for the following quarter, which reports shall be in such form and contain such information as the board shall determine. Such reports shall be issued no later than sixty days prior to the start of the quarter to which they pertain and shall be updated immediately upon each issuance of bonds or notes after the date of such report to reflect any change in debt service requirements as a result of such issuance. The board also shall
receive from the city monthly and quarterly financial reports, which reports shall be made available by the city to the public containing substantially the same information as the city is required to submit to the United States Department of the Treasury pursuant to the federal credit agreement entered into under the New York City seasonal financing act of nineteen hundred seventy-five notwithstanding the expiration of such agreement with such modifications to the form and content of such reports as the city shall propose and the board shall approve in such form and contain such information as the board shall determine and shall be made available by the city to the public. In order to avoid duplicative reports and reporting requirements to the extent that the city is required to submit monthly or quarterly financial reports to the Department of the Treasury pursuant to any agreement or arrangement made in connection with federal guarantees of notes or bonds issued by the city or a state financing agency, copies of such reports shall be submitted to the board in satisfaction of the monthly and quarterly reporting requirements set forth above, together with such additional information as the board may require.

Each monthly and quarterly report herein required to be submitted to the board must indicate any variance between actual and budgeted revenues, expenses or cash for such quarter the period covered by such report.

Sec. 16. Paragraphs b and f of subdivision three of section seven of such act, such subdivision having been added by chapter
two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read, respectively, as follows:

(b) The board of collective bargaining constituted pursuant to such chapter, when reviewing such report or recommendation before proceeding to other issues, shall make a threshold determination as to whether such report or recommendation for an increase in wages or fringe benefits is within the city city's and or covered organization's financial ability to pay. If the threshold determination is in the negative, the matter shall be remitted to the impasse panel for further consideration. If the threshold determination is in the affirmative, the further review or the report or recommendation with respect to other issues, if any, shall proceed as provided by law. Unless the parties stipulate otherwise, the threshold determination shall be made within thirty days after submission of the report or recommendation to the board of collective bargaining.

(f) The court shall make a de novo review of the record solely for the purpose of determining whether an award or an increase in wages or fringe benefits was within the city city's and or covered organization's financial ability to pay. The court's findings as to such issue shall be based upon a preponderance of all the evidence set forth in the record. Unless the parties stipulate otherwise, arguments or submission shall be had within fifteen days after commencement of the special proceeding and the court shall render its decision within fifteen days thereafter. All questions, other than the question
relating to the threshold determination, shall be reviewed by the appellate division in the same proceeding in the manner provided by articles seventy-five or seventy-eight of the civil practice law and rules as may be appropriate, notwithstanding that the issue would otherwise have been cognizable in the first instance before a special or trial term of the supreme court. If an appeal shall otherwise lie from such determination of the appellate division to the court of appeals, notice of such appeal shall be filed within thirty days after the entry of the final order or judgment of the appellate division if such appeal is of right or within ten days after entry of an order granting leave to appeal and such appeal shall have preference over all other appeals other than appeals relating to the election law.

Sec. 17. Subdivision four of section seven of such act, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

4. During an emergency control period, except upon approval by the board in accordance with the provisions of paragraph e or f of subdivision one of this section, as the board shall determine, neither the city nor a covered organization shall not enter any agreement or other arrangement, whether or not it creates a debt of the city or a covered organization, pursuant to which the revenues or credit of the city may be directly or indirectly pledged, encumbered, committed or promised, contingently or otherwise, for the payment of obligations of a public benefit corporation except upon approval
by the board in accordance with the provisions of paragraph e of subdivision one of this section. Nothing in this subdivision shall limit the right of the city to comply with the provisions or any existing agreement or other arrangement in respect of the obligations of a public benefit corporation.

Sec. 18. Section seven of such act is hereby amended by adding thereto a new subdivision seven to read as follows:

7. The board may appoint qualified individuals to participate as members of such audit, productivity or similar committees or councils as the city may from time to time establish in consultation with the board. Such individuals, however, shall not be deemed to be officers, employees or agents of the board. The board shall review and report on, not less than annually, the development and implementation of methods for enhancing the productivity of the city's labor force proposed by any such committee or council.

Sec. 19. Subdivision six of section seven of such act, such subdivision having been added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

6. The board shall have the authority to make and execute agreements and all other instruments which the board deems necessary for the exercise of its powers and functions under the act including, in connection with any agreement by the federal
government, or any agency or instrumentality thereof, to guarantee the payment of the principal of, or containing terms and conditions required by the Secretary of the Treasury, pursuant to the New York City Loan Guarantee Act of 1974, Public Law 95-139, state financing agency, to enter into one or more agreements with the federal government or any agency or instrumentality thereof with respect to such guarantee or any matters related thereto and to comply with such terms and conditions.

Sec. 20. Section seven-a of such act, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

Sec. 7-a. Reports of the city. The city shall take such action as may be necessary to enable a nationally recognized independent certified public accounting firm or consortium of firms, one of which at least is a nationally recognized independent certified public accounting firm, to perform an annual audit in accordance with generally accepted auditing standards and to furnish to the board the report on such audit prepared by such firm or consortium of firms, which report shall include an opinion as to whether the city's financial statements have been prepared in accordance with generally accepted accounting principles as the application of same may be modified by the board pursuant to subject to the provisions of subdivision two-a of section eight of this act and shall state whether the audit of such financial statements was made in accordance with generally accepted auditing standards and accordingly included
Such tests of the accounting records and such other auditing procedures as were considered necessary under the circumstances, such report shall note the nature and extent of variations, if any, from generally accepted accounting principles reflected in the city's financial statements. The city shall make available for inspection and copying all books, records, work papers and other data and material as required by such auditors, and the city shall make its officers and employees available to, and shall cooperate with such auditors so as to permit such annual audit to be completed and the report issued to the city and to the board within one-hundred-twenty-days four hundred after the close of the city's fiscal year.

Sec. 21. The opening paragraph and paragraphs a and c of subdivision one of section eight of such act, the opening paragraph and paragraph a having been amended by chapter two hundred one of the laws of nineteen hundred seventy-eight and paragraph c having been added by such chapter, are hereby amended to read, respectively, as follows:

Pursuant to the procedures contained in subdivision three of this section, each year the city shall develop, and may from time to time modify, with the approval of the board during an emergency a control period, a four year financial plan covering the city and the covered organizations.

a. For its fiscal years ending June thirtieth, nineteen hundred seventy-nine through June thirtieth, nineteen hundred
eightsy-one, the city's budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the comptroller, in consultation with the city comptroller, for application to the city, subject to the provision of subdivision four of section three thousand thirty-eight of the public authorities law with respect to contributions by the city or other public employer to any retirement system or pension fund and subject to the provision of paragraph (c) of subdivision five of section three thousand thirty-eight of the public authorities law with respect to expense items included in the capital budget of the city. For the fiscal year ending June thirtieth, nineteen hundred eighty-two, and for each fiscal year thereafter, the city's expense budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with principles—which are consistent with generally accepted accounting principles and that permit comparison of the budget with the report of actual financial results prepared in accordance with generally accepted accounting principles. With respect to financial plans that include the fiscal years ending June thirtieth, nineteen hundred seventy-nine through June thirtieth, nineteen hundred eighty-one, the city's budget covering all expenditures other than capital items shall be prepared in accordance with generally accepted accounting principles and there shall be substantial progress in each such
fiscal year towards achieving a city expense budget balanced-in accordance-with such covering-all-expenditures-other-than-capital items the results of which would not show a deficit when reported in accordance with generally-accepted-accounting principles. The city shall eliminate expense items from its capital budget not later than the commencement of the fiscal year ending June thirty-first, nineteen hundred eighty-two. For the fiscal year ending June thirty-first, nineteen hundred eighty-nine, the expense budgets covering-all-expenditures-other-than-capital-items of each of the covered organizations shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with such generally-accepted-accounting principles; and for each fiscal year prior thereto, there shall be substantial progress towards such goal.

c. Provision shall be made for the payment in full of the debt service on all bonds and notes of the city and the covered organizations (other than notes held by the municipal assistance corporation for the city of New York to the extent that such corporation has evidenced its intention not to present such notes for payment during the fiscal year in which the determination is made) provided that such notes were held by such corporation on June thirty-first, nineteen hundred seventy-eight or were issued in exchange for or in refunding or renewal of notes held by such corporation on such date, and for the adequate funding of programs of the city and the covered organizations which are mandated by state or federal law and for which obligations are going to be incurred during the then-emerging fiscal year and for
payment of a guarantee fee or any other amounts required by the United States of America or any agency or instrumentality thereof in connection with the guarantee of the payment of the principal or interest on bonds issued by the city.

Sec. 22. Subdivision two-a or section eight of such act, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

2-a. The city and the board shall confer concerning the projected effect on the expense budgets of the city and the covered organizations of any change in generally accepted accounting principles, or change in the application thereof of generally accepted accounting principles to the city and the covered organizations, made after the effective date of this act. If the board determines that immediate compliance with such change will have a material effect on such expense budgets over a time period insufficient to accommodate the effect without a substantial adverse impact on the delivery of essential services, the board may authorize and approve a method of phasing the requirements of such change into such expense budgets over such reasonably expeditious time period as the board deems appropriate.

Sec. 23. Subdivision three of section eight of such act, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:
3. The financial plan shall be developed and, during an
emergency a control period, shall be approved, and may from time
to time be modified, in accordance with the following procedures:

a. The city shall, by June first, nineteen hundred seventy-eight, prepare and submit a financial plan to the board covering
the four year period which begins with the fiscal year ending
June thirtieth, nineteen hundred seventy-nine. Thereafter, at
least fifty days prior to the beginning of each fiscal year or on
such other date as the board may approve upon the request of the
city, the city shall prepare and submit a financial plan to the
board covering the four year period beginning with such fiscal
year. On such dates the mayor shall also submit to the board the
city's executive expense, revenue and capital budgets for the
ensuing fiscal year and a certificate of the mayor stating that
such budgets are consistent with the financial plan submitted
therewith, that projections contained in the budgets and
financial plan are reasonable based upon reasonable and
appropriate assumptions and methods of estimation, and that
operation within the budgets is feasible.

b. The (i) During a control period the board shall promptly
review each financial plan and financial plan modification
submitted by the city. Not more than forty-five days after
submission of a financial plan or more than thirty days after
submission of a financial plan modification the board shall
determine whether the financial plan or financial plan
modification is complete and complies with the standards set
forth in subdivision one of this section and during an emergency period shall approve or disapprove the financial plan or financial plan modification in accordance with the provisions of this section. If the board determines that the financial plan or financial plan modification is complete and complies with the standards set forth in subdivision one of this section, the board shall approve the financial plan or financial plan modification. Upon making such determination the board shall make a certification to the city setting forth revenue estimates approved by the board in accordance with such determination.

(iii) At all times other than during a control period, the board shall promptly review each financial plan and financial plan modification submitted by the city. If the board determines after such review that the financial plan or financial plan modification submitted by the city is not in accordance with the standards set forth in subdivision one of this section, the board shall promptly so notify the city and may take such other action under this act as it deems appropriate.

c. The board shall disapprove a financial plan or financial plan modification if during an emergency control period it determines that the financial plan or financial plan modification is incomplete or fails to comply with the provisions of subdivision one of this section. In disapproving a financial plan or a financial plan modification the board may order that one or more of the following actions be taken:
(i) expenditures or reserves to assure availability of amounts required for debt service requirements on all bonds and notes of the city and the covered organizations or expenditures required for adequate funding of programs of the city and the covered organizations mandated by state or federal law and for which obligations are going to be incurred during the fiscal year, be increased to the levels required to provide for their payment in full;

(ii) the revenue projections for—any—source for any item thereoff during any period be adjusted to comply with the standards set forth in subdivision one of this section; and

(iii) the aggregate expenditures projected for any period be reduced to conform to revenue estimates certified by the board in order to comply with the standards set forth in subdivision one of this section.

d. During an—emergency—a—control period in the event that the city shall, for any reason, fail to submit a financial plan prior to the beginning of a fiscal year, as required by paragraph a or this subdivision, or in the event that the board has not, for any reason—permitted—under—this—act, approved a financial plan submitted by the city prior to the beginning of a fiscal year, the board shall formulate and adopt a financial plan to be effective until the board approves a financial plan submitted by the city. Any financial plan so formulated by the board shall comply with the standards set forth in subdivision one of this
section. The budgets and operations of the city and the covered organizations at all times shall be in conformance and compliance with the financial plan then in effect.

e. After the initial adoption by the city, or the approval by the board during an emergency control period, of a financial plan, projections of revenues and expenditures and other estimates contained in the financial plan shall be reexamined by the board at least quarterly in consultation with the city and the covered organizations, and during an emergency control period the city shall prepare and submit to the board financial plan modifications at such times, in such detail and within such time periods as the board may require in order to modify the financial plan to conform to the standards set forth in subdivision one of this section. During an emergency control period in the event the board determines that (i) revenue estimates (or any item thereof) must be adjusted to ensure compliance with the standards set forth in subdivision one of this section, or (ii) that the city or a covered organization is expending funds at a rate that would cause expenditures to exceed the aggregate expenditure limitation for the city or covered organization provided for in the financial plan which has been approved in effect, prior to the expiration of the fiscal year, the city shall submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such standards or aggregate expenditure limitations. If during an emergency control period the city fails to make submit such
modification after reductions such_determination__as__to adjustments in revenue estimates or such_determination__as__to rates_of_expenditures, or to provide submit a financial plan modification in the detail or within the time period specified by the board, or if such modification is disapproved by the board as not_conforming_to_the_standards_set_forth_in_subdivision_one_of this_section, the board may formulate and adopt such financial plan modification as it deems appropriate to ensure that the financial plan continues to meet the such_standards_set_forth_in subdivision-one-of-this-section. Such modification shall become effective on its adoption. Notwithstanding the provisions of this section, in the event the city shall determine that, due to unforeseen events during a fiscal year, compliance with the standards set forth in paragraph a of subdivision one of this section would result in a material adverse impact upon the delivery of essential services, the city shall notify the board of such determination, together with such information, projections or analyses relating thereto as the board may require, and shall submit a modification to the financial plan reflecting such determination. During an_emergency_a___control period the board shall disapprove any such modification unless it finds that (i) the city's determination is supported by information, projections and analyses which the board deems substantially accurate in all material respects and (ii) such events, in its judgment, warrant such modification to the financial plan to avoid such adverse impact on the delivery of essential services.
r. The city may, from time to time, submit financial plan modifications for review by the board. During an emergency control period the board shall approve such modifications unless it determines that such modifications would constitute grounds for disapproval of the financial plan pursuant to paragraph c of this subdivision, or if applicable, pursuant to paragraph e of this subdivision.

q. Anything contained in this act to the contrary notwithstanding, during an emergency control period the board may at any time disapprove or after consultation with the city revise the revenue estimates (or any item thereof) prepared by the city in connection with the preparation of a financial plan or any modification thereto and determined by the board not to be based on assumptions and methods of estimation which are reasonable and appropriate under the circumstances and in view of the objectives and purposes of the act. The board may after consultation with the city determine the estimated revenues of the city and the covered organizations provided, however, that any revenues estimated by the board shall be based on reasonable and appropriate assumptions and methods of estimation.

Sec. 24. The section heading and subdivision one of section nine of such act, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read as follows:
Establishment and application of the board fund. 1. There is hereby established a fund designated the board fund. Commencing on the-effective-date-of-the-financial-plan October twentieth, nineteen hundred seventy-five, and for the duration of an-emergency a-control period, all revenues received or to be received by the city or any covered organization shall, unless exempted by order of the board, be revenues of the board fund and shall be for the account of the city and or the appropriate covered organizations; but-disbursement-from-the-board-fund-shall-be-made-by-the-board-in-accordance-with-the-approved-financial-plan except (i) to the extent expressly prohibited by federal law, (ii) where revenues of the city are deposited in the general debt service fund, the IAN debt service account or the KAN debt service account, or (iii) where such revenues are pledged to the payment of any outstanding bonds, notes or other obligations of covered organizations or state public authorities as defined in section two hundred one of the civil service law. Disbursement from the board fund shall be made by the board in accordance with the-approved-financial-plan except as provided in subdivision five of this section nine. Commencing on the-effective-date-of-the-financial-plan October twentieth, nineteen hundred seventy-five, and for the duration of the-emergency a-control period, all funds and accounts established or thereafter established by the city or the covered organizations shall, unless exempted by order of the board, thereafter be funds and accounts of the board fund except to the extent expressly prohibited by federal law or to the extent pledged by covenants or agreements relating to any outstanding bonds, notes or other obligations of covered
organizations or public authorities as defined in section two
hundred one of the civil service law; and no monies or funds held
in the general debt service fund, the IAN debt service account or
the IAN debt service account shall be part of the board fund.
All such accounts of the board shall have such captions and
entries as the board shall determine to be necessary to credit
the foregoing revenues and receipts to the board fund. The
monies of the fund shall not be deemed to be money of the state
or money under its control.

Sec. 25. Subdivision four of section nine of such act, as
amended by chapter two hundred one of the laws of nineteen
hundred seventy-eight, is hereby amended to read as follows:

4. Within the board fund there is hereby established a
special account designated the debt service repayment account.
The board shall from time to time direct, in accordance with
procedures adopted by the board, the deposit in the debt service
repayment account of such amounts as the board shall, in its
discretion, determine to be sufficient to meet the debt service
requirements of the covered organizations on their bonds and
notes (other than bonds and notes of covered organizations
payable from revenues not included in the board fund) as they
become due. Amounts in the debt service repayment account shall
be used to meet such debt service requirements of the covered
organizations.
Sec. 26. Subdivisions one, two, three, four, six, seven, eight and nine of section nine-a of such act, such section having been added by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read, respectively, as follows:

1. Commencing duty on the first nineteen-hundred-seventy-eight day of the first full fiscal quarter subsequent to the first sale of a federally guaranteed city obligation, the city shall establish a general debt service fund for the purpose of paying debt service due or becoming due in the then current fiscal year commencing on such date and in subsequent fiscal years. All monies in the fund shall be held by the comptroller, who shall administer and maintain the fund in accordance with the provisions of this section.

2. All payments of or on account of real estate taxes or assessments, other than the proceeds of tax anticipation notes, shall be immediately upon receipt deposited in such fund. The comptroller shall retain, disburse and apply monies in the fund during each month as follows:

a. During the first month of each fiscal quarter, there shall be retained in the fund, subject to the provisions of subdivision three of this section, all real estate tax payments deposited in the fund until there shall have been retained from monies so deposited during such month an amount equal to the total monthly debt service, computed as of the date of any
disbursement of money from the fund, for the second and third months of such fiscal quarter; provided that such amount shall be reduced by any amount already on deposit in the fund which may be used to pay the monthly debt service for such months.

For purposes of this section, fiscal quarter shall mean the three-month period beginning July first, October first, January first or April first, and monthly debt service shall mean, as of any date of computation, the amount of monies equal to the aggregate of (i) all interest payable during such month on bonds and notes of the city, plus (ii) the amount of principal (including payments into sinking funds) maturing or otherwise coming due during such month on all bonds of the city (excluding principal payments made from sinking funds required by the terms of certain city bonds), plus (iii) the amount of principal to be paid on notes of the city during such month from sources other than the proceeds of bonds or renewal notes (exclusive of revenue anticipation notes and tax anticipation notes or renewals thereof issued less than two years prior to the date of computation), plus—(iv)—all amounts payable during such month as sinking fund payments with respect to bonds of the city.

b. During the second and third months of each fiscal quarter, there shall be retained in the fund, subject to the provisions of subdivision three of this section, all real estate tax payments deposited in the fund until there shall have been retained from monies so deposited during such month an amount equal to the total monthly debt service, computed as of the date
of any disbursement of monies from the fund, for the first month or the next succeeding fiscal quarter; provided that such amount shall be reduced by any amount already on deposit in the fund which may be used to pay the monthly debt service for such month.

c. During any month of a fiscal quarter, after the retentions required by paragraphs a and b of this subdivision have been made for such month, the comptroller shall deposit any remaining balance of real estate taxes received during such month, first into the IAN debt service account to the extent required under subdivision six of this section, and second into the board fund to be applied in accordance with procedures of the board.

d. The city may at any time pay into the fund any monies required by law to be used to pay monthly debt service and any other monies available for such purpose.

e. Subject to agreements made with holders or guarantors of outstanding notes or bonds issued by or for the benefit of the city after the effective date of this act, the comptroller shall invest the monies retained in the fund in accordance with law.

3. The board may approve, subject to agreements made with the holders or guarantors of outstanding notes or bonds issued by or for the benefit of the city after the effective date of this act, criteria for calculating a proportion of real estate tax receipts to be retained in the fund in order to provide for the
retention of amounts required by the provisions of subdivision two of this section in lieu of the retention of all initial receipts as required by such subdivision; provided, that if the board at any time determines that retentions in the fund pursuant to the provisions of such subdivision are or are likely to be insufficient to provide for the payment of monthly debt service when due, in order to ensure that the amounts on deposit in the fund will be sufficient to pay monthly debt service when due, the board shall require (i) that real estate tax receipts be retained in the fund in greater amounts or at earlier dates than the provisions of such subdivision require, or (ii) that other revenues or cash resources of the city be paid into the fund. The board shall consider the impact of earlier or larger retention of real estate tax receipts on the city's seasonal borrowing requirements when determining whether it shall require such additional retention or that other revenues or cash resources of the city be paid into the fund. Prior to the issuance by the city of any bonds or notes, the board shall review any criteria then in effect which determine the proportion or real estate tax receipts to be retained in the fund to determine whether the proposed debt service schedule for such bonds or notes is consistent with the monies which will be available therefor or whether such criteria should be revised. The board shall from time to time take such action as it determines is necessary, including disapproval of a proposed issue pursuant to paragraph f of section seven, so that the monies in the fund shall be adequate to meet debt service
requirements to be in effect after the issuance of such bonds or notes.

4. Commencing on August the first day of the second month of the first full fiscal quarter subsequent to the first sale of a federally guaranteed city obligation, nineteen-hundred-seventy-eight day of the second month of the first full fiscal quarter subsequent to the first sale of a federally guaranteed city obligation, the payment of monthly debt service shall be made, first, from amounts retained in the fund. Amounts retained in the fund shall be used only to pay debt service of the city.

6. The city shall determine the date on which the principal due or to become due on an outstanding issue of tax anticipation notes shall equal ninety percent of the available tax levy with respect to such issue, and upon reasonable notice thereof the comptroller shall commence on such date to pay into the TAN debt service account from collections of such taxes and assessments, after retaining amounts required to be deposited in the fund, amounts sufficient to pay when due, the principal of such issue or tax anticipation notes. The payments of the principal of tax anticipation notes shall be made, first, from amounts on deposit retained in the TAN debt service account.

7. Upon the issuance of any revenue anticipation notes following the effective date of this act, the comptroller shall establish and, so long as any revenue anticipation notes shall be outstanding, shall maintain a revenue anticipation note debt
service account within the fund for the purpose of paying the principal of revenue anticipation notes. Each specific type of revenue in anticipation of which such notes are issued and available for such purpose shall be deposited in such account immediately upon receipt by the city, where such revenue consists of state aid or other revenue to be paid to the city by the controller, on the date such revenue is payable to the city, the controller shall deposit such revenue directly into such account in lieu of payment to the city. All revenues deposited in the RAN debt service account shall be paid immediately into the board fund except as otherwise provided in subdivision eight of this section.

8. Commencing—on-the-day-when-the-city-determines—that the city shall determine the date on which the principal due or to become due on an outstanding issue of revenue anticipation notes shall equal ninety percent of the total amount of revenue against which such notes were issued remaining to be paid to the city on or before the fifth day prior to the maturity date of such notes, the city shall pay into the RAN debt service account from amounts received by the city for and upon reasonable notice thereof the controller shall commence on such date to retain in the RAN debt service account from amounts deposited or to be deposited therein or each specific type of revenue in anticipation of which revenue such anticipation notes were issued, an amount sufficient to pay, when due, the principal of such revenue anticipation notes.

Monies retained in such account shall vest immediately in the controller in trust for the benefit of the creditors of the
Revenue anticipation notes in anticipation of which such notes were issued, no person having any claim of any kind in tort, contract or otherwise against such city shall have any right to or claim against any moneys of the state appropriated by the state and in anticipation of which such notes have been issued, other than a claim for payment by the holders of such notes, and such moneys shall not be subject to any order, judgment, execution, attachment, setoff or counter-claim by any such person; provided, however, that nothing contained in this paragraph shall be construed to limit, impair, impede or otherwise adversely affect in any manner the rights or remedies or the purchasers and holders and owners of any bonds or notes of the state or any agency, instrumentality, public benefit corporation or political subdivision thereof, including the city of New York, under which such purchasers and holders and owners have any right of payment of such bonds or notes by recourse to state aid or local assistance moneys held by the state or for the payment of which bonds or notes state aid or local assistance moneys are a designated source. The payment of the principal of revenue anticipation notes shall be made first from amounts on deposit retained in the RAN debt service account.

Y. Whenever the amount contained in the TAN debt service account or the RAN debt service account exceeds the amount required to be on-deposit retained in such account such excess moneys, including earnings on investments of moneys in the fund, shall be withdrawn from such account and paid into the board fund.
Sec. 27. Subdivision ten of section nine-a of such act, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby renumbered to be subdivision eleven and as so renumbered is amended to read as follows:

11. The limitations imposed upon the city by this section shall be in addition to any limitations imposed upon the city under the local finance law. In the event any provisions of the local finance law shall be inconsistent with the provisions of this section, the provisions of this section shall prevail. The requirements of this section shall not apply to any note of the city held by the municipal assistance corporation for the city of New York on the effective date of this act to the extent that such corporation has evidenced its intention not to present such notes for payment during the fiscal year in which the determination is made provided that such notes were held by such corporation on June thirtieth, nineteen hundred seventy-eight or were issued in exchange for or in refunding or renewal of notes held by such corporation on such date.

Sec. 28. Paragraph e of subdivision two of section nine-a of such act is hereby renumbered to be subdivision ten of such section.

Sec. 29. Section nine-a of such act is hereby amended by adding thereto a new subdivision twelve to read as follows:
12. Notwithstanding any other provision of this section, the city may at any time subject to approval by the comptroller, designate a trust company or bank having its principal place of business in the state of New York and having the powers of a trust company in the state of New York to hold all or any part of the monies in the fund and to administer and maintain the monies so held, in accordance with the applicable provisions of this section and any agreements made pursuant thereto.

Sec. 30. Subdivision one of section nine-b of such act, such section having been added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

.1. The limitations on short-term borrowing imposed upon the city by this section shall be in addition to the limitations on short-term borrowing imposed upon the city under the local finance law. In the event any provisions of the local finance law shall be inconsistent with the provisions of this section, the provisions of this section shall prevail. For the purposes of this section the terms "bond anticipation notes", "tax anticipation notes", and "revenue anticipation notes" and "budget notes" shall not mean one or more of or any of the respective notes held by the municipal assistance corporation for the city of New York on the effective date of this act June thirty-first, nineteen hundred seventy-eight, or any note of the city held by such corporation issued in exchange for or in refunding or renewal of any such note.
Sec. 31. The section heading and subdivisions one and two of section ten-a of such act, such section having been added by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read, respectively, as follows:

Covenants, authorizations to agree and remedies.

1. In the event that after the date on which the provisions of this act become operative, any notes or bonds are issued by the city prior to July first, nineteen hundred eighty-two, or any bonds are issued by a state financing agency, the state of New York hereby authorizes the city and authorizes and requires such state financing agency to include a pledge and agreement of the state of New York in any agreement made by the city or such state financing agency with holders or guarantors of such notes and or bonds that the state will not take any action which will (a) substantially impair the authority of the board during an emergency control period, as defined in subdivision twelve or section two of this act as in effect on the date such notes or bonds are issued (i) to approve, disapprove or modify any financial plan or financial plan modification, including the revenue estimates projections, (or any item thereof) contained therein, which does not comply with subject to the standards of section ten-in paragraphs a, c, d, e and f of subdivision one of section eight of this act as in effect on the date such notes or bonds are issued and paragraphs b of such subdivision as in effect from time to time, (ii) to disapprove a contract of the city or a covered organization if the performance of such contract would be
inconsistent with the financial plan and or to approve or disapprove proposed short-term and or long-term borrowing of the city or a covered organization or any agreement or other arrangement referred to in subdivision four of section seven of the act, and or (iii) to establish and adopt procedures with respect to the deposit in and disbursement from the board fund of city revenues; (b) substantially impair the authority of the board to review financial plans, financial plan modifications, contracts of the city or the covered organizations and proposed short-term or long-term borrowings of the city and the covered organizations; (c) substantially impair the independent maintenance of a separate fund for the payment of debt service on bonds and notes of the city; (d) alter the composition of the board so that the majority of the voting members of the board are not officials of the state of New York elected in a state-wide election or appointees of such officials the governor; (e) terminate the existence of the board prior to the time to be determined in accordance with section thirteen of this act as in effect on the date such notes or bonds are issued; (f) substantially modify the requirement that the city's financial statements be audited by a nationally recognized independent certified public accounting firm or consortium of firms and that a report on such audit be furnished to the board; or (g) alter the definition of emergency control period set forth in subdivision twelve of section two, as in effect on the date such notes or bonds are issued, or substantially alter the authority of the board, as set forth in said subdivision to reimpose or terminate an-emergency control period; provided, however, that
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 a bank, trust company or other fiduciary sufficient moneys or direct obligations of the United States or an agency thereof obligations guaranteed by the United States, 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 of and interest on all outstanding notes or and bonds of the city or such state financing agency subject to containing this pledge and agreement and irrevocable instructions from the city or such state financing agency to such bank, trust company or other fiduciary for such payment of such principal and interest with such moneys shall have been given, or (ii) such notes or and bonds, together with interest thereon, have been paid in full at maturity or have otherwise been refunded, redeemed, defeased, or discharged; and provided further that the foregoing pledge and agreement shall be of full force and effect upon its inclusion in any agreement made by the city or state financing agency with holders or guarantors of such notes or bonds.

Upon payment for such obligations issued pursuant to this act by the original and all subsequent holders inclusions of the foregoing covenant shall be deemed conclusive evidence of valuable consideration received by the state and city for such covenant and of reliance upon such pledge and agreement by any such holder. The state hereby grants any such benefited holder the right to sue the state in a court of competent jurisdiction.
and enforce this covenant and agreement and waives all rights of
defense based on sovereign immunity in such an action or suit.

2. Every such bond or note which shall have the benefit of
contain the pledge and agreement referred to in subdivision one
above shall be callable for redemption at commencing not later
than the eleventh anniversary of its date of issuance and shall
contain on its face a recital to such effect, together with the
terms and conditions under which such obligation may be redeemed.

Sec. 32. Subdivision three of section ten-a of such act is
hereby renumbered to be subdivision seven and such section is
hereby amended by adding thereto four new subdivisions three,
four, five and six, to read, respectively, as follows:

3. The finance board of the city is hereby authorized to
enter into agreements and to make covenants with any purchaser,
holder or guarantor of obligations issued by the city or by a
state financing agency to protect and safeguard the security and
rights of a purchaser, holder or guarantor or to protect and
safeguard the source of payment of such obligations or as deemed
appropriate by the finance board which agreements or covenants
may contain provisions providing for all the compliance by the
city with any of the provisions of this act or of the New York
City Loan Guaranty Act of nineteen hundred seventy-eight, Public
Law 92-349, or with any of the terms and conditions required by
the secretary or the treasurer pursuant to such act. (b)
restrictions on the issuance by the city of its obligations.
limitations on the inclusion of expense items in its capital
budgets and financial records; reporting and disclosure
requirements in addition to any such restrictions, limitations or
requirements contained in the act; (c) compliance by the city
with its financial plan as modified from time to time; (d)
conditions that would give rise to an event of default on such
obligations; and (f) remedies available to a purchaser, holder or
guarantor of such obligations, other than acceleration or the
required elimination or reduction of specific municipal
expenditures; including the circumstances, if any, under which a
trustee or trustees or a fiscal agent may be appointed or may act
as a representative of holders of obligation issued by the city
in connection with an issue or issues of obligations of the city
and the rights, powers and duties which may be vested in such
trustee, trustees or fiscal agents as such representative. The
state of New York hereby pledges and agrees that it will take no
action that would impair the power of the city to comply with or
to perform any covenant or agreement made pursuant to this
subdivision, or any right or remedy of a purchaser, holder or
guarantor to enforce such covenant or agreement; and the city or
a state financing agency is hereby authorized to include such
pledge and agreement in any agreement made pursuant to this
subdivision. Nothing contained in this subdivision 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 shall preclude
the state from validly exercising its police powers.
6. Notwithstanding any other provision of law, the Trustees of any retirement, pension or annuity fund or system of the State of New York or of the City of New York are hereby authorized to enter into commitments to purchase and to purchase notes, bonds or other obligations of the City of New York or of a State Financing Agency, the payment in whole or in part of interest, principal or both is guaranteed by the Secretary of the Treasury of the United States of America pursuant to the New York City Loan Guarantee Act of 1973, Public Law 93-339, as presently in effect or hereafter amended or to purchase other bonds or notes of such city or of a State Financing Agency prior to June thirtieth, nineteen hundred eighty-two. Such commitments to purchase shall be binding upon and enforceable against successor Trustees of such retirement, pension or annuity funds or systems or the State of New York or City of New York.

5. The Secretary of the Treasury shall have the right to initiate a proceeding in the Supreme Court of the State of New York in and for the County of New York or the Court of Claims of the State of New York to obtain a Court Order or other relief in connection with any agreements or other transactions entered into by the Secretary relative to his guarantee of the principal interest or both of City Indebtedness.

6. Notwithstanding any other provision of law, to the contrary, the Governor shall have the authority in connection with any agreement by the Federal Government or any agency or instrumentality thereof, to guarantee the payment of the principal
or interest on bonds or notes issued by the city of New York or by a state financing agency to enter into one or more agreements containing terms and conditions required by the secretary of the treasury pursuant to the New York City Loan Guarantee Act of 1973, Public Law 93-339, approved by the controller and approved as to form by the attorney general, with the federal government or any agency or instrumentality thereof with respect to such guarantee or any matters related thereto and to comply with such terms and conditions.

Sec. 33. Subdivisions one and three of section eleven of such act, subdivision one having been amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, are hereby amended to read, respectively, as follows:

1. During an-emergency control period (i) no officer or employee of the city or of any of the covered organizations shall make or authorize an obligation or other liability in excess of the amount available therefor under the financial plan as then in effect; (ii) no officer or employee of the city or of any of the covered organizations shall involve the city or any of the covered organizations in any contract or other obligation or liability for the payment of money for any purpose required to be approved by the board unless such contract, obligation or liability has been so approved or deemed to be approved as provided in paragraphs e and f of subdivision one of section seven and unless such contract or obligation or liability is in compliance with the financial plan as then in effect.
3. In addition to any penalty or liability under other law, any officer or employee of the city or any of the covered organizations who shall *knowingly and willfully* violate subdivision one or two of this section shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of either the governor or the mayor and any officer or employee of the city or any of the covered organizations who shall *knowingly and willfully* violate subdivision one or two of this section shall, upon conviction, be guilty of a misdemeanor.

Sec. 34. Subdivision a of section twelve of such act, such section having been added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

a. The state shall save harmless and indemnify members, officers and employees of and representatives to the board, all or whom shall be deemed officers and employees of the state for purposes or section seventeen of the public officers law, against any claim, demand, suit, or judgement arising by reason of any act or omission to act by such member, officer, employee or representative occurring in the discharge of his duties and within the scope of his service on behalf of such corporation including any claim, demand, suit or judgement based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of
securities or other obligations. In the event of any such claim, demand, suit or judgement, a member, officer or employee of or representative to the board shall be saved harmless and indemnified, notwithstanding the limitations of subdivision one or section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he reasonably believed to be in the best interest of the board or not to have had reasonable cause to believe that his conduct was lawful.

Sec. 35. Section thirteen of such act, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

Sec. 13. Termination. This act shall terminate on the earlier of (a) on July first, two thousand eight or (b) the date when all bonds and notes containing the pledge and agreement authorized by subdivision one of section ten-a of this act are refunded, redeemed, discharged or otherwise defeased, or when there shall no longer be outstanding any guarantee by the United States of America or any agency or instrumentality thereof as to payment of principal of or interest on any note or bond issued by the city or a state financing agency, whichever of the later shall occur earlier later.

Sec. 36. Such act is hereby amended by adding thereto two new sections fourteen and fifteen to read, respectively, as follows:
Sec. 14. Separability. If any clause, sentence, paragraph, subdivision, or other part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part thereof directly involved in the controversy in which such judgment shall have been rendered, and it shall be construed to have been the legislative intent to pass this act without such unconstitutional or invalid part therein.

Sec. 15. 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 appeal of such judgment or order shall have preference over all other causes in any court of this state. 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.

Sec. 37. Section 54.10 of the local finance law, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

Sec. 54.10 Costs of sales. Subject to the provisions of the financial emergency act for the city of New York, but notwithstanding any other law to the contrary:
131. To facilitate the marketing of any issue of bonds or notes of the city of New York issued on or before June thirtieth, nineteen hundred eighty-two, without further approval of the mayor and comptroller of such city, subject to the limitations on private sales of bonds provided by law:

(i) arrange for the underwriting of its bonds or notes at private sale through negotiated agreements or public offerings and provide for compensation for such underwriting to be provided by negotiated fee or by sale of such bonds or notes to an underwriter at a price of less than the sum of par value of, and the accrued interest on, such obligations; or

(ii) arrange for the private sale of its bonds or notes through negotiated agreements, and provide for compensation for services rendered in connection with such sales to be provided by negotiated fee, if required.

The cost of such underwriting or private placement shall be deemed a preliminary cost for purposes of section 11.00 of this chapter.

132. Without further approval of the mayor and comptroller of the city of New York, may provide for or enter into agreements which provide for the payment of a guarantee fee or any other amounts required by the United States of America or any agency or instrumentality thereof in connection with any guarantee of the payment of the principal of or interest on bonds or notes issued
by such city or the municipal assistance corporation for the city of New York.

16l. Without further approval the mayor and the comptroller of the city of New York may provide for or enter into agreements which provide for the payment of compensation by negotiated fee or otherwise to a financial advisor to such city engaged pursuant to any agreement with the secretary of the Treasury in connection with the guarantee by the United States of America or any agency or instrumentality thereof of the principal or of interest on bonds or notes issued by such city or the municipal assistance corporation for the city of New York or to enhance the city's ability to market its obligations to the public.

16l. Without further approval the mayor and the comptroller of the city of New York may provide for or enter into agreements which provide for the compensation by negotiated fee or otherwise of a trust company or bank having the powers of a trust company in the state of New York to hold, maintain and administer funds in accordance with the provisions of section nine a of this act.

16l. Without further approval the mayor and the comptroller of the city of New York may provide for or enter into agreements which provide for the payment of any amount required in exchange for a commitment to purchase bonds or notes of the city.
Sec. 38. Section 85.00 of such law, as amended by chapter eight hundred seventy of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

Sec. 85.00 Limitation of provisions; emergency period. No provisions of this title, other than section 42.01, shall be applicable to the city of New York. The provisions of this title shall be applicable (a) only to a municipality other than the city of New York, with respect to which the legislature has declared that a state of financial emergency exists, and (b) only during the such emergency period as—that-term-is-defined-in section-two-of-the-New-York-state-financial-emergency-act-for-the city-of-New-York—or-as-such-period-as-may-be-specified-by-the legislature for any other municipality other than the city of New York, to—which—the—provisions—of—this—title—may—be applicable; provided, however, that the provisions of section 65.01 of this title shall apply to any municipality, including the city of New York, at any time. As used in this title, the term "emergency financial control board" shall mean any such board established by state law for the municipality, and the term "covered organization" shall mean any such organization as defined in the act declaring that a state of financial emergency exists for such municipality. Nothing contained in this title shall be construed to limit or stay any emergency financial control board from doing any act or commencing or continuing any action or special proceeding against or involving the municipality or any covered organization.
Sec. 39. Section 85.80 of such law, as added by chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

Sec. 85.80 Authority for municipality or emergency financial control board to file petition under federal statute. In addition to or in lieu of filing a petition under this title, a municipality or its emergency financial control board in addition to or in lieu of filing a petition under this title, or the city of New York or the New York State Financial Control Board, may file any petition with any United States district court or court of bankruptcy under any provision of the laws or the United States, now or hereafter in effect, for the composition or adjustment of municipal indebtedness. Nothing contained in this title shall be construed to limit the authorization granted by this section.

Sec. 40. Paragraph c of section 90.00 of such law, as amended by chapter six hundred nine of the laws of nineteen hundred forty-four, is hereby amended to read as follows:

c. Bonds issued on or after January first, nineteen hundred thirty-nine, shall not be refunded within five years after the date of original issue. This restriction shall not apply to bonds issued by the city of New York or to bonds issued to refund:

1. Bonds issued; or
2. Bonds issued to redeem notes, certificates or other evidences of temporary indebtedness issued prior to January first, nineteen hundred thirty-nine.

Sec. 41. Subdivision three of paragraph q of section 90-00 or such law, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

3. Outstanding bonds may, pursuant to a power to recall and redeem or with the consent of the holders thereof, be exchanged for refunding bonds (i) if the refunding bonds are to bear interest at a rate equal to or lower than that borne by the bonds to be refunded or (ii) if, in the case of the city of New York prior to July first, nineteen hundred eighty-two, the annual payment required for principal and interest on the refunding bond is less than the annual payment required for principal and interest on the bond to be refunded, in each case such annual payments to be determined by dividing the total principal and interest payments due over the remaining life of the bond by the number of years to maturity of the bond or (iii) if, the bonds to be refunded were issued by the city of New York after June thirtieth, nineteen hundred seventy-eight and prior to July first, nineteen hundred eighty-two and contain convenants referring to the existence of the New York state emergency financial control board for the city of New York or any other convenants relating to matters other than the prompt payment of principal and interest on the obligations when due and the
refunding bond is without a covenant referring to the existence of New York State emergency financial control board for the city of New York or any other covenant relating to matters other than the prompt payment of principal and interest on the obligation when due omits or modifies any such covenant or liable in the case of the city of New York, the bond to be refunded is guaranteed by the federal government.

Sec. 42. Subdivision one of paragraph b of section 90-10 or such law, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

l. A municipality, school district or district corporation may issue serial bonds on or before June thirtieth, nineteen hundred seventy-nine, and the city of New York may, in addition, issue serial bonds on or before June thirtieth, nineteen eighty-two during such period as the payment of principal or interest on any of its bonds or notes shall be guaranteed by the federal government, to refund all or any portion of an issue of outstanding serial bonds issued on or after January first, nineteen hundred seventy, in the manner and subject to the limitations and conditions set forth in this section. The principal amount of refunding bonds shall not exceed an amount sufficient to pay the sum of (a) the principal amount of the bonds to be refunded, which is outstanding as of the date of issue of the refunding bonds, (b) the aggregate amount of unmatured interest payable on the bonds to be refunded to and
including either the date or dates such bonds mature or, if such bonds are to be called for redemption prior to their maturities, the date or dates set for such redemption in accordance with the refunding financial plan, (c) redemption premiums, if any, payable on the bonds to be refunded as of such redemption date or dates, and (d) costs and expenses incidental to the issuance of the refunding bonds, including the development of the refunding financial plan, and of executing and performing the terms and conditions of the escrow contract and all fees and charges of the escrow holder.

Sec. 43. Subparagraph (b) of subdivision two of paragraph b or section 90.10 of such law, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

(b) Notwithstanding the provisions of subparagraph (a) of this subdivision, the city of New York may also issue refunding bonds (i) if the annual payment required for principal and interest on the refunding bond is less than the annual payment required for principal and interest on the bond to be refunded, in each case such annual payments to be determined by dividing the total principal and interest payments due over the remaining life of the bond by the number of years to maturity of the bond or (ii) if the bond to be refunded contains a covenant referring to the existence of the New York state emergency financial control board for the city of New York or any other covenant relating to matters other than the prompt payment of principal
and interest on the obligation when due, and the refunding bond contains no covenant relating to matters other than the prompt payment of principal and interest on the obligation when due, or if it, or any such covenant or matter other than the bond to be refunded is guaranteed by the federal government.

Sec. 44. Subdivision three of paragraph j of section 90.10 or such law, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

3. Outstanding bonds may, with the consent of the holders thereof, be exchanged for refunding bonds if the refunding bonds are to bear interest at a rate equal to or lower than that borne by the bonds to be refunded, or if, in the case of the city of New York, the annual payment required for principal and interest on the refunding bond is less than the annual payment required for principal and interest on the bond to be refunded, in each case such annual payments to be determined by dividing the total principal and interest payments due over the remaining life of the bond by the number of years to maturity of the bond, or if, in the case of the city of New York, the bond to be refunded contains a covenant referring to the existence of the New York state emergency financial control board for the city of New York or any other covenant relating to matters other than the prompt payment of principal and interest on the obligation when due, and the refunding bond contains no covenant relating to matters other than the prompt payment of principal and interest.
on-the-obligations—when due quits or modifies any such covenant, or (iv) if, in the case of the city of New York, the bond to be refunded is guaranteed by the federal government.

Sec. 45. Section 165-20 of such law as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

Sec. 165-20 Exchange of certain bonds or notes. Notwithstanding any other provisions of this chapter, the city of New York prior to July first, nineteen hundred eighty-two shall be authorized to exchange bonds or notes of such city for any notes of such city held by the municipal assistance corporation for the city of New York as provided in sections three thousand thirty-five and three thousand thirty-seven of the public authorities law.

Sec. 46. Paragraph j of section 25-00 of such law is hereby repealed.

Sec. 47. Section three-a of the general municipal law, as separately amended by chapters seven and eleven hundred two of the laws of nineteen hundred sixty-nine, is hereby amended to read as follows:

Sec. 3-a. Rate of interest on judgments and accrued claims against municipal corporations. 1. Except as provided in subdivisions two and four of this section, the rate
of interest to be paid by a municipal corporation upon any judgment or accrued claim against the municipal corporation shall not exceed three per centum per annum.

2. The rate of interest to be paid upon any judgment or accrued claim against the municipal corporation arising out of condemnation proceedings or action to recover damages for wrongful death shall not exceed six per centum per annum.

3. The term "municipal corporation" as used in this section shall mean and include a city, county, village, town, school district, fire district, a special or public district organized for the purpose of financing the costs of public improvements or a pension or retirement system supported in whole or in part by any such city, county, village, town, school district or special or public district.

4. Payments of interest or principal on any note or bond or the city of New York issued on or after the effective date of such act, which is guaranteed under the New York City Loan Guarantee Act of 1978, Public Law 95-339, and which such city has not paid or made funds available to pay when due, shall accrue interest at the rate borne for principal by such obligation from such due date until full there shall have been deposited with an independent trustee sufficient monies to cover such overdue payment and any interest accrued thereon to the date of such deposit and full the making of such deposit shall have been announced for three days.
in succession in a newspaper of general circulation in the city of New York.

Sec. 40. Section one of chapter fifty of the laws of nineteen hundred seventy-eight relating to State Purposes is hereby amended to read as follows:

FEDERAL COUNTERCYCLICAL ASSISTANCE FUND

For payments for the purposes herein stated in accordance with the following schedule . . . . 111,000,000

Schedule

Department of Taxation and Finance

for the payment to counties, cities, towns, and villages or a portion of the per capita contribution for the support of local government in accordance with section sixty-four of the state finance law. Notwithstanding the provisions of such section, the amount payable to any city, county, town, or village from this appropriation during the state fiscal year commencing April first, nineteen hundred seventy-eight, shall be calculated by multiplying the amount payable to such city, county, town, or village pursuant to such section by thirty-three million dollars and dividing the
resultant amount by an amount equivalent to the total amount payable to all such cities, counties, towns and villages pursuant to such section during such state fiscal year—any amount payable from this appropriation shall be paid in addition to any other amount payable pursuant to this chapter—33888-888

Department of Social Services

for the payment of state aid to the city of New York and payments to the federal government for expenditures made pursuant to the social services law and the state plan for the individual and family grant program under the federal disaster relief act of 1974. The moneys hereby appropriated are to be available for payment of state aid heretofore accrued or hereafter to accrue—33888-888

Sec. 49. Section one of chapter fifty-three of the laws of nineteen hundred seventy-eight relating to Local Assistance is hereby amended to read as follows:

DEPARTMENT OF TAXATION AND FINANCE

for the payment to counties, cities, towns, and villages of a portion of the per capita contribution for the support of
local government in accordance with section fifty-four of the state finance law. Notwithstanding the provisions of such section, the amount payable to any city, county, town or village from this appropriation during the state fiscal year commencing April first, nineteen hundred seventy-eight shall be calculated by multiplying the amount payable to such city, county, town or village pursuant to such section by fifty-eight million dollars and dividing the resultant amount by an amount equivalent to the total amount payable to all such cities, counties, towns and villages pursuant to such section during such state fiscal year and provided that for any city with a population in excess of one million, and for all counties, towns, and all other municipalities with a fiscal year ending December thirty-first the entitlement period for any payment pursuant to this appropriation shall commence July first, nineteen hundred seventy-eight.

Any amount payable from this appropriation shall be paid in addition to any other amount payable pursuant to this chapter.

Notwithstanding the provisions of any other law, no part of the appropriation made herein shall be available for the purpose designated until a certificate of approval of availability shall have been issued by the director of the budget, and a copy of such certificate filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee, which certificate
shall set forth the date or dates during the state fiscal year commencing April first, nineteen hundred seventy-eight on which monies appropriated pursuant to this paragraph shall be paid. Such certificate may be amended from time to time by the director of the budget, and a copy of each such certificate shall be filed with the aforesaid state officials.

for the payment to counties, cities, towns, and villages of a portion of the per capita contribution for the support of local government in accordance with section fifty-four of the state finance law. Notwithstanding the provisions of such section, the amount payable to any city, county, town or village from this appropriation during the state fiscal year commencing April first, nineteen hundred seventy-eight shall be calculated by multiplying the amount payable to such city, county, town or village pursuant to such section by thirty-three million dollars and dividing the resultant by an amount equivalent to the total amount payable to all such cities, counties, towns and villages pursuant to such section during such state fiscal year. Any amount payable from this appropriation shall be paid in addition to any other amount payable.
pursuant to this chapter for any city
with a population in excess of one million
and for all towns, counties, and all other
municipalities with a fiscal year ending
December thirty-first. The entitlement
period for any payment pursuant to this
appropriation shall commence July first,
nineteen hundred seventy-eight

Sec. 30. Section forty-one-a of the executive law, as added
by chapter eight hundred sixty-eight of the laws of nineteen
hundred seventy-five, subdivision one having been amended by
chapter eight hundred sixty-nine of the laws of nineteen hundred
seventy-five, is hereby amended to read as follows:

Sec. 41-a. Special deputy comptroller for the city of New
York. I. In addition to the deputies otherwise authorized by
law, the comptroller shall, by and with the advice and consent of
the senate, appoint a special deputy comptroller for the city of
New York. Such deputy may be removed or replaced by the
comptroller and shall receive an annual salary to be fixed by the
comptroller within the amounts appropriated therefor. Such
deputy may perform any of the powers or duties of the comptroller
and he shall assist the New York state emergency financial
control board created pursuant to section five of the New York
state financial emergency act for the city of New York in
carrying out and exercising the responsibilities assigned and
powers granted to such board.

2. Six months after the termination of the emergency control
period defined in section two of the New York state financial
emergency act for the city of New York, the authorization for the
special deputy comptroller for the city of New York contained in
subdivision one of this section shall terminate.

Sec. 51. Section sixty-four of chapter two hundred one of
the laws of nineteen hundred seventy-eight, relating to the
municipal assistance corporation for the city of New York, as
amended by chapter four hundred forty-nine of the laws of
nineteen hundred seventy-eight, is hereby amended to read as
follows:

Sec. 64. This act shall take effect immediately, provided
however that with the exception of sections two, five, forty-six
and forty-seven hereof the provisions of this act shall not
become operative until such date as there shall be duly enacted
and signed into law federal legislation authorizing the United
States of America to guarantee obligations issued by the city of
New York or the state financing agency as defined in subdivision
act for the city of New York, as the fact of enactment into law
of such federal act has been certified by the emergency financial
control board for the city of New York in the event that no
such federal legislation has been duly enacted and signed into
Provisions of this act shall expire on such date become effective upon the enactment into law of a chapter of the laws of nineteen hundred seventy-eight, entitled "AN ACT TO AMEND THE PUBLIC AUTHORITIES LAW, IN RELATION TO THE ISSUANCE OR OBLIGATIONS BY THE MUNICIPAL ASSISTANCE CORPORATION FOR THE CITY OF NEW YORK; TO AMEND CHAPTER EIGHT HUNDRED SIXTY-EIGHT OF THE LAWS OF NINETEEN HUNDRED SEVENTY-FIVE RELATING TO THE NEW YORK STATE FINANCIAL EMERGENCY ACT FOR THE CITY OF NEW YORK; AND ASSISTANCE TO CERTAIN MUNICIPALITIES DURING PERIODS OF FINANCIAL EMERGENCY, IN RELATION TO LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE; TO AMEND THE NEW YORK STATE FINANCIAL EMERGENCY ACT FOR THE CITY OF NEW YORK, IN RELATION TO CERTAIN DEFINITIONS CONTAINED THEREIN; CERTAIN ACTIVITIES AND PRACTICES OF THE CONTROL BOARD AND MAKING TECHNICAL AND CONFORMING CHANGES THEREIN; TO AMEND THE LOCAL FINANCE LAW, IN RELATION TO THE FOUR-YEAR FINANCIAL PLAN OF THE CITY OF NEW YORK; AND TO REPEAL PARAGRAPH I OF SECTION 25-09 THEREOF RELATING TO THE ISSUANCE OF REVENUE ANTICIPATION NOTES OF THE CITY OF NEW YORK; TO AMEND THE GENERAL MUNICIPAL LAW, IN RELATION TO INTEREST PAYMENTS IN THE EVENT OF DEFAULT; TO AMEND THE PRIVATE HOUSING FINANCE LAW, IN RELATION TO THE DEBT LIMIT FOR THE HOUSING DEVELOPMENT CORPORATION; TO AMEND CHAPTER FIFTY OR THE LAWS OF NINETEEN HUNDRED SEVENTY-EIGHT (STATE PURPOSES) AND CHAPTER FIFTY-THREE OF THE LAWS OF NINETEEN HUNDRED SEVENTY-EIGHT (LOCAL ASSISTANCE), IN RELATION TO THE APPROPRIATION OF CERTAIN REVENUES; AND TO AMEND THE EXECUTIVE LAW, IN RELATION TO MAKING A CONFORMING CHANGE."
CHAPTER 1—NEW YORK STATE FINANCIAL EMERGENCY ACT FOR THE CITY
OF NEW YORK

§ 5401. Short title

This act shall be known and may be cited as the "New York State Financial Emergency Act for The City of New York".

L.1975, c. 868, § 2 [§ 1].

Historical Note

Former Section 5401. Section, L. 1934, c. 548, § 1, which provided that any county, not wholly within a city, adopt, pursuant to this act, a county charter for the government of that county, was repealed by L.1962, c. 129, § 1.

Effective Date. Section effective Sept. 9, 1975, pursuant to L.1975, c. 868, § 26.

Separability of Provisions. Section 25 of L.1975, c. 868, eff. Sept. 9, 1975, provided: "If any section, part or provision of this act [L.1975, c. 868] 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."

§ 5402. Definitions

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

1. "Comptroller" means the comptroller of the state of New York.
2. "City" means the city of New York.
3. "Mayor" means the mayor of the city of New York.
4. "City comptroller" means the comptroller of the city.
5. "Covered organization" means any governmental agency, public authority or public benefit corporation which receives or may receive monies directly, indirectly or contingently, (other than monies received for the sale of goods or the rendering of services or the loan of monies to the city) from the city, and in any event includes, without limitation, the board of education of the city of New York, the board of higher education of the city of New York, the health and hospitals corporation, the New York city transit authority, the New York city housing authority, the New York city housing development corporation, city university construction fund, Battery park city authority, New York city convention and exhibition center corporation, Manhattan and Bronx surface transit operating authority, Staten Island rapid transit operating authority, the New York city sports authority and the Brooklyn sports center authority but shall not include (i) any governmental agency, public authority or public benefit corporation specifically exempted from the provisions of this act by order of the board upon application of such agency, authority, or corporation to the board or at the board's own motion upon a finding by the board that such exemption does not materially affect the ability of the city to adopt and maintain a budget pursuant to the provisions of this act and provided that at the time of such exemption there shall have been and during the period of such exemption there shall be an annual audit by a nationally recognized independent certified public accounting firm or consortium of firms, one of which shall be a nationally recognized firm, of the covered organization's financial statements performed in accordance with generally accepted auditing standards and report by such auditor thereon which includes an opinion that the financial statements so audited have been prepared in accordance with generally accepted accounting principles (subject to the provisions of subdivision two-a of section eight of this act) and such other information as such auditors
deem appropriate, (ii) any state public authority as defined in section two hundred one of the civil service law, unless specifically named above, or (iii) any governmental agency, authority, commission or instrumentality created by compact or agreement between the state of New York and another state or states; provided, however, that the board may terminate any exemption granted by order of the board pursuant to this subdivision upon a determination that the circumstances upon which such exemption was granted are no longer applicable.

6. "Board" means the governmental agency created by section five of this act.\(^3\)

7. "Special deputy comptroller" means the special deputy comptroller for the city of New York created by section forty-one-a of the executive law.

8. "Municipal assistance corporation for the city of New York" means the corporate governmental agency created by section three thousand thirty-three of the public authorities law.


10. "Revenues" mean all taxes, federal and state aid, rents, fees, charges, payments, all proceeds from borrowings and other income and receipts paid or payable to or for the account of the city or any of the covered organizations.

11. "Financial plan" means the financial plan of the city and the covered organizations to be developed pursuant to section eight of this act,\(^2\) as from time to time modified.

12. "Control period" means the period of time from the effective date of this act\(^4\) until the date when (a) there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal or interest on any note or bond issued by the city or a state financing agency, (b) the board shall determine, based on annual audit reports furnished in accordance with section seven-a,\(^1\) that for each of the three immediately preceding fiscal years, the city has adopted and adhered to budgets covering all expenditures other than capital items, the results of which did not show a deficit when reported in accordance with generally accepted accounting principles subject to the provisions of subdivision two-a of section eight of this act\(^2\) and (c) the comptroller of the state and the comptroller of the city jointly shall certify that securities sold by or for the benefit of the city during the fiscal year immediately preceding such date and the then current fiscal year in the general public market satisfied the capital and seasonal financing requirements of the city during such period and that there is a substantial likelihood that such securities can be sold in the general public market from such date through the end of the next succeeding fiscal year in amounts which will satisfy substantially all of the capital and seasonal financing requirements of the city during such period in accordance with the financial plan then in effect, provided that for these purposes sales to any fund whose governing body includes any designated representative of the city or state or to any financial institution which participates in a private placement for the purchase of securities for the benefit of the city during its nineteen hundred seventy-nine fiscal year shall not be deemed sales in the general public market, unless in the case of sales to such a financial institution such comptrollers jointly certify at the time of each such sale that a sale could have been made in such amount and on reasonably comparable terms in the general public market. After termination of the control period in accordance with the foregoing provisions and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency which are entitled to the benefits of the pledge and agreement authorized by section ten-a,\(^4\) hereof, the board shall reissue a control period upon a determination at any time that any of the following events has occurred or that there is a substantial likelihood and imminence of such occurrence: (i) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable (other than notes held by the municipal assistance corporation for the city of New York to the extent that such corporation has evidenced its intention not to present such notes for payment during the fiscal year in which the determination is made provided that such notes were held by such corporation on June thirtieth, nineteen hundred seventy-eight or were issued in exchange for or in refunding or renewal of notes held by such corporation on such date), (ii) the city shall have incurred a deficit of more than one hundred million dollars during its fiscal year in the results of operations covered by a budget covering all expenditures other than capital items as reported in accordance with generally accepted accounting principles, subject to the provisions of subdivision two-a of section eight of this act,\(^2\) (iii) the city shall have issued notes in violation of section nine-b of this act\(^6\) as amended from time to time, (iv) the city shall have otherwise violated any provision of this act\(^1\) and such violation substantially impairs
the ability of the city to pay principal of or interest on its bonds or notes when due and payable or its ability to adopt or adhere to a budget covering all expenditures other than capital items balanced in accordance with this act or (v) the comptrollers' joint certification at any time, at the request of the board or on the comptrollers' joint initiative, which joint certification shall be made from time to time as promptly as circumstances warrant and reported to the board, that on the basis of facts existing at such time they could not make the joint certification described by clause (e) of the preceding sentence. The board shall terminate any such reimposed control period when it determines that none of the conditions which would permit the board to reimpose a control period exist. After termination of a control period the board shall annually consider items (i) through (v) above and determine whether, in its judgment, any of the events described in such items have occurred and the board shall publish each such determination. Each such joint certification made by the comptrollers hereunder shall be based on their separate written determinations which shall take into account a report and opinion of a nationally recognized independent expert in the marketing of municipal securities selected by the board as well as any other information which may be available to each comptroller and each such separate written determination by the comptrollers shall have annexed thereto the report and opinion of such expert and any other information taken into account and shall be made public when delivered to the board. Notwithstanding any part of the foregoing to the contrary, in no event shall any control period continue beyond the earlier of (a) July first, two thousand eight or (b) the date (i) when all bonds and notes containing the pledge and agreement authorized by section ten-a of this act are refunded, redeemed, discharged or otherwise defeased or (ii) when there shall no longer be outstanding any guarantee by the United States of America or any agency or instrumentality thereof as to payment of principal of or interest on any note or bond issued by the city or a state financing agency, whichever of (i) or (ii) shall occur later.

13. “Debt service repayment account” means the special account established pursuant to subdivision four of section nine of this act.

14. “Fund” means the general debt service fund established pursuant to section nine-a of this act.

15. “Board fund” means the board fund established pursuant to section nine of this act.

16. “TAN debt service account” means the tax anticipation note debt service account established within the fund pursuant to section nine-a of this act.

17. “RAN debt service account” means the revenue anticipation note debt service account established within the fund pursuant to section nine-a of this act.

18. “Available funds” means at any date of computation the monies held by the city or a covered organization which (i) are not required (a) to be applied to the fund, the TAN debt service account, the RAN debt service account or otherwise to meet the debt service requirements of the city and the covered organizations on their bonds and notes (other than bonds and notes of covered organizations payable from revenues not included in the fund) as they become due, or (b) to pay other liabilities of the city and the covered organizations having statutory or contractual priority over remaining liabilities of the city and the covered organizations, and (ii) therefore, may be applied to the payment of other obligations on an allocated basis as specified by the city for expenditures in accordance with a financial plan.

19. “Available tax levy” with respect to an issue of tax anticipation notes means at any date of computation the total amount of city real estate taxes or assessments projected, consistent with the financial plan then in effect, to be received in cash on or before the fifth day preceding the maturity date of such tax anticipation note issue, less amounts required during the period between the date of computation and the fifth day preceding such maturity date to be paid into the general debt service fund or otherwise required to pay interest payable on other outstanding city bonds and notes, principal (including payments into sinking funds) coming due on outstanding city bonds and principal to be paid from sources other than the proceeds of bonds or renewal notes on other outstanding city notes (exclusive of revenue anticipation notes or renewals thereof issued less than two years prior to the date of computation) but not including payments from sinking funds required by the terms of certain city bonds. For the purposes of this subdivision such amounts required shall not include principal of or interest on any notes of the city held by the municipal assistance corporation for the city of New York to the extent that such corporation has evidenced its intention not to present such notes for
payment of principal or interest during the fiscal year in which the computation is made provided that such notes were held by such corporation on June thirtieth, one hundred seventy-eight or were issued in exchange for or in refunding or renewal of notes held by such corporation on that date.

20. "State financing agency" means the municipal assistance corporation for the city of New York or its successor.


Sections 5401 to 5420.

Section 5410.

Section 5411.

Section 5412.

Section 5413.

Section 5414.

Section 5415.

Section 5416.

Section 5417.

Section 5418.

Section 5419.

Section 5420.

Section 5421.

Section 5422.

Section 5423.

Section 5424.

Sections 5425 to 5428.

Sections 5429 to 5432.

Sections 5433 to 5435.

Sections 5436 to 5437.

Sections 5438 to 5440.

Sections 5441 to 5442.

Sections 5443 to 5444.

Sections 5445 to 5446.

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Sections 5459 to 5460.

Sections 5461 to 5462.

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Sections 5467 to 5468.

Sections 5469 to 5470.

Sections 5471 to 5472.

Sections 5473 to 5474.

Sections 5475 to 5476.

Sections 5477 to 5478.

Sections 5479 to 5480.

Sections 5481 to 5482.

Sections 5483 to 5484.

Sections 5485 to 5486.

Sections 5487 to 5488.

Sections 5489 to 5490.

Sections 5491 to 5492.

Sections 5493 to 5494.

Sections 5495 to 5496.

Sections 5497 to 5498.

Sections 5499 to 5450.

Sections 5451 to 5452.

Sections 5453 to 5454.
§ 5403. Legislative declaration of financial emergency

The legislature hereby finds and declares that a state of financial emergency continues to exist within the city. The legislature further finds and declares that the maintenance by the city of a balanced budget in accordance with generally accepted accounting principles and the city's borrowing practices are and will continue to be a matter of overriding state concern, and that it is also appropriate and desirable for the legislature to exercise its duty under section twelve of article eight of the state constitution to restrict the powers of the city to prevent abuses in taxation and assessments and in contracting of indebtedness by the city.


Historical Note


Former Section 5403. Section, L.1934, c. 846, § 3, which related to the petition for creation of the commission, was repealed by L.1962, c. 129, § 1.

Effective Date of 1978 Amendment. See section 64 of L.1978, c. 201, set out as a note under section 5402.

Effective Date. Section effective Sept. 9, 1975, pursuant to L.1975, c. 868, § 26.

§ 5404. General rights and prohibitions

1. Neither the city nor any covered organization shall borrow or expend any monies, or in any way, directly or indirectly, expressly or implicitly, engage its credit during any control period except in compliance with the provisions of this act.

2. Nothing contained in this act shall limit the right of the city or any covered organization to comply with the provisions of any existing contract with or for the benefit of the holders of any bonds or notes of the city or such covered organization or any public authority or public benefit corporation.

3. Nothing contained in this act shall be construed to impair the right of employees to organize or to bargain collectively.


Historical Note


§ 5405. Power of city or covered organization to determine the expenditure of available funds

Nothing contained in this act shall be construed to limit the power of the city or a covered organization to determine, from time to time, within available funds for the city or for such covered organization, the purposes for which expenditures are to be made by the city or such covered organization and the amounts of such expenditures consistent with the aggregate expenditures then permitted under the financial plan for the city or such covered organization.

L.1975, c. 868, § 2 [§ 4].

Historical Note

Former Section 5405. Section, L.1934, c. 846, § 5, which related to the duties of the commission to draft county charters, was repealed by L.1962, c. 129, § 1.
§ 5406. New York state financial control board; created

There is hereby created the New York state financial control board. The board shall be a governmental agency and instrumentality of the state and it shall have such powers and functions as are set forth in this act.  

Historical Note

Former Section 5406. Section, L.1975, c. 868, § 6, which provided that the commission choose a chairman and vice-chairman and appoint and fix the salaries of all necessary employees, was repealed by L.1982, c. 120, § 1.

1978 Amendment. L.1978, c. 777, § 12, eff. Sept. 28, 1978, in section entitlement and in sentence beginning "There is hereby" deleted "emergency" following "state".

Effective Date. Section effective Sept. 9, 1975, pursuant to L.1975, c. 868, § 20.

§ 5407. Administration of the board

1. The membership of the board shall be the governor, the state comptroller (pursuant to his authority to supervise the accounts of any political subdivision of the state), the mayor, the county controller and three members appointed by the governor with the advice and consent of the senate. At least two of the appointed members shall be residents of the city or have their principal place of business in the city. Such appointed members shall serve at the pleasure of the governor. The governor shall be the chairman of the board and the governor or his representative shall preside over all meetings of the board. The board shall act by majority vote of the entire board. The board shall maintain a record of its proceedings in such form as it may determine, but such record shall indicate attendance and all votes cast by each member. Every member of the board, who is otherwise an elected official of the state or city, shall be entitled to designate a representative to attend, in his place, meetings of the board and to vote or otherwise act in his behalf. Written notice of such designation shall be furnished to the board by the designating member prior to any meeting attended by his representative. Any such representative shall serve at the pleasure of the designating member. No such representative shall be authorized to delegate any of his duties or functions to any other person. The lieutenant governor, temporary president of the senate, the minority leader of the senate, speaker and minority leader of the assembly, the president of the council of the city of New York, the city board of estimate acting by majority vote, and the vice-chairman and the minority leader of the council of the city of New York, shall each be entitled to appoint a representative to the board. Each such representative shall be entitled to receive notice of and to attend all meetings of the board but shall not be entitled to vote. No representative shall be an employee or officer of the federal, state or city governments. Each representative shall serve at the pleasure of the appointing official or body, shall be eligible for reappointment, and shall hold office until his successor has been appointed.

2. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or political subdivision of the state, any 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 or shall service as such member, representative, officer, employee or agent of the board be deemed incompatible or in conflict with such office or employment.

3. The members of the board appointed by the governor and all representatives designated by 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 under this act, provided however that such members and representatives are not, at the time such expenses are incurred, public employees otherwise entitled to such reimbursement.

4. The governor and the mayor, jointly, shall appoint an executive director of the board who shall serve at the pleasure of the board and may be removed by the board. The board may delegate to the executive director or to one or more of its other officers, employees or agents, such powers and duties as the board may deem proper, except any duties inconsistent with the duties and functions prescribed by any other office or position any such person may hold.


Historical Note

1978 Amendment. Subd. 1. In "governor" substitute "council of the city of New York" for "city council" and in sentence beginning "The Lieutenant...".
§ 5408. Functions of the board

1. In carrying out the purposes of this act, the board shall perform the following functions:

   a. In accordance with the provisions of section eight of this act, the board shall (i) consult with the city and the covered organizations in the preparation of the financial plan, and certify to the city the revenue estimates approved therein, (ii) prescribe the form of the financial plan and the supporting information required in connection therewith, and (iii) exercise the rights of approval, disapproval and modification with respect to the financial plan, including but not limited to the revenue estimates contained therein.

   b. The board, to the extent it deems it necessary or appropriate in order to accomplish the purposes of this act, shall establish and adopt procedures with respect to the (i) proper maintenance of the board fund, (ii) the deposit and investment of revenues in such fund and (iii) disbursement of monies from such fund.

   c. The board shall, from time to time and to the extent it deems necessary or appropriate in order to accomplish the purposes of this act, (i) review the operations, management, efficiency and productivity of such city operations and of such covered organizations or portions thereof as the board may determine, and make reports thereon; (ii) audit compliance with the financial plan in such areas as the board may determine; (iii) recommend to the city and the covered organizations such measures relating to their operations, management, efficiency and productivity as it deems appropriate to reduce costs and improve services so as to advance the purposes of this act; and (iv) obtain information of the financial condition and needs of the city and the covered organizations. Nothing herein shall diminish the powers of the comptroller otherwise provided by law and the board may request the assistance of the comptroller in performing the above functions.

   d. The board (i) shall receive from the city and review the report or reports to be prepared on behalf of the city pursuant to section seven-a; (ii) shall receive from the city and the covered organizations and from the special deputy comptroller, and shall review such financial statements and projections, budgetary data and information, and management reports and materials as the board deems necessary or desirable to accomplish the purposes of this act; and (iii) shall inspect, copy and audit such books and records of the city and the covered organizations as the board deems necessary or desirable to accomplish the purposes of this act.

   e. All contracts entered into by the city or any covered organization must be consistent with the provisions of this act and must comply with the requirements of the financial plan as approved by the board. With respect to all contracts or other obligations to be entered into by the city or any covered organization after October fifteenth, nineteen hundred seventy-five, requiring the payment of funds or the incurring of costs by the city or any covered organization:

   (i) Within twenty days from the effective date of this act the mayor shall present to the board proposed regulations respecting the categories and types of contracts and other obligations required to be reviewed by the board pursuant to this subdivision e. Within thirty days from the effective date of this act, the board shall approve or modify and approve such proposed regulations or promulgate its own in the event that such proposed regulations are not submitted to it within the twenty days as provided for herein. Such regulations may thereafter be modified by the board from time to time on not less than thirty days notice to the mayor and the mayor may from time to time propose modifications to the board. Unless expressly disapproved or modified by the board within thirty days from the date of submission by the mayor, any such proposed regulations or modifications shall be deemed approved by the board;
(ii) Prior to entering into any contract or other obligations subject to review of the board under its regulations, the city or any covered organization shall submit a copy of such contract or other obligation to the board accompanied by an analysis of the projected costs of such contract or other obligation and a certification that performance thereof will be in accordance with the financial plan, all in such form and with such additional information as the board may prescribe. The board shall promptly review the terms of such contract or other obligation and the supporting information in order to determine compliance with the financial plan;

(iii) During a control period the board shall, by order, disapprove any contract or other obligation reviewed by it only upon a determination that, in its judgment, the performance of such contract or other obligation would be inconsistent with the financial plan and the city or covered organization shall not enter into such contract or other obligation;

(iv) During a control period if the board approves the terms of a reviewed contract or other obligation, the city or covered organization may enter into such contract or other obligation upon the terms submitted to the board. Failure of the board to notify the city or covered organization within thirty days (or such additional time not exceeding thirty days as the board shall have notified the city or covered organization, that it requires to complete its review and analysis) after submission to it of a contract or other obligation that such contract or other obligation has been disapproved shall be deemed to constitute board approval thereof.

f. Upon submission thereof by the city, the board shall review the terms of each proposed long-term and short-term borrowing by the city and any covered organization to be affected during a control period but after October fifteen, nineteen hundred seventy-five, and no such borrowing shall be made unless approved by the board. Each such proposed borrowing by a covered organization shall be submitted to the city by the covered organization before it may be considered by the board. Not more than thirty days after any such submission by a covered organization the city shall transmit any such proposed terms of borrowing to the board together with the certification of the city as to whether such proposed terms of borrowing are in accordance with the financial plan and are consistent with the objectives and purposes of this act. Any such submission to the city shall be accompanied by a certification of the covered organization that the terms thereof are in accordance with the financial plan and are consistent with the objectives or purposes of this act. The transmittal by the city to the board shall include a recommendation by the city for the approval or disapproval of such proposed terms of borrowing pursuant to the terms of this paragraph. In the event the city does not make such transmittal within such thirty day period, such covered organization may submit such proposed borrowing directly to the board. The board shall disapprove any borrowing if it determines that such borrowing is inconsistent with the financial plan or the objectives or purposes of this act. The board shall consult and coordinate with the municipal assistance corporation for the city of New York with respect to borrowings of the city and any covered organization and shall receive reports from the municipal assistance corporation for the city of New York on its review of borrowings by the city. No covered organizations shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes.

g. The board and the comptroller shall receive quarterly reports from the city comptroller setting forth the debt service requirements on all bonds and notes of the city and the covered organizations for the following quarter, which reports shall be in such form and contain such information as the board shall determine. Such reports shall be issued no later than sixty days prior to the start of the quarter to which they pertain and shall be updated immediately upon each issuance of bonds or notes after the date of such report to reflect any change in debt service requirements as a result of such issuance. The board also shall receive from the city monthly and quarterly financial reports, which reports shall be in such form and contain such information as the board shall determine and shall be made available to the city to the public. In order to avoid duplicative reports and reporting requirements, to the extent that the city is required to submit monthly or quarterly financial reports to the department of the treasury pursuant to any agreement or arrangement made in connection with federal guarantees of notes or bonds issued by the city or a state financing agency, copies of such reports shall be submitted to the board in satisfaction of the monthly and quarterly reporting requirements set forth above, together with such additional information as the board may require. Each monthly and quarterly report herein required to be submitted to the board must indicate any variance between actual and budget revenues, expenses or cash for the period covered by such report.
h. The board shall issue, to the appropriate officials of the city and the covered organizations, such orders as it deems necessary to accomplish the purposes of this act ¹, including but not limited to timely and satisfactory implementation of an approved financial plan. Any order so issued shall be binding upon the official to whom it was issued and failure to comply with such order shall subject the official to the penalties described in section eleven of this act. ¹

i. The board shall coordinate with the municipal assistance corporation for the city of New York and the special deputy comptroller with respect to the performance of its review and monitoring of the revenues and expenditures of the city and the covered organizations.

2. In the event of any default by the city on its outstanding bonds or notes, and so long as such default has not been cured, the board may, any provisions of this act notwithstanding, take any action that it is authorized to take pursuant to title six-A of article two of the local finance law, and may direct the city to take any action that the city is authorized to take under such law.

3. (a) Notwithstanding any provision of the New York City Collective Bargaining Law, codified as chapter fifty-four of the New York city administrative code, or any general or special law to the contrary, any report or recommendation of an impasse panel constituted pursuant to such chapter which provides for an increase in wages or fringe benefits of any employee of the city or covered organization, in addition to considering any standard or factor required to be considered by applicable law, including the standards enumerated in section 1173-7.0(c)(3)(b) of such chapter, shall also take into consideration and accord substantial weight to the financial ability of the city and or covered organization to pay the cost of such increase in wages or fringe benefits.

(b) The board of collective bargaining constituted pursuant to such chapter, when reviewing such report or recommendation before proceeding to other issues, shall make a threshold determination as to whether such report or recommendation for an increase in wages or fringe benefits is within the city's and or covered organization's financial ability to pay. If the threshold determination is in the negative, the matter shall be remitted to the impasse panel for further consideration. If the threshold determination is in the affirmative, the further review of the report or recommendation with respect to other issues, if any, shall proceed as provided by law. Unless the parties stipulate otherwise, the threshold determination shall be made within thirty days after submission of the report or recommendation to the board of collective bargaining.

(c) Any determination pursuant to article eight of the labor law or any agreement or stipulation entered into in lieu thereof which provides for an increase in wages or fringe benefits of any employee of the city or covered organization shall, in addition to considering any standard or factor required to be considered by applicable law, also take into consideration and accord substantial weight to the financial ability of the city and or covered organization to pay the cost of such increase.

(d) Any report or recommendation of a fact finding or similar type panel or any interest arbitration award which provides for an increase in wages or fringe benefits of any employee of the city or covered organization not subject to the provisions of the New York City Collective Bargaining Law, codified as chapter fifty-four of the New York city administrative code, shall, in addition to considering any standard or factor required to be considered by applicable law, also take into consideration and accord substantial weight to the financial ability of the city and or covered organization to pay the cost of such increase.

(e) Any party to a proceeding before the board of collective bargaining as described in paragraph (b) or other body as described in paragraphs (c) or (d) hereof may commence a special proceeding in the appellate division, first department, supreme court, state of New York, to review the threshold determination as to the city and or covered organization's financial ability to pay. Such proceeding shall be commenced not later than thirty days after the final determination has been made by the board of collective bargaining in the case of paragraph (b) or other body in the case of paragraphs (c) or (d). Such proceeding shall have preference over all other causes in such appellate division, other than causes relating to the election law.

(f) The court shall make a de novo review of the record solely for the purpose of determining whether an award of an increase in wages or fringe benefits was within the city's and or covered organization's financial ability to pay. The court's findings as to such issue shall be based upon a preponderance of all the evidence set forth in the record. Unless the parties stipulate otherwise, arguments or submission shall be had within fifteen days after commencement of the special proceeding and the court shall render its decision within fifteen days thereafter. All questions,
other than the question relating to the threshold determination, shall be reviewed by the appellate division in the same proceeding in the manner provided by articles seventy-five or seventy-eight of the civil practice law and rules as may be appropriate, notwithstanding that the issue would otherwise have been cognizable in the first instance before a special or trial term of the supreme court. If an appeal shall otherwise lie from such determination of the appellate division to the court of appeals, notice of such appeal shall be filed within thirty days after the entry of the final order or judgment of the appellate division if such appeal is of right or within ten days after entry of an order granting leave to appeal and such appeal shall have preference over all other appeals other than appeals relating to the election law.

(g) At any stage of any proceeding under paragraphs (a), (b), (c), (d) and (e) hereof or any appeal from an order or judgment therefrom, the board may intervene as a party on the issue of the financial ability of the city and or covered organization to pay the cost of an increase in wages or fringe benefits.

(h) For the purposes of this subdivision, financial ability to pay shall mean the financial ability of the city and or covered organization to pay the cost of any increase in wages or fringe benefits without requiring an increase in the level of city taxes existing at the time of the commencement of a proceeding under paragraph (a), (c) or (d) hereof.

(i) The provisions of this subdivision shall terminate on December thirty-first, nineteen hundred eighty-two.

4. During a control period, except upon approval by the board in accordance with the provisions of paragraph e or f of subdivision one of this section, as the board shall determine, neither the city nor a covered organization shall enter any agreement or other arrangement, whether or not it creates a debt of the city or a covered organization, pursuant to which the revenues or credit of the city may be directly or indirectly pledged, encumbered, committed or promised, contingently or otherwise, for the payment of obligations of a public benefit corporation. Nothing in this subdivision shall limit the right of the city to comply with the provisions of any existing agreement or other arrangement in respect of the obligations of a public benefit corporation.

5. The board may employ such consultants as it may deem necessary to assist it in performing its functions required under this act.1

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Historical Notes

1978 Amendments. Subd. 1, par. a. L1978, c. 777, § 14, eff. Sept. 28, 1978, substituted “In accordance with the provisions of section eight of this act” for “As set forth in section eight” and in clause (ii) substituted “but not limited to” for “without limitation”.

L1978, c. 201, § 18, following “the board shall” deleted “determine, in connection with the development of the financial plan, estimated revenues for the city and the covered organizations; (ii),” substituted “and certify to the city the revenue estimates approved therein (ii) for (iii), (iv) for (iv), and inserted “including without limitation the revenue estimates contained therein”.

Subd. 1, par. b. L1978, c. 777, § 14, eff. Sept. 28, 1978, substituted “appropriate for “desirable”, deleted in clause (i) “the fund, the TAN debt service account and the RAN debt service account” following “fund”, and in clauses (ii) and (iii) substituted “fund” for “funds and accounts”.

L1978, c. 201, § 19, substituted “The board, to the extent it deems it necessary or desirable in order to accomplish the purposes of this act,” for “As set forth in section nine, the board”, inserted “(i) proper maintenance of the board fund, the fund,
in opening par. sentence beginning "With respect to" substituted "fifteenth" for "thirty-first" and inserted "or the incurring of costs" and in subpar. (i) substituted "twenty" for "thirty" in sentence beginning "Within twenty days" and substituted "Within thirty days from the effective date of this act, the board shall approve or modify and approve such proposed regulations or" for "The board may approve or modify such proposed regulations or" and "twenty" for "thirty" in sentence beginning "Within thirty days".

Subd. 1, par. f. L.1975, c. 870, § 4, eff. Sept. 9, 1975, in sentence beginning "The board shall review" substituted "fifteenth" for "thirty-first".

Subd. 1, par. h. L.1975, c. 870, § 4, eff. Sept. 9, 1975, inserted "including but not limited to timely and satisfactory implementation of an approved financial plan" in sentence beginning "The board shall".

Former Section 5408. Section, L.1934, c. 846, § 8, which authorized the board of supervisors to provide offices for the commission and to pay the necessary expenses incurred in the work of the commission but not to exceed $25,000, was repealed by L.1962, c. 128, § 1.

Effective Date of 1978 Amendment. See section 64 of L.1978, c. 201, set out as a note under section 5402.

Effective Date. Section effective Sept. 9, 1975, pursuant to L.1975, c. 868, § 26.

§ 5409. Reports of the city

The city shall take such action as may be necessary to enable a nationally recognized independent certified public accounting firm or consortium of firms, one of which at least is a nationally recognized independent certified public accounting firm, to perform an annual audit in accordance with generally accepted auditing standards and to furnish to the board the report on such audit prepared by such firm or consortium of firms, which report shall include an opinion as to whether the city's financial statements have been prepared in accordance with generally accepted accounting principles subject to the provisions of subdivision two-a of section eight of this act and shall state whether the audit of such financial statements was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as were considered necessary under the circumstances. Such report shall note the nature and extent of variations, if any, from generally accepted accounting principles reflected in the city's financial statements. The city shall make available for inspection and copying all books, records, work papers and other data and material as required by such auditors, and the city shall make its officers and employees available to, and shall cooperate with such auditors so as to permit such annual audit to be completed and the report issued to the
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city and to the board within four months after the close of the city's fiscal year.


1 Section 5410.

Historical Note
1978 Amendment. L.1978, c. 777, § 20, eff. Sept. 28, 1978, deleted designation of existing provisions as subd. 1, in sentence beginning "The city shall take" substituted "subject to the provisions of" for "as the application of same may be modified by the board pursuant to", and inserted requirement that audit report state that the audit was made in accordance with generally accepted auditing standards and included necessary tests of accounting records and auditing procedures, added sentence beginning "Such report shall" and in sentence beginning "The city shall make" substituted "four months" for "one hundred twenty days".

Former Section 5409. Section, L.1934, c. 846, § 9; amended L.1935, c. 951, § 1, which related to filing of the draft of the charter by the commission, approval, disapproval, amendments, or additions to the draft by the board of supervisors, and to the approval or disapproval of the charter by majority vote of the qualified electors, was repealed by L.1962, c. 126, § 1.

Effective Date. See section 64 of L.1978, c. 201, set out as a note under section 5402.

§ 5410. Development of the financial plan

1. Pursuant to the procedures contained in subdivision three of this section, each year the city shall develop, and may from time to time modify, with the approval of the board during a control period, a four year financial plan covering the city and the covered organizations.

Each such financial plan and financial plan modification shall comply with the requirements of subdivision four of this section and shall, except as otherwise provided pursuant to subdivision two-a of this section, conform to the following standards:

a. For its fiscal years ending June thirtieth, nineteen hundred seventy-nine through June thirtieth, nineteen hundred eighty-one, the city's budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the comptroller, in consultation with the city comptroller, for application to the city; subject to the provision of subdivision four of section three thousand thirty-eight of the public authorities law with respect to contributions by the city or other public employer to any retirement system or pension fund and subject to the provision of paragraph (c) of subdivision five of section three thousand thirty-eight of the public authorities law with respect to expense items included in the capital budget of the city. For the fiscal year ending June thirtieth, nineteen hundred eighty-two, and for each fiscal year thereafter, the city's budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with generally accepted accounting principles and that permit comparison of the budget with the report of actual financial results prepared in accordance with generally accepted accounting principles. With respect to financial plans that include the fiscal years ending June thirtieth, nineteen hundred seventy-nine through June thirtieth, nineteen hundred eighty-one, the city's budget covering all expenditures other than capital items shall be prepared in accordance with generally accepted accounting principles and there shall be substantial progress in each such fiscal year towards achieving a city budget covering all expenditures other than capital items the results of which would not show a deficit when reported in accordance with generally accepted accounting principles. The city shall eliminate expense items from its capital budget not later than the commencement of the fiscal year ending June thirtieth, nineteen hundred eighty-two. For the fiscal year ending June thirtieth, nineteen hundred eighty-nine, and for each fiscal year thereafter, the budgets covering all expenditures other than capital items of each of the covered organizations shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with generally accepted accounting principles; and for each fiscal year prior thereto, there shall be substantial progress towards such goal.

b. The limitations on its outstanding short-term obligations required by subdivision nine of section three thousand thirty-eight of the public authorities law and by section nine-b of this act 1 shall be observed at all times, as each is amended from time to time.

c. Provision shall be made for the payment in full of the debt service on all bonds and notes of the city and the covered organizations (other than notes held by the municipal assistance corporation for the city of New York to the extent that such corporation has evidenced its intention not to present such notes for payment during the fiscal year in which the determination is made provided that such notes were held by such corporation
on June thirtieth, nineteen hundred seventy-eight or were issued in exchange for or in refunding or renewal of notes held by such corporation on such date), for the adequate funding of programs of the city and the covered organizations which are mandated by state or federal law and for which obligations are going to be incurred during the fiscal year and for payment of a guarantee fee or any other amounts required by the United States of America or any agency or instrumentality thereof in connection with the guarantee of the payment of the principal of or interest on bonds or notes issued by the city.

d. All projections of revenues and expenditures contained in a financial plan shall be based on reasonable and appropriate assumptions and methods of estimation. All cash flow projections shall be based upon reasonable and appropriate assumptions as to sources and uses of cash (including but not limited to the timing thereof), and shall provide for operations of the city and covered organizations to be conducted within the cash resources so projected.

e. The city shall provide a general reserve for each fiscal year to cover potential reductions in its projected revenues or increases in its projected expenditures during each such fiscal year. The amount provided for such general reserve shall be estimated by the city in accordance with paragraph d of this subdivision, but in no event shall it be less than one hundred million dollars at the beginning of any fiscal year.

f. For financial plans beginning with the fiscal year ending June thirtieth, nineteen hundred eighty-three or any succeeding fiscal year, the first fiscal year included in any financial plan shall make provision for the repayment of any deficit incurred by the city during the preceding fiscal year.

2. In developing the financial plan the city shall seek to achieve a stabilized work force for the city and, to the extent a reduction in the work force is required, primary recourse shall be had to the attrition process to accomplish such reduction.

2-a. The city and the board shall confer concerning the projected effect on the budgets of the city and the covered organizations of any change in generally accepted accounting principles, or change in the application of generally accepted accounting principles to the city and the covered organizations, made after the effective date of this act. If the board determines that immediate compliance with such change will have a material effect on such budgets over a time period insufficient to accommodate the effect without a substantial adverse impact on the delivery of essential services, the board may authorize and approve a method of phasing the requirements of such change into such budgets over such reasonably expeditious time period as the board deems appropriate.

3. The financial plan shall be developed and, during a control period, shall be approved, and may from time to time be modified, in accordance with the following procedures:

a. The city shall, by June first, nineteen hundred seventy-eight, prepare and submit a financial plan to the board covering the four year period which begins with the fiscal year ending June thirtieth, nineteen hundred seventy-nine. Thereafter, at least fifteen days prior to the beginning of each fiscal year or on such other date as the board may approve upon the request of the city, the city shall prepare and submit a financial plan to the board covering the four year period beginning with such fiscal year. On such dates the mayor shall also submit to the board the city's executive expense, revenue and capital budgets for the ensuing fiscal year and a certificate of the mayor stating that such budgets are consistent with the financial plan submitted therewith, that projections contained in the budgets and financial plan are based upon reasonable and appropriate assumptions and methods of estimation, and that operation within the budgets is feasible.

b. (i) During a control period the board shall promptly review each financial plan and financial plan modification submitted by the city. Not more than forty-five days after submission of a financial plan or more than thirty days after submission of a financial plan modification the board shall determine whether the financial plan or financial plan modification is complete and complies with the standards set forth in subdivision one of this section and shall approve or disapprove the financial plan or financial plan modification in accordance with the provisions of this section. If the board determines that the financial plan or financial plan modification is complete and complies with the standards set forth in subdivision one of this section, the board shall approve the financial plan or financial plan modification. Upon making such determination the board shall make a certification to the city setting forth revenue estimates approved by the board in accordance with such determination.

(ii) At all times other than during a control period the board shall promptly review each financial plan and financial plan modification submitted by the city. If the board determines after such review that the financial plan or financial plan modifi-
cation submitted by the city is not in accordance with the standards set forth in subdivision one of this section, the board shall promptly so notify the city and may take such other action under this act as it deems appropriate.

c. The board shall disapprove a financial plan or financial plan modification if during a control period it determines that the financial plan or financial plan modification is incomplete or fails to comply with the provisions of subdivision one of this section. In disapproving a financial plan or a financial plan modification the board may order that one or more of the following actions be taken:

(i) expenditures or reserves to assure availability of amounts required for debt service requirements on all bonds and notes of the city and the covered organizations or expenditures required for adequate funding of programs of the city and the covered organizations mandated by state or federal law and for which obligations are going to be incurred during the fiscal year, be increased to the levels required to provide for their payment in full;

(ii) the revenue projections (or any item thereof) during any period be adjusted to comply with the standards set forth in subdivision one of this section; and

(iii) the aggregate expenditures projected for any period be reduced to conform to revenue estimates certified by the board in order to comply with the standards set forth in subdivision one of this section.

d. During a control period in the event that the city shall, for any reason, fail to submit a financial plan prior to the beginning of a fiscal year, as required by paragraph a of this subdivision, or in the event that the board has not, for any reason permitted under this act, approved a financial plan submitted by the city prior to the beginning of a fiscal year, the board shall formulate and adopt a financial plan to be effective until the board approves a financial plan submitted by the city. Any financial plan so formulated by the board shall comply with the standards set forth in subdivision one of this section. The budgets and operations of the city and the covered organizations at all times shall be in conformance and compliance with the financial plan then in effect.

e. After the initial adoption by the city, or the approval by the board during a control period, of a financial plan, projections of revenues and expenditures and other estimates con-

tained in the financial plan shall be reappraised by the board at least quarterly in consultation with the city and the covered organizations, and during a control period the city shall prepare and submit to the board financial plan modifications at such times, in such detail and within such time periods as the board may require in order to modify the financial plan to conform to the standards set forth in subdivision one of this section. During a control period in the event the board determines that (i) revenue estimates (or any item thereof) must be adjusted to ensure compliance with the standards set forth in subdivision one of this section, or (ii) that the city or a covered organization is expending funds at a rate that would cause expenditures to exceed the aggregate expenditure limitation for the city or covered organization provided for in the financial plan then in effect, prior to the expiration of the fiscal year, the city shall submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such standards or aggregate expenditure limitations. If during a control period the city fails to submit such modification after such determination as to adjustments in revenue estimates or such determination as to rates of expenditures, or to submit a financial plan modification in the detail or within the time period specified by the board, or if such modification is disapproved by the board as not conforming to the standards set forth in subdivision one of this section, the board may formulate and adopt such financial plan modification as it deems appropriate to ensure that the financial plan continues to meet such standards. Such modification shall become effective on its adoption. Notwithstanding the provisions of this section, in the event the city shall determine that, due to unforeseen events during a fiscal year, compliance with the standards set forth in paragraph a of subdivision one of this section would result in a material adverse impact upon the delivery of essential services, the city shall notify the board of such determination, together with such information, projections or analyses relating thereto as the board may require, and shall submit a modification to the financial plan reflecting such determination. During a control period the board shall disapprove any such modification unless it finds that (i) the city's determination is supported by information, projections and analyses which the board deems substantially accurate in all material respects and (ii) such events, in its judgment, warrant such modification to the financial plan to avoid such adverse impact on the delivery of essential services.
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f. The city may, from time to time, submit financial plan modifications for review by the board. During a control period the board shall approve such modifications unless it determines that such modifications would constitute grounds for disapproval of the financial plan pursuant to paragraph c of this subdivision, or if applicable, pursuant to paragraph e of this subdivision.

g. Anything contained in this act to the contrary notwithstanding, during a control period the board may at any time disapprove or after consultation with the city revise the revenue estimates (or any item thereof) prepared by the city in connection with the preparation of a financial plan or any modification thereto and determined by the board not to be based on assumptions and methods of estimation which are reasonable and appropriate under the circumstances and in view of the objectives and purposes of the act. The board may after consultation with the city determine the estimated revenues of the city and the covered organizations provided, however, that any revenues estimated by the board shall be based on reasonable and appropriate assumptions and methods of estimation.

4. Each financial plan shall be in such form and shall contain such information for each year during which the financial plan is in effect as the board may specify, and shall, in such detail as the board may from time to time prescribe, include projections of all revenues, expenditures and cash flows (including but not limited to projected capital expenditures and debt issuances) and a schedule of projected capital commitments of the city and except in such instances as the board may deem appropriate each of the covered organizations. In addition, each financial plan and financial plan modification shall include a statement of the significant assumptions and methods of estimation used in arriving at the projections contained therein, set forth in such form and in such detail as the board may from time to time prescribe.

5. The city and the covered organizations shall promptly furnish the board with any information which the board may request to satisfy itself that (i) projected employment levels, collective bargaining agreements and other action relating to employee costs, capital construction and such other matters as the board may specify, are consistent with the provisions made for such costs in the financial plan, (ii) the city and the covered organizations are taking whatever action is necessary with respect to programs mandated by state and federal law to ensure that expenditures for such programs are limited to and covered by the expenditures stated in the financial plan, and (iii) adequate reserves are provided to maintain programs mandated by state and federal law and for which obligations are going to be incurred in the fiscal year and other essential programs in the event revenues have been overestimated or expenditures underestimated for any period.

6. For each financial plan and financial plan modification to be prepared and submitted by the city to the board pursuant to the provisions of this section, the covered organizations shall submit to the city such information with respect to their projected expenditures, revenues, cash flows and a schedule of projected capital commitments for each year covered by such financial plan or modification as the city shall determine. Notwithstanding any other provision of law limiting the authority of the city with respect to any covered organization, the city, in the preparation and submission of the financial plan and modifications thereof, shall (except for debt service or for other expenditures to the extent that such expenditures are required by law) have the power to determine the aggregate expenditures to be allocated to any covered organization in the financial plan and any modifications thereto.


1 Section 5413.
2 Sections 5401 to 5420.

Historical Note


L.1978, c. 201, § 25, in opening par., substituted “each year” for “the board, in conjunction with”, “modify, with the approval of the board during an emergency period, a four year” for “amend a”, “covering for “for”, and deleted “with respect to the fiscal years of the city ending June thirtieth, nineteen hundred seventy-six, June thirtieth, nineteen hundred seventy-seven and June thirtieth, nineteen hundred seventy-eight. The board may from time to time extend the period to be covered by the financial plan through the end of any fiscal year of the city in which the emergency period terminates”, in the second par., substituted “Each such” for “The”, and financial plan modification shall comply with” for “shall conform to”, and “except as otherwise provided pursuant to subdivision two-a of this section, conform to the following standards” for “constitute a program by which the city will achieve the following objectives”, in par. a. preceding “fiscal year ending,” substituted “the” for “its”, substituted “eighty-two” and for “eighty-five” for “eighty-two”, “eighty-eight”, “fiscal year thereafter” for “eighty-eight”, “shall” for “will”, “principles which are consistent with generally accepted accounting principles” for “principles which are consistent with generally accepted accounting principles and that permit comparison of the budget with the report of actual financial results prepared in accordance with generally accepted accounting principles” for “the accounting
system and procedures prescribed in subdivision two of section three thousand thirty-eight of the public authorities law, with substantial progress toward that goal to be achieved in each of the fiscal years ending June thirtieth, one hundred ninety-seven, one hundred ninety-six and June thirtieth, one hundred ninety-five, one hundred ninety-four, one hundred ninety-three, one hundred ninety-two, one hundred ninety-one, one hundred ninety, one hundred eighty-nine, one hundred eighty-eight, one hundred eighty-seven, one hundred eighty-six, one hundred eighty-five, one hundred eighty-four, one hundred eighty-three, one hundred eighty-two, one hundred eighty-one, one hundred eighty, one hundred seventy-nine, one hundred seventy-eight, one hundred seventy-seven, one hundred seventy-six, one hundred seventy-five, one hundred seventy-four, one hundred seventy-three, one hundred seventy-two, one hundred seventy-one, one hundred seventy, one hundred sixty-nine, one hundred sixty-eight, one hundred sixty-seven, one hundred sixty-six, one hundred sixty-five, one hundred sixty-four, one hundred sixty-three, one hundred sixty-two, one hundred sixty-one, one hundred sixty, one hundred fifty-nine, one hundred fifty-eight, one hundred fifty-seven, one hundred fifty-six, one hundred fifty-five, one hundred fifty-four, one hundred fifty-three, one hundred fifty-two, one hundred fifty-one, one hundred fifty, one hundred forty-nine, one hundred forty-eight, one hundred forty-seven, one hundred forty-six, one hundred forty-five, one hundred forty-four, one hundred forty-three, one hundred forty-two, one hundred forty-one, one hundred forty, one hundred thirty-nine, one hundred thirty-eight, one hundred thirty-seven, one hundred thirty-six, one hundred thirty-five, one hundred thirty-four, one hundred thirty-three, one hundred thirty-two, one hundred thirty-one, one hundred thirty, one hundred twenty-nine, one hundred twenty-eight, one hundred twenty-seven, one hundred twenty-six, one hundred twenty-five, one hundred twenty-four, one hundred twenty-three, one hundred twenty-two, one hundred twenty-one, one hundred twenty, one hundred nineteen, one hundred eighteen, one hundred seventeen, one hundred sixteen, one hundred fifteen, one hundred fourteen, one hundred thirteen, one hundred twelve, one hundred eleven, one hundred ten, one hundred nine, one hundred eight, one hundred seven, one hundred six, one hundred five, one hundred four, one hundred three, one hundred two, one hundred one, one hundred, ninety-nine, ninety-eight, ninety-seven, ninety-six, ninety-five, ninety-four, ninety-three, ninety-two, ninety-one, ninety, eighty-nine, eighty-eight, eighty-seven, eighty-six, eighty-five, eighty-four, eighty-three, eighty-two, eighty-one, eighty, seventy-nine, seventy-eight, seventy-seven, seventy-six, seventy-five, seventy-four, seventy-three, seventy-two, seventy-one, seventy, sixty-nine, sixty-eight, sixty-seven, sixty-six, sixty-five, sixty-four, sixty-three, sixty-two, sixty-one, sixty, fifty-nine, fifty-eight, fifty-seven, fifty-six, fifty-five, fifty-four, fifty-three, fifty-two, fifty-one, fifty, forty-nine, forty-eight, forty-seven, forty-six, forty-five, forty-four, forty-three, forty-two, forty-one, forty, thirty-nine, thirty-eight, thirty-seven, thirty-six, thirty-five, thirty-four, thirty-three, thirty-two, thirty-one, thirty, twenty-nine, twenty-eight, twenty-seven, twenty-six, twenty-five, twenty-four, twenty-three, twenty-two, twenty-one, twenty, nineteen, eighteen, seventeen, sixteen, fifteen, fourteen, thirteen, twelve, eleven, ten, nine, eight, seven, six, five, four, three, two, and one.

And, so that the results thereof would not show a deficit when reported, and substituted "budgets covering all expenditures other than capital items" for "expense budgets" and "generally accepted accounting for "such",

Subd. 1. par. c. L.1978, c. 777, § 21, eff. Sept. 28, 1978, substituted "budgets covering all expenditures other than capital items" for "expense budgets" and substituted "generally accepted accounting for "such",

Subd. 1. par. c. L.1978, c. 777, § 21, eff. Sept. 28, 1978, substituted parenthetical clause for "and", deleted "then causing" following "occurred during", and inserted "and for payment of a guarantee fee or any other amounts required by the United States of America or any agency or instrumentality of the government of the United States therein guaranteed by the payment of the principal of or interest on bonds or notes issued by the city.

Subd. 2. L.1978, c. 201, § 26, deleted "and the board" following "plan the city".

Subd. 2-a. L.1978, c. 777, § 22, eff. Sept. 28, 1978, in sentence beginning "The city and deleted "expense preceding" budget", inserted "change", and substituted "of generally accepted accounting principles" for "thereof", in sentence beginning "If the board deleted "expense preceding budgets" in two instances.

L.1978, c. 201, § 27, added subd. 2-a.


Subd. 3. par. a. L.1978, c. 777, § 23, eff. Sept. 28, 1978, in sentence beginning "On such dates" substituted "based upon reasonable and appropriate assumptions and methods of estimation for "reasonable",

Subd. 3. par. b. L.1978, c. 777, § 23, eff. Sept. 28, 1978, designated existing provisions as subpar. (i), added subpar. (ii), as redesignated, in sentence beginning "During a control period the", and deleted "during an emergency period shall be approved", and added subpar. (ii).

Subd. 3. par. c. L.1978, c. 777, § 23, eff. Sept. 28, 1978, in opening par. In sentence beginning "The board shall substituted "a control for "an emergency", in subpar. (ii) substituted "(or any item thereof)" for "for any source".


Subd. 3. par. e. L.1978, c. 777, § 23, eff. Sept. 28, 1978, in sentence beginning "After the initial substituted "a control for "an emergency" in two instances, in sentence beginning During a control period", substituted "a control for "an emergency", in clause (i) inserted "(or any item thereof)", and in clause (ii) substituted "then in effect for "which has been approved.

Subd. 3. par. f. L.1978, c. 777, § 23, eff. Sept. 28, 1978, in sentence beginning "During a control period the", and inserted "or that such determination be conformed to the standards set forth in subdivision one of this section", in sentence beginning "During a control period the", substituted "a control for "an emergency", and inserted to avoid such adverse impact on the delivery of essential services.

Subd. 3. par. g. L.1978, c. 777, § 23, eff. Sept. 28, 1978, in sentence beginning "During a control period substituted "a control for "an emergency",

Subd. 3. par. h. L.1978, c. 777, § 23, eff. Sept. 28, 1978, in sentence beginning "Any action taken by" substituted "a control for "an emergency", and inserted "determined by the board to be based on assumptions and methods of estimation which are reasonable and appropriate under the circumstances in view of the objectives and purposes of the act. The board" thereby dividing the existing provisions into two sentences.

L.1978, c. 201, § 28, in opening par. substituted ", during an emergency period, shall be approved" for "adoption", in par. a substituted "The city shall, by June first" for "Not later than September thirtieth", "seventy-eight", for "seventy-five", and "prepare and submit a financial plan to the board covering the four year period which begins in the fiscal year ending June thirtieth, one hundred ninety-seven", for "the board shall deliver to the city estimates of revenues of the city and the covered organizations for each month during which the plan is in effect" and added sentence beginning therein, at least, and "On such dates", omitted former par. b which related to submission and approval of financial plan based on revenues estimated prior to Oct. 15, 1975, and added new par. b, in opening par. substituted "a financial plan or financial plan modification for the "financial plan proposed by the city", "during an emergency period it determines that the financial plan or financial plan modification is incomplete or fails to comply with the provisions of subdivision one of this section" for ", in the judgment of the board, such plan", and added sentence beginning "In disapproving a", omitted former subpara. (i) of par. c relating to failure to fund or provide for the payment in full of the debt service requirements on all bonds and notes of the city in the event of a moratorium and added new subpar. (i), omitted former subpara. (ii) of par. c relating to failure to provide that operations of the city and covered organizations, will be conducted within the cash resources available according to the board's revenue estimates and added new subpar. (ii), omitted former subpara. (iii) of par. c relating to failure to achieve the objectives set forth in subdivision one of this section and added new subpar. (iii), omitted subpar. (iv) of par. c which related to aggregate expenditures in the absence of a moratorium of the city or in the expense budget of any covered organization for any of the years during which the plan is in effect, omitted former par. d which related to disapproving the financial plan submitted by the city, substituted former par. e as d and in par. d as redesignated omitted provisions which related to the board formulat-
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ing and adopting the financial plan to be effective Oct. 20, 1975, and added provisions which related to the event of the board not approving a financial plan submitted by the city prior to the beginning of a fiscal year, redesignated par. f as e and among other changes added sentence beginning "Such modification shall", "Notwithstanding the provisions", and "During an emergency period the board", redesignated former par. g as f and substituted "submit financial plan modifications for review by the board. During an emergency period the board", and inserted "or if applicable, pursuant to paragraph e of this subdivision", and added a new paragraph g.

Subd. 4. L.1978, c. 201, § 29, in sentence beginning "Each financial plan" substituted "Financial plan" for "The preceding financial plan shall", following "board may specify", deleted "shall include the city and all the covered organizations", substituted "projections" for "statements", "revenues, expenditures and cash flows" for "scheduled revenues and all expenditures and cash flow projections", inserted "(including but not limited to projected capital expenditures and debt issuances) and a schedule of projected capital commitments" and "except in such instances as the board may deem appropriate", and substituted "In addition, each financial plan and financial plan modification shall include a statement of the assumptions and methods of estimation used in arriving at the projections contained therein, set forth in such form and in such detail as the board may from time to time prescribe." for "The financial plan may, with the approval of the board, not include amounts necessary to provide for the payment of debt service on any notes of the city or any covered organization if a moratorium is in effect pursuant to state law suspending or staying the enforcement of rights with respect to such notes."

Subd. 5. L.1978, c. 201, § 30, substituted "city and the covered organizations shall promptly furnish the board with" for "financial plan shall", except to the extent waived by the board with respect to any limited period, include "and costs" for "obligations" and inserted "programs mandated by state and federal law and for which obligations are going to be incurred in the fiscal year and other benefits and costs that would exceed the aggregate expenditure limitation for the city a covered organization, prior to the expiration of the fiscal year, and "or aggregate expenditure limitations", and in sentence beginning "If within a" inserted ", within a time period specified by the board, and "and within such time period".

Subd. 6. L.1975, c. 888, § 2, eff. Nov. 26, 1975, added sentence beginning "The financial plan may".

Subd. 7. L.1975, c. 870, § 9, eff. Sept. 9, 1975, in sentence beginning "Notwithstanding any other" inserted ", in the preparation and submission of the financial plan and modifications thereof:

Effective Date of 1978 Amendment. See section 64 of L.1978, c. 201, set out as a note under section 5402.

Effective Date. Section effective Sept. 9, 1975, pursuant to L.1975, c. 808, § 26.

§ 5411. Establishment and application of the board fund

1. There is hereby established a fund designated the board fund. Commencing on October twentieth, nineteen hundred seventy-five, and for the duration of a control period, all revenues received or to be received by the city or any covered organization shall, unless exempted by order of the board, be revenues of the board fund and shall be for the account of the city or the appropriate covered organizations, except (i) to the extent expressly prohibited by federal law, (ii) where revenues of the city are deposited in the general debt service fund, the TAN debt service account or the RAN debt service account, or (iii) where such revenues are pledged to the payment of any outstanding bonds, notes or other obligations of covered organizations or state public authorities as defined in section two hundred one of the civil service law. Disbursement from the board fund shall be made by the board in accordance with the approved financial plan except as provided in subdivision five of this section.

L.1975, c. 870, § 7, eff. Sept. 9, 1975, in subdivision (iv), inserted "other than amounts required to pay debt service, penalties, costs, public assistance and care, and such other amounts as the board determines to be required by law" in two instances.

Subd. 3, par. e. L.1978, c. 870, § 8, eff. Sept. 9, 1975, in par. e, substituted "must adopt", inserted "and" as required pursuant to paragraph b of this subdivision, or to adopt a financial plan and "to be effective" substituted "October twentieth" for "October thirty-first", "shall" for "must", and "to be effective October twentieth, nineteen hundred seventy-five" for "such financial plan to become effective on its adoption," and added sentence beginning "All subsequent operations."

Subd. 3, par. f. L.1975, c. 870, § 8, eff. Sept. 9, 1975, in sentence beginning "After the initial" inserted "and within such time periods", in sentence beginning "Changes in such", inserted "in event the city or a covered organization shall expend funds at
the extent pledged by covenants or agreements relating to any outstanding bonds, notes or other obligations of covered organizations or public authorities as defined in section two hundred one of the civil service law; and no monies or funds held in the general debt service fund, the TAN debt service account or the RAN debt service account shall be part of the board fund. All such accounts of the board shall have such captions and entries as the board shall determine to be necessary to credit the foregoing revenues and receipts to the board fund. The monies of the fund shall not be deemed to be money of the state or money under its control.

2. The deposit of revenues into the board fund and the investment of or deposit of monies therein shall be made in accordance with and pursuant to procedures established by the board.

3. In order to assure compliance with the financial plan, the board shall from time to time adopt procedures controlling the disbursement of monies from the board fund. The board shall authorize the city to make all disbursements of city revenues from the board fund, which disbursements shall be made in accordance with the approved financial plan; provided, that the board may withdraw such authorization if it determines that (a) any disbursements made or to be made by the city have not been or are likely not to be in compliance with the approved financial plan, (b) the city has violated any other provisions of this act, or (c) the city has violated an agreement with any holder or guarantor of bonds or notes issued by the city or a state financing agency.

4. Within the board fund there is hereby established a special account designated the debt service repayment account. The board shall from time to time direct, in accordance with procedures adopted by the board, the deposit in the debt service repayment account of such amounts as the board shall, in its discretion, determine to be sufficient to meet the debt service requirements of the covered organizations on their bonds and notes (other than bonds and notes of covered organizations payable from revenues not included in the board fund) as they become due. Amounts in the debt service repayment account shall be used to meet such debt service requirements of the covered organizations.

5. If at any time the board determines that the amount then held in the board fund or the amount estimated by the board to be held in the board fund is or will be insufficient to meet the expenditures in the amounts and at the times required by

the financial plan, the board shall require disbursements from the board fund to be made in the following order or priority unless otherwise required by law of the United States of America: (i) the payment of amounts from the board fund to the debt service repayment account, the general debt service fund, the TAN debt service account and the RAN debt service account, to maintain therein the amount required, to meet debt service requirements of the city and the covered organizations on their bonds and notes as they may become due, (ii) the payment of other liabilities having statutory or contractual priority over remaining liabilities of the city and the covered organizations whose monies are included in the board fund, and (iii) the payment of other obligations on an allocated basis as specified by the city for expenditures in accordance with the financial plan provided that, in the event that the city fails to so specify, the board may withhold payment of any of such other obligations or may direct their payment pro rata.

6. The board shall cause to be performed such pre-audit and post-audit reviews of the board funds and disbursements therefrom as it may determine.


Historical Note


Catchline. L.1978, c. 201, § 32, following "and application of", deleted "emergency financial control".

Subd. 1. L.1978, c. 777, § 24, eff. Sept. 28, 1978, in sentence beginning "Commencing on October twentieth, nineteen hundred seventy-five, and for the duration of a control period, all revenues" substituted "October twentieth, nineteen hundred seventy-five" for "the effective date of the financial plan", "a control" for "an emergency", "or the appropriate" for "and the appropriate", and deleted "but disbursement from the board fund shall be made by the board in accordance with the approved financial plan," following "appropriate covered organizations", added sentence beginning "Disbursement from the", and in sentence beginning "Commencing on October twentieth, nineteen hundred seventy-five, and for the duration of a control period, all funds" substituted "October twentieth, nineteen hundred seventy-five" for "the effective date of the financial plan" and "a control" for "an emergency".

L.1978, c. 201, § 32, in sentence beginning "There is hereby" following "fund designated the" deleted "emergency financial control", in first sentence beginning "Commencing on the" preceding "fund" inserted "board" in two instances. Inserted "(i)", "(ii)" where revenues of the city are deposited in the general debt service fund, the TAN debt service account or the RAN debt service account, or (ii)", "or state public authorities as defined in section two hundred one of the civil service law" and in second
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sentence beginning "Commencing on the" inserted "board" preceding "fund", substituted "pledged" for "prohibited", and inserted "or public authorities as defined in section two hundred one of the civil service law; and no monies or to a board held in the financial plan," for "November first, nineteen hundred seventy-five"; deleted "received" preceding "for the account", and substituted "city and the appropriate covered organizations, but disbursements from the fund shall be made by the board in accordance with the approved financial plan," for "board" and in sentence beginning "Commencing on the" substituted "on the effective date of the financial plan," for "November first, nineteen hundred seventy-five" and added sentence beginning "The monies of".

Subd. 2. L.1978, c. 201, § 32, preceding "fund" inserted "board".

Subd. 3. L.1978, c. 201, § 32, added sentence beginning "The board shall".

Subd. 4. L.1978, c. 777, § 25, eff. Sept. 28, 1978, in sentence beginning "Within the board" inserted "board" preceding "fund".

L.1975, c. 201, § 32 in sentence beginning "Within the", inserted "board", in sentence beginning "The board shall" preceding "covered organizations" deleted "city and the", following "they became due," deleted preceding relating to a moratorium staying the enforcement of rights with respect to any such notes, and in sentence beginning "Amounts in the" deleted "city and the" following "requirements of the".

Subd. 5. L.1978, c. 201, § 32, inserted "board" preceding "fund" in five instances, inserted "the general debt service fund, the TAN debt service account and the RAN debt service account," and substituted "to meet debt service requirements of the city and the covered organizations on their bonds and notes as they may become due," for "by subdivision four of this section".

Subd. 6. L.1978, c. 201, § 32, inserted "board" preceding "funds".

1975 Amendments. Subd. 1. L.1975, c. 570, § 10, eff. Sept. 9, 1975. In sentence beginning "There is hereby" substituted "on the effective date of the financial plan," for "November first, nineteen hundred seventy-five"; deleted "received" preceding "for the account", and substituted "city and the appropriate covered organizations, but disbursements from the fund shall be made by the board in accordance with the approved financial plan," for "board" and in sentence beginning "Commencing on the" substituted "on the effective date of the financial plan," for "November first, nineteen hundred seventy-five" and added sentence beginning "The monies of".

Subd. 2. L.1975, c. 898, § 3, eff. Nov. 28, 1975, in sentence beginning "The board shall" substituted "other than bonds and notes of covered organizations payable from revenues not included in the fund" as they become due, or if a moratorium is in effect pursuant to state law suspending or staying the enforcement of rights with respect to any such notes, such amounts as may be required pursuant to a schedule designed by the board to pay or to accumulate before the expiration of the moratorium an amount sufficient for the payment of such notes upon the expiration of the moratorium for "as they become due,"

L.1975, c. 870, § 10, eff. Sept. 9, 1975. In sentence beginning "In the board shall" substituted "to be sufficient" for "to be a sufficient reserve", following "covered organizations" deleted "whose monies are included in the fund", preceding "their bonds and notes", deleted "all of", and substituted "become due, other than bonds and notes of covered organizations payable from revenues not included in the fund", for "mature", and added sentence beginning "Amounts in the debt".

Effective Date of 1976 Amendment. See section 64 of L.1978, c. 201, set out as a note under section 492.

Effective Date. Section effective Sept. 9, 1975, pursuant to L.1975, c. 898, § 20.

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1. Commencing on the first day of the first full fiscal quarter subsequent to the first sale of a federally guaranteed city obligation, the city shall establish a general debt service fund for the purpose of paying debt service due or becoming due in the then current fiscal year and in subsequent fiscal years. All monies in the fund shall be held by the comptroller, who shall administer and maintain the fund in accordance with the provisions of this section.

2. All payments of or on account of real estate taxes or assessments, other than the proceeds of tax anticipation notes, shall be immediately upon receipt deposited in such fund. The comptroller shall retain, disburse and apply monies in the fund during each month as follows:

a. During the first month of each fiscal quarter, there shall be retained in the fund, subject to the provisions of subdivision three of this section, all real estate tax payments deposited in the fund until there shall have been retained from monies so deposited during such month an amount equal to the total monthly debt service, computed as of the date of any disbursement of money from the fund, for the second and third months of such fiscal quarter; provided that such amount shall be reduced by any amount already on deposit in the fund which may be used to pay the monthly debt service for such months.

For purposes of this section, fiscal quarter shall mean the three-month period beginning July first, October first, January first or April first, and monthly debt service shall mean, as of any date of computation, the amount of monies equal to the aggregate of (i) all interest payable during such month on bonds and notes of the city, plus (ii) the amount of principal (including payments into sinking funds) maturing or otherwise coming due during such month on all bonds of the city (excluding principal payments made from sinking funds required by the terms of certain city bonds), plus (iii) the amount of principal to be paid on notes of the city during such month from sources other than the proceeds of bonds or renewal notes (exclusive of revenue anticipation notes and tax anticipation notes or renewals thereof issued less than two years prior to the date of computation).

b. During the second and third months of each fiscal quarter, there shall be retained in the fund, subject to the provisions
of subdivision three of this section, all real estate tax payments deposited in the fund until there shall have been retained from monies so deposited during such month an amount equal to the total monthly debt service, computed as of the date of any disbursement of monies from the fund, for the first month of the next succeeding fiscal quarter; provided that such amount shall be reduced by any amount already on deposit in the fund which may be used to pay the monthly debt service for such month.

c. During any month of a fiscal quarter, after the retentions required by paragraphs a and b of this subdivision have been made for such month, the comptroller shall deposit any remaining balance of real estate taxes received during such month, first into the TAN debt service account to the extent required under subdivision six of this section, and second into the board fund to be applied in accordance with procedures of the board.

d. The city may at any time pay into the fund any monies required by law to be used to pay monthly debt service and any other monies available for such purpose.

3. The board may approve, subject to agreements made with the holders or guarantors of outstanding notes or bonds issued by or for the benefit of the city after the effective date of this act, criteria for calculating a proportion of real estate tax receipts to be retained in the fund in order to provide for the retention of amounts required by the provisions of subdivision two of this section in lieu of the retention of all initial receipts as required by such subdivision; provided, that if the board at any time determines that retentions in the fund pursuant to the provisions of such subdivision are or are likely to be insufficient to provide for the payment of monthly debt service when due, in order to ensure that the amounts on deposit in the fund will be sufficient to pay monthly debt service when due, the board shall require (i) that real estate tax receipts be retained in the fund in greater amounts or at earlier dates than the provisions of such subdivision require, or (ii) that other revenues or cash resources of the city be paid into the fund. The board shall consider the impact of earlier or larger retention of real estate tax receipts on the city's seasonal borrowing requirements when determining whether it shall require such additional retention or that other revenues or cash resources of the city be paid into the fund. Prior to the issuance by the city of any bonds or notes, the board shall review any criteria then in effect which determine the proportion of real estate tax receipts to be retained in the fund to determine whether the proposed debt service schedule for such bonds or notes is consistent with the monies which will be available therefor or whether such criteria should be revised. The board shall from time to time take such action as it determines is necessary, including disapproval of a proposed issue pursuant to paragraph f of subdivision one of section seven, so that the monies in the fund shall be adequate to meet debt service requirements.

4. Commencing on the first day of the second month of the first full fiscal quarter subsequent to the first sale of a federally guaranteed city obligation, the payment of monthly debt service shall be made, first, from amounts retained in the fund. Amounts retained in the fund shall be used only to pay debt service of the city.

5. Upon the issuance of any tax anticipation notes following the effective date of this act, the comptroller shall establish and, so long as any tax anticipation notes shall be outstanding, shall maintain a tax anticipation note debt service account within the fund for the purpose of paying the principal of tax anticipation notes.

6. The city shall determine the date on which the principal due or to become due on an outstanding issue of tax anticipation notes shall equal ninety percent of the available tax levy with respect to such issue, and upon reasonable notice thereof the comptroller shall commence on such date to pay into the TAN debt service account from collections of such taxes and assessments, after retaining amounts required to be deposited in the fund, amounts sufficient to pay when due, the principal of such issue of tax anticipation notes. The payments of the principal of tax anticipation notes shall be made, first, from amounts retained in the TAN debt service account.

7. Upon the issuance of any revenue anticipation notes following the effective date of this act, the comptroller shall establish and, so long as any revenue anticipation notes shall be outstanding, shall maintain a revenue anticipation note debt service account within the fund for the purpose of paying the principal of revenue anticipation notes. Each specific type of revenue in anticipation of which such notes are issued and available for such purpose shall be deposited in such account immediately upon receipt by the city. Where such revenue consists of state aid or other revenue to be paid to the city by the comptroller, on the date such revenue is payable to the city, the comptroller shall deposit such revenue directly into such account in lieu of payment to the city. All revenues deposited in the RAN debt service ac-
count shall be paid immediately into the board fund except as otherwise provided in subdivision eight of this section.

8. The city shall determine the date on which the principal due or to become due on an outstanding issue of revenue anticipation notes shall equal ninety percent of the total amount of revenue against which such notes were issued remaining to be paid to the city on or before the fifth day prior to the maturity date of such notes and upon reasonable notice thereof the comptroller shall commence on such date to retain in the RAN debt service account from amounts deposited or to be deposited therein of each specific type of revenue in anticipation of which revenue such anticipation notes were issued, an amount sufficient to pay, when due, the principal of such revenue anticipation notes. Monies retained in such account shall vest immediately in the comptroller in trust for the benefit of the holders of the revenue anticipation notes in anticipation of which such notes were issued. No person having any claim of any kind in tort, contract or otherwise against such city shall have any right to or claim against any monies of the state appropriated by the state and in anticipation of which such notes have been issued, other than a claim for payment by the holders of such notes, and such monies shall not be subject to any order, judgment, lien, execution, attachment, setoff or counter-claim by any such person; provided, however, that nothing contained in this paragraph shall be construed to limit, impair, impede or otherwise adversely affect in any manner the rights or remedies of the purchasers and holders and owners of any bonds or notes of the state or any agency, instrumentality, public benefit corporation or political subdivision thereof, including the city of New York, under which such purchasers and holders and owners have any right of payment of such bonds or notes by recourse to state aid or local assistance monies held by the state or for the payment of which bonds or notes state aid or local assistance monies are a designated source. The payment of the principal of revenue anticipation notes shall be made first from amounts retained in the RAN debt service account.

9. Whenever the amount contained in the TAN debt service account or the RAN debt service account exceeds the amount required to be retained in such account such excess monies, including earnings on investments of monies in the fund, shall be withdrawn from such account and paid into the board fund.

10. Subject to agreements made with holders or guarantors of outstanding notes or bonds issued by or for the benefit of the city after the effective date of this act, the comptroller shall invest the monies retained in the fund in accordance with law.

11. The limitations imposed upon the city by this section shall be in addition to any limitations imposed upon the city under the local finance law. In the event any provisions of the local finance law shall be inconsistent with the provisions of this section, the provisions of this section shall prevail. The requirements of this section shall not apply to any note of the city held by the municipal assistance corporation for the city of New York to the extent that such corporation has evidenced its intention not to present such notes for payment during the fiscal year in which the determination is made provided that such notes were held by such corporation on June thirtieth, nineteen hundred seventy-eight or were issued in exchange for or in refunding or renewal of notes held by such corporation on such date.

12. Notwithstanding any other provision of this section, the city may, at any time, subject to approval by the comptroller, designate a trust company or bank having its principal place of business in the state of New York and having the powers of a trust company in the state of New York to hold all or any part of the monies in the fund and to administer and maintain the monies so held in accordance with the applicable provisions of this section and any agreements made pursuant thereto.


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Historical Note

1978 Amendments. Subd. 1. L.1978, c. 777, § 28, eff. Sept. 28, 1978, in sentence beginning “Beginning on the” substituted “on the first day of the next fiscal quarter subsequent to the first sale of a federally guaranteed city obligation” for “July first” and “then current fiscal year for fiscal year commencing on such date”.

Subd. 2, par. a. L.1978, c. 777, § 28, eff. Sept. 28, 1978, in second unnumbered par. in clause (i) inserted “including payments into sinking funds” and “excluding principal payments in excess of sinking funds required by the terms of certain city bonds” and deleted clause (iv) referring to amounts payable as sinking fund payments with respect to bonds of the city.

Subd. 3. L.1978, c. 777, § 26, eff. Sept. 28, 1978, in sentence beginning “The board may” inserted “the retention of all”, in sentence beginning “Prior to the” inserted “from time to time”, “it determines”, “pursuant to paragraph f of subsection one of section seven”, and deleted “to be in effect after the issuance of such bonds or notes” following “service requirements”.

Subd. 4. L.1978, c. 777, § 26, eff. Sept. 28, 1978, substituted “on the first day of the second month of the first full fiscal quarter subsequent to the first sale of a federally guaranteed city obligation” for “August first” and “nineteen hundred seventy-eight”.

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Subd. 7. L.1978, c. 777, § 28, eff. Sept. 28, 1978, added sentences beginning "Each specific type", "Where such revenue", and "All revenues de-"

Subd. 8. L.1978, c. 777, § 28, eff. Sept. 28, 1978, in sentence beginning "The city shall" substituted "The city shall determine the date on which" for "Commencing on the day when the city determines that" and "and upon reasonable notice thereof the comptroller shall commence on such date to retain in the RAN debt service account from amounts de-" for "the city shall pay into the RAN debt service account from amounts received by the city", added sentences beginning "Monies retained in" and "No person hav-"


§ 5413. Limitations on short-term borrowing

1. The limitations on short-term borrowing imposed upon the city by this section shall be in addition to the limitations on short-term borrowing imposed on the city under the local finance law. In the event any provisions of the local finance law shall be inconsistent with the provisions of this section, the provisions of this section shall prevail. For the purposes of this section the terms "bond anticipation notes", "tax anticipation notes", "revenue anticipation notes" and "budget notes" shall not mean one or more of or any of the respective notes held by the municipal assistance corporation for the city of New York on June thirtieth, nineteen hundred seventy-eight or any note of the city held by such corporation in exchange for or in refunding or renewal of any such note.

2. No tax anticipation notes shall be issued by the city in anticipation of the collection of taxes or assessments levied for a fiscal year which would cause the principal amount of such issue of tax anticipation notes to exceed an amount equal to ninety per cent of the available tax levy with respect to such issue.

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§ 5413 b. Tax anticipation notes and renewals thereof shall mature not later than the last day of the fiscal year in which they were issued.

3. a. No revenue anticipation note shall be issued by the city in anticipation of the collection or receipt of revenue in a fiscal year which would cause the principal amount of revenue anticipation notes outstanding to exceed ninety per cent of the available revenues for such fiscal year. For purposes of this subdivision, available revenues shall be the revenues other than real estate taxes and assessments which have been estimated in the financial plan to be realized in cash during such year, less revenues previously collected, other than revenues on deposit in the RAN debt service account or any special fund established pursuant to law for the payment of interest and/or principal of revenue anticipation notes.

b. Each issue of revenue anticipation notes shall be issued only in anticipation of the receipt of a specific type or types of revenue and the amount of revenue, the source of revenue and the anticipated date of payment shall be stated in the proceedings authorizing the issuance of such notes.

c. Revenue anticipation notes shall mature not later than the last day of the fiscal year in which they were issued, and may not be renewed or extended to a date more than ten days after the anticipated date of receipt of such revenue. No such renewal note shall mature after the last day of such fiscal year unless the board shall certify that the revenue against which such renewal note is issued has been properly accrued and estimated in the financial plan in effect on the date of issuance of such renewal note; provided that in no event shall any such renewal notes mature later than one year subsequent to the last day of the fiscal year during which such revenue anticipation notes were originally issued.

4. a. No bond anticipation note shall be issued by the city in any fiscal year which would cause the principal amount of bond anticipation notes outstanding, together with interest due or to become due thereon, to exceed fifty per cent of the principal amount of bonds issued by the city in the twelve months immediately preceding the month in which the note is to be issued.

b. The proceeds of each bond issue shall be (i) held in trust for the payment, at maturity, of the principal of and interest on any bond anticipation notes of the city issued in anticipation of such bonds and outstanding at the time of the issuance of such bonds, (ii) paid into the general fund of the city in repayment
of any advance made from such fund pursuant to section 165.10 of the local finance law, and (iii) any balance shall be expended for the object or purpose for which such bonds were issued.

c. Bond anticipation notes shall mature not later than six months after their date of issuance and may be renewed for a period not to exceed six months.

5. Budget notes issued pursuant to section 29.00 of the local finance law may only be issued to fund projected expense budget deficits. No budget notes or renewals thereof, shall mature later than sixty days prior to the last day of the fiscal year next succeeding the fiscal year during which such budget notes were originally issued.

6. The city shall issue no obligations which shall be inconsistent with the financial plan or with the limitations set forth in subdivisions one through five of this section.


Historical Note

1978 Amendment. Subd. 3. L.1978, c. 777, § 30, eff. Sept. 28, 1978, in sentence beginning "For the purposes inserted "and 'budget notes'" and substituted "June thirtieth, nineteen hundred seventy-eight or any note of the city held by such corpora-

§ 5414. Wage freeze

1. Increases in salary or wages of employees of the city and employees of covered organizations which have taken effect since June thirtieth, nineteen hundred seventy-five or which will take effect after that date pursuant to collective bargaining agreements or other analogous contracts, now in existence or hereafter entered into, requiring such salary increases as of July first, nineteen hundred seventy-five or as of any date thereafter are hereby suspended. All increased payments for holiday and vacation differentials, shift differentials, salary adjustments according to plan and step-ups or increments for employees of the city and employees of covered organizations which have taken effect since June thirtieth, nineteen hundred seventy-five or which will take effect after that date pursuant to collective bargaining agreements or other analogous contracts requiring such increased payments as of July first, nineteen hundred seventy-five as of any date thereafter are hereby, in the same manner, suspended. For the purposes of computing the pension base of re-

7. Retirement allowances, the suspended salary or wage increases and the suspended other payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable. The suspensions provided herein shall be effective for the first pay period ending on or subsequent to September first, nineteen hundred seventy-five and shall continue until one year thereafter and, to the extent of any determination of the board that a continuation of such suspensions to a date specified by the board is necessary in order to achieve the objectives of the financial plan, such suspensions shall be continued to the date specified by such board, which date shall in no event be later than the end of the emergency period.

2. This section shall not be applicable to employees of the city or employees of a covered organization covered by a collective bargaining agreement or an employee of the city or a covered organization not covered by a collective bargaining agreement where the collective bargaining representative or such unrepresented employee has agreed to a deferment of salary or wage increase, by an instrument in writing which has been certified by the mayor on or before September first, nineteen hundred seventy-five, or certified by the board after September first, nineteen hundred seventy-five, as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the city. The board may, if it finds that the fiscal crisis has been sufficiently alleviated or for any other appropriate reason, direct that the suspensions of salary or wage increases or suspensions of other increased payments shall, in whole or in part, be terminated.

3. The provisions of this section shall terminate on July first, nineteen hundred seventy-eight.


Historical Note

1978 Amendment. Subd. 3. L.1978, c. 201, § 35, added subd. 3.

1975 Amendment. Subd. 1. L.1975, c. 870, § 11, eff. Sept. 9, 1975, inserted "now in existence or hereafter entered into," in sentence beginning "Increases in salary".

Effective Date. Section effective Sept. 9, 1975, pursuant to L.1975, c. 866, § 26.
Emergency Act for City of New York was necessary to meet financial emergency in New York City notwithstanding claim that Authority was an independent agency separate from New York City and that Authority had available to it means for obtaining funds necessary to its functioning quite apart from funds it obtained from New York City. Subway-Surface Sup'rs Ass'n v. New York City Transit Authority, 1978, 44 N.Y.2d 101, 404 N.E.S.2d 323, 375 N.E.2d 384.

§ 5415. Covenants, authorizations to agree and remedies

1. In the event that after the date on which the provisions of this act become operative, any notes or bonds are issued by the city prior to July first, nineteen hundred eighty-two, or any bonds are issued by a state financing agency, the state of New York hereby authorizes the city and authorizes and requires such state financing agency to include a pledge and agreement of the state of New York in any agreement made by the city or such state financing agency with holders or guarantors of such notes or bonds that the state will not take any action which will (a) substantially impair the authority of the board during a control period, as defined in subdivision twelve of section two of this act 1 as in effect on the date such notes or bonds are issued (i) to approve, disapprove, or modify any financial plan or financial plan modification, including the revenue projections (or any item thereof) contained therein, subject to the standards set forth in paragraphs a, c, d, e and f of subdivision one of section eight of this act 2 as in effect on the date such notes or bonds are issued and paragraph b of such subdivision as in effect from time to time, (ii) to disapprove a contract of the city or a covered organization if the performance of such contract would be inconsistent with the financial plan or to approve or disapprove proposed short-term or long-term borrowing of the city or a covered organization or any agreement or other arrangement referred to in subdivision four of section seven of the act, 3 or (iii) to establish and adopt procedures with respect to the deposit in and disbursement from the board fund of city revenues; (b) substantially impair the authority of the board to review financial plans, financial plan modifications, contracts of the city or the covered organizations and proposed short-term or long-term borrowings of the city and the covered organizations; (c) substantially impair the independent maintenance of a separate fund for the payment of debt service on bonds and notes of the city; (d) alter the composition of the board so that the majority of the voting members of the board are not officials of the state of New York elected in a state-wide election or appointees of the governor; (e) terminate the existence of the board prior to the time to...
be determined in accordance with section thirteen of this act as in effect on the date such notes or bonds are issued; (f) substantially modify the requirement that the city’s financial statements be audited by a nationally recognized independent certified public accounting firm or consortium of firms and that a report on such audit be furnished to the board; or (g) alter the definition of a control period set forth in subdivision twelve of section two, as in effect on the date such notes or bonds are issued, or substantially alter the authority of the board, as set forth in said subdivision to re impose or terminate a control period; provided, however, that 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 a bank, trust company or other fiduciary sufficient moneys or direct obligations of the United States or obligations guaranteed by the United States, 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 of and interest on all outstanding notes and bonds of the city or such state financing agency containing this pledge and agreement and irrevocable instructions from the city or such state financing agency to such bank, trust company or other fiduciary for such payment of such principal and interest with such moneys shall have been given, or (ii) such notes and bonds, together with interest thereon, have been paid in full at maturity or have otherwise been refunded, redeemed, defeased, or discharged; and provided further that the foregoing pledge and agreement shall be of full force and effect upon its inclusion in any agreement made by the city or state financing agency with holders or guarantors of such notes or bonds.

Upon payment for such obligations issued pursuant to this act by the original and all subsequent holders inclusions of the foregoing covenant shall be deemed conclusive evidence of valuable consideration received by the state and city for such covenant and of reliance upon such pledge and agreement by any such holder. The state hereby grants any such benefited holder the right to sue the state in a court of competent jurisdiction and enforce this covenant and agreement and waives all rights of defense based on sovereign immunity in such an action or suit.

2. Every such bond or note which shall contain the pledge and agreement referred to in subdivision one above shall be callable for redemption commencing not later than the eleventh anniversary of its date of issuance and shall contain on its face a recital to such effect, together with the terms and conditions under which such obligation may be redeemed.

3. The finance board of the city is hereby authorized to enter into agreements and to make covenants with any purchaser, holder or guarantor of obligations issued by the city or by a state financing agency to protect and safeguard the security and rights of a purchaser, holder or guarantor or to protect and safeguard the source of payment of such obligations or as deemed appropriate by the finance board which agreements or covenants may contain provisions providing for (a) (i) the compliance by the city with any of the provisions of this act or of the New York City Loan Guaranty Act of nineteen hundred seventy-eight, Public Law 95–339, or, (ii) in any agreements with the guarantor of such obligations but only in such agreements unless otherwise authorized by law, the compliance with any of the terms and conditions required by the secretary of the treasury pursuant to such act, (b) restrictions on the issuance by the city of its obligations, limitations on the inclusion of expense items in its capital budgets and financial records, reporting and disclosure requirements in addition to any such restrictions, limitations or requirements contained in this act, (c) compliance by the city with its financial plan as modified from time to time, (d) conditions that would give rise to an event of default on such obligations, and (e) remedies available to a purchaser, holder or guarantor of such obligations, other than acceleration or the required elimination or reduction of specific municipal expenditures, including the circumstances, if any, under which a trustee or trustees or a fiscal agent may be appointed or may act as a representative of holders of obligations issued by the city in connection with an issue or issues of obligations of the city and the rights, powers and duties which may be vested in such trustee, trustees or fiscal agent as such representative. The state of New York hereby pledges and agrees that it will take no action that would impair the power of the city to comply with or to perform any covenant or agreement made pursuant to this subdivision, or any right or remedy of a purchaser, holder or guarantor to enforce such covenant or agreement; and the city or a state financing agency is hereby authorized to include such pledge and agreement in any agreement made pursuant to this subdivision. Nothing contained in this subdivision 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 shall preclude the state from validly exercising its police powers.
4. Notwithstanding any other provision of law, the trustees of any retirement, pension or annuity fund or system of the state of New York or of the city of New York are hereby authorized to enter into commitments to purchase and to purchase notes, bonds or other obligations of the city of New York or of a state financing agency, the payment in whole or in part, of interest, principal, or both, is guaranteed by the secretary of the Treasury of the United States of America pursuant to the New York City Loan Guarantee Act of 1978, Public Law 95-339, as presently in effect or hereafter amended or to purchase other bonds or notes of such city or of a state financing agency prior to June thirtieth, nineteen hundred eighty-two, or in the case of the trustees of any retirement, pension or annuity fund or system of the city of New York, to enter into commitments to purchase such other bonds or notes of such city or of a state financing agency prior to June thirtieth, nineteen hundred eighty-two. Such commitments to purchase shall be binding upon and enforceable against successor trustees of such retirement, pension or annuity funds or systems of the state of New York or city of New York.

5. The secretary of the treasury shall have the right to initiate a proceeding in the supreme court of the state of New York in and for the county of New York or the court of claims of the state of New York to obtain a court order or other relief in connection with any agreements or other transactions entered into by the secretary relative to his guarantee of the principal, interest, or both of city indebtedness.

6. Notwithstanding any other provision of law to the contrary, the governor shall have the authority in connection with any agreement by the federal government or any agency or instrumentality thereof to guarantee the payment of the principal or interest on bonds or notes issued by the city of New York or by a state financing agency, to enter into one or more agreements containing terms and conditions required by the secretary of the treasury pursuant to the New York City Loan Guarantee Act of 1978, Public Law 95-339, approved by the comptroller and approved as to form by the attorney general, with the federal government or any agency or instrumentality thereof with respect to such guarantee or any matters related thereto and to comply with such terms and conditions.

7. Nothing in this section contained shall preclude the state from authorizing the board or the city to exercise, or the board or 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 a further exercise of its powers under article eight, section twelve, of the state constitution.


Historical Note


Subd. 1. L.1978, c. 777, § 31, eff. Sept. 28, 1978, in subpar. (a) substituted "a control for "an emergency", in clause (i) of subpar. (a) inserted "approve", "and paragraph (b) of such subdivision as in effect from time to time", substituted "projections (or any item thereof) for "estimates", "subject to the standards set forth in" for "which does not comply with the standards of", in clause (ii) of subpar. (a) inserted "or any agreement or other arrangement referred to in subdivision four of section seven of the act" in subpar. (d) inserted "elected in a state-wide election" and substituted "the governor" for "such official", in subpar. (g) substituted "a control for "an emergency" in two instances, in clause (i) of subpar. (g) substituted "obligations guaranteed by the United States" for "an agency thereof" and "containing" for "subject to", and added second unnumbered paragraph.

Subd. 2. L.1978, c. 777, § 31, eff. Sept. 28, 1978, substituted "contain" for "have the benefit of" and "commencing" for "at".

§ 5416. Prohibitions; penalties

1. During a control period, (i) no officer or employee of the city or of any of the covered organizations shall make or authorize an obligation or other liability in excess of the amount availa-
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able therefor under the financial plan as then in effect; (ii) no officer or employee of the city or of any of the covered organizations shall involve the city or any of the covered organizations in any contract or other obligation or liability for the payment of money for any purpose required to be approved by the board unless such contract, obligation or liability has been so approved or deemed to be approved as provided in paragraphs e and f of subdivision one of section seven 1 and unless such contract or obligation or liability is in compliance with the financial plan as then in effect.

2. No officer or employee of the city or any of the covered organizations shall take any action in violation of any valid order of the board or shall fail or refuse to take any action required by any such order or shall prepare, present or certify any information (including any projections or estimates) or report for the board or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the board or its agents thereof.

3. In addition to any penalty or liability under other law, any officer or employee of the city or any of the covered organizations who shall knowingly and willfully violate subdivision one or two of this section shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of either the governor or the mayor and shall, upon conviction, be guilty of a misdemeanor.

4. In the case of a violation of subdivision one or two of this section by an officer or employee of the city or any of the covered organizations, the mayor or the chief executive officer of such covered organization shall immediately report to the board all pertinent facts together with a statement of the action taken thereon.


1 Section 5408.

Historical Note


L.1978, c. 201, § 37, preceding “emergency period” substituted “an” for “the”, inserted “obligation or liability”, and substituted “paragraphs e and f” for “paragraph e”.

Subd. 3. L.1978, c. 777, § 33, eff. Sept. 28, 1978, inserted “knowingly and willfully” and deleted “any officer or employee of the city or any of the covered organizations who shall knowingly and willfully violate subdivision one or two of this section” following “mayor and”.

Effective Date of 1978 Amendment. See section 64 of L.1978, c. 201, set out as a note under section 5402.

Effective Date: Applicability. Section 26 of L.1975, c. 868, provided in part that this section shall take effect Nov. 1, 1975, and shall be applicable to violations of the New York State Financial Emergency Act for New York City committed on or after such date.

§ 5417. Indemnification

a. The state shall save harmless and indemnify members, officers and employees of and representatives to the board, all of whom shall be deemed officers and employees of the state for purposes of section seventeen of the public officers law, against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such member, officer, employee or representative occurring in the discharge of his duties and within the scope of his service on behalf of such board including any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations. In the event of any such claim, demand, suit or judgment, a member, officer or employee of or representative to the board shall be saved harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he reasonably believed to be in the best interest of the board or not to have had reasonable cause to believe that his conduct was lawful.

b. In connection with any such claim, demand, suit, or judgment, any member, officer or employee of or representative to the board shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the attorney general determines based upon his investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the comptroller. Reasonable attorneys fees and litigation expenses shall be paid
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by the state to such private counsel from time to time during the
pendency of the civil action or proceeding, subject to certification
that the individual is entitled to representation under the
terms and conditions of this section by the chairman of the
board, upon the audit and warrant of the comptroller. The pro-
visions of this subdivision shall be in addition to and shall not
supplant any indemnification or other benefits heretofore or
hereafter conferred upon members, officers, or employees of and
representatives to the board by section seventeen of the public
officers law, by action of the board or otherwise. The provisions
of this subdivision shall inure only to members, officers and
employees of and representatives to the board, shall not enlarge
or diminish the rights of any other party, and shall not impair,
limit or modify the rights and obligations of any insurer under
any policy of insurance.

L.1975, c. 868, § 2 [§ 12], added L.1978, c. 201, § 39; amended L.1978,
c. 777, § 34.

Historical Note

1978 Amendment. Subd. a. L. Effective Date. See section 64 of
L.1978, c. 777, § 34, eff. Sept. 28, 1978, L.1978, c. 201, set out as a note un-
der section 5402.

§ 5418. Termination

This act 1 shall terminate on the earlier of (a) July first,
two thousand eight or (b) the date (i) when all bonds and notes
containing the pledge and agreement authorized by subdivision
one of section ten-a of this act 2 are refunded, redeemed, dis-
charged or otherwise defeased, or (ii) when there shall no long-
er be outstanding any guarantee by the United States of Amer-
ica or any agency or instrumentality thereof as to payment of
principal of or interest on any note or bond issued by the city
or a state financing agency, whichever of (i) or (ii) shall occur
later.

L.1975, c. 868, § 2 [§ 13], added L.1978, c. 201, § 40; amended L.1978,
c. 777, § 35.

1 Sections 5401 to 5420.
2 Section 5415.

Historical Note

1978 Amendment. L.1978, c. 777, §
35, eff. Sept. 28, 1978, provided that
this act would terminate on the ear-
er of (a) July 1, 2008, or (b) the lat-

§ 5419. Separability

If any clause, sentence, paragraph, subdivision, or other part
of this act 1 shall for any reason be adjudged by any court of
competent jurisdiction to be unconstitutional or otherwise inval-
id, such judgment shall not affect, impair, or invalidate the
remainder of this act, but shall be confined in its operation to the
clause, sentence, paragraph, subdivision or part thereof directly
involved in the controversy in which such judgment shall have
been rendered and it shall be construed to have been the legisla-
tive intent to pass this act without such unconstitutional, or in-
vail part therein.


§ 5420. Court preference

If any section, part or provision of this act 1 shall be declared
unconstitutional or invalid or ineffective by any court of this
state, any appeal of such judgment or order shall have prefer-
ence over all other causes in any court of this state. Service up-
on 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.


1 Sections 5401 to 5420.
State of New York
DEPARTMENT OF AUDIT AND CONTROL
ALBANY

ARThUR LEVITT
STATE CONTROLLER

November 18, 1975

The Honorable Hugh L. Carey
Governor of the State of New York
State Capitol
Albany, New York 12234

Dear Governor Carey:

I am writing to urge immediate action to assure that the State will have money available no later than a year from now to repay State notes which must be sold to finance an imminent advance of $100 - 250 million to the Municipal Assistance Corporation for the City of New York (MAC).

The advance in question would be of part or all of the balance of the $500 million appropriated in the first instance by Section 23 of Chapter 668 of the Laws of 1975 (the Act).

An advance of the first $250 million of the appropriation was made last September. As part of that transaction, the State received one-year MAC notes. To secure repayment of the advance, MAC agreed to set apart from the revenue stream supporting its obligations certain amounts in each of the months from January through June of 1976.

In connection with the new advance of $100 - 250 million, the Act provides for the State to receive MAC bonds maturing not later than twenty years after the date of issue. However, under the Constitution, the State notes which must be sold to raise the money for the advance must be redeemed within one year; they may not be renewed or refunded.

In order for the State to obtain money to repay its notes within a year, it will have to either be able to resell the MAC bonds at or close to par or look to some other source. In the absence of any viable alternative, it will be my duty under the State Finance Law to impound sufficient State tax receipts and other revenues, in advance of the anniversary date of the notes, to redeem them at maturity. In that event, an equivalent amount would not be available for other State purposes.

RECOMMENDED
At this time, it appears problematical whether there will be a secondary market in which the MAC bonds can be resold at or near par within a year. It is therefore imperative that the State obtain supplementary security.

Unless you consider it practical for the 1976-77 budget to provide for the $100 - 250 million which may be needed, I urge you to insist that MAC segregate revenues of the same general type as was provided for the earlier $250 million advance. Segregation starting in July might be feasible. It might be made contingent on there being no satisfactory secondary market or on MAC not having redeemed the bonds by a particular date. MAC may be able to suggest other techniques to achieve the objective.

Members of your staff have been cognizant of this problem, but I am unaware of any agreement with MAC on a solution. With MAC apparently needing the new advance within a matter of days, some action at a high level is urgent.

It is with reluctance that I add to your burdens at this time. I feel compelled to do so, however, lest absence of a solution seriously impair the State's access to the capital markets for the large amount of State notes which must be sold in the next six months to finance normal State operations.

Sincerely,

[Signature]

Comptroller

cc: Hon. Peter C. Goldmark, Jr.
Financial Emergency Act Technical Amendments (Notes and Correspondence) 1978

File 2 of 2
MEMORANDUM

Date: 25 September 1978

To: Mark Page, Paul Hopkins, John Bender, Luke Lynch, R.B. Smith

From: Marilyn Friedman

Re: Changes in Technical Amendments received from Ralph Laws this morning
been prepared in accordance with generally accepted accounting principles as the same may be modified by the board pursuant to subdivision two-a of section eight of this act and such other information as such auditors deem appropriate; (ii) any state public authority as defined in section two hundred one of the civil service laws unless specifically named above; or (iii) any governmental agency, authority, commission or instrumentality created by compact or agreement between the state of New York and another state or states; provided, however, that the board may terminate any exemption granted by order of the board pursuant to this subdivision upon a determination that the circumstances upon which such exemption was granted are no longer applicable.

Sec. 12. Subdivision twelve of section two of such act, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

"Emergency Control period" means the period of time from the effective date of this act until the date when (a) there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal or interest on any note or bond issued by the city or a state financing agency, and (b) the board shall determine based on annual audit reports furnished in accordance with section sevena, that the expense budget of the city has been in balance in accordance with generally accepted accounting principles as subject to any modification as shall be approved by the board pursuant to
the provisions of subdivision two of section eight for each of the three immediately preceding fiscal years, the city has adopted and adhered to budgets covering all expenditures other than capital items, the results of which did not show a deficit when reported in accordance with generally accepted accounting principles subject to the provisions of subdivision two of section eight of this act and (c) the comptroller of the state and the comptroller of the city jointly shall certify that securities sold by or for the benefit of the city during the fiscal year immediately preceding such date and the then current fiscal year in the general public market satisfied the capital and seasonal financing requirements of the city during such period and that there is a substantial likelihood that such securities can be sold in the general public market from such date through the end of the next succeeding fiscal year in amounts which will satisfy substantially all of the capital and seasonal financing requirements of the city during such period in accordance with the financial plan then in effect, provided that for these purposes sales to any fund whose governing body includes any designated representative of the state or city or to any financial institution which participates in a private placement for the purchase of securities for the benefit of the city during its nineteen hundred seventy-nine fiscal year shall not be deemed sales in the general public market unless in the case of sales to such a financial institution such comptrollers jointly certify at the time of such sale that a sale could have been made in such amount and on reasonably comparable terms in the general public market. After termination of the emergency
the control period in accordance with the foregoing provisions
and until there shall no longer be outstanding any notes or bonds
issued by the city or a state financing agency which are entitled
to the benefits of this pledge and agreement authorized by section
ten-a hereof, the board shall reimpose an emergency control
period upon a determination at any time that any of the following
events has occurred and or that there is a substantial likelihood
and imminent of such occurrence: (i) the city shall have failed
to pay the principal of or interest on any of its bonds or notes
when due or payable other than notes held by the municipal
assistance corporation for the city of New York to the extent
that such corporation has evidenced its intention not to present
such notes for payment during the fiscal year in which the
determination is made provided that such notes were held by such
corporation on June thirtieth, nineteen hundred seventy-eight or
were issued in exchange for or in refunding or renewal of notes
held by such corporation on such date; (ii) the city shall have
incurred an expense-budget deficit of more than one hundred
million dollars during its fiscal year in the results of
operations covered by a budget covering all expenditures other
than capital items as reported in accordance with generally
accepted accounting principles subject to the provisions of
subsection two-a of section eight of this act; (iii) the city
shall have issued notes in violation of section nine-b of this
act as amended from time to time; or (iv) the city shall have
otherwise violated any provision of this act and such violation
substantially impairs the ability of the city to pay principal or
or interest on its bonds or notes when due or payable or its
...ility to adopt or maintain--a balanced expense adequate to a budget covering all expenditures other than capital items balanced in accordance with this act or (v) the comptrollers' joint certification at any time at the request of the comptrollers' or on their joint initiative which joint certification shall be made from time to time as promptly as circumstances warrant and reported to the boards that on the basis of facts existing at such time they could not make the joint certification described by clause (c) of the preceding sentence. Any such reimposed emergency period shall continue until the board shall determine that no circumstance warranting the re-imposition of the emergency period exists. The board shall terminate any such reimposed control period when it determines that none of the conditions which would permit the board to reimpose a control period exist. After termination of an emergency control period the board shall annually consider items (i) through (iv) above and determine whether, in its judgment, any of the events described in such items have occurred and the board shall publish each such determination. Each such joint certification made by the comptrollers hereunder shall be based on their separate written determinations which shall take into account a report and opinion of a nationally recognized independent expert in the marketing of municipal securities selected by the board as well as any other information which may be available to each comptroller and each such separate written determination by the comptrollers shall have annexed thereto the report and opinion of such expert and shall be made public when delivered to the board. Notwithstanding any part of the foregoing to the contrary, in no event shall any emergency control period continue beyond the...
when all bonds and notes containing the pledge and agreement authorized by section ten-a of this act are refunded, redeemed, discharged or otherwise defeased or when there shall no longer be outstanding any guarantees by the United States of America or any agency or instrumentality thereof as to payment of principal or interest on any note or bond issued by the city or a state financing agency, whichever of the ii or iii shall occur later.

Sec. 6. Subdivision fifteen of section two of such act, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

13. "Board fund" means the emergency-financial-control board fund established pursuant to section nine of this act.

Sec. 9. Subdivision nineteen of section two of such act, as added by chapter two hundred one of the laws of nineteen hundred seventy-eight, is hereby amended to read as follows:

19. "Available tax levy" with respect to an issue of tax anticipation notes means at any date of computation the total amount of city real estate taxes or assessments projected consistent with the financial plan then in effect to be received in cash on or before the fifth day preceding the maturity date of such tax anticipation note issue, less amounts required during the period between the date of computation and the fifth day preceding such maturity date to be paid into the general debt.
Subdivision three of section ten-a of such act is hereby renumbered to be subdivision seven and such section is hereby amended by adding there to four new subdivisions three, four, five and six, to read respectively, as follows:

1. The Finance Board of the city is hereby authorized to enter into agreements and to make covenants with any purchaser, holder or guarantor of obligations issued by the city or by a state financing agency to protect and safeguard the security and rights of any purchaser, holder or guarantor or to protect and safeguard the source or payment of such obligations or as deemed appropriate by the Finance Board which agreements or covenants may contain provisions providing for (1) the compliance by the city with any of the provisions of this act or of the New York City Loan Guaranty Act of nineteen hundred seventy-eight, Public Law 95-139, or, in any agreements with the guarantor of such obligations, but only in such agreements, unless otherwise authorized by law, the compliance with any of the terms and conditions required by the Secretary of the Treasury pursuant to such act, (b) restrictions on the issuance by the city of its obligations, limitations on the inclusion of expense items in its capital budgets and financial records, reporting and disclosure requirements in addition to any such restrictions, limitations or requirements contained in the act, (c) compliance by the city with its financial plan as modified from time to time, (d) conditions that would give rise to an event of default on such obligations and for remedies available to a purchaser, holder or guarantor of such obligations, other than acceleration of the required elimination or reduction of specific municipal expenditures, including the circumstances, if any, under which a
Rider § 1 -- Insert ", maintained by an independent trustee pursuant to such agreements" after obligations in line 15.
Rider § 4 — Insert "principal and interest in"
after payment of in line 2 of paragraph 11.
Rider § 6 -- Insert ": (i) the city shall have failed to pay
the principal of or interest on any of its bonds or notes when
due or payable (other than bond anticipation notes held by the
municipal assistance corporation for the city of New York to
the extent that such corporation has agreed not to present such
notes for payment during the fiscal year in which the determination
is made provided that such notes were held by such corporation
on June ninth, nineteen hundred seventy-eight or such notes were
issued in exchange for or in refunding or renewal of notes held
by such corporation on such date)," after occurrence in line 29.
Rider § 8 -- Insert "bond anticipation" before notes in line 20 of paragraph 19.

Insert "such notes" before we were issued in line 27 of paragraph 19.
§ 10. Section two-a of such law is hereby amended to read as follows:

§2-a. Legislative declaration of financial emergency. The legislature hereby finds and declares that a state of financial emergency continues to exist within the city. The legislature further finds and declares that fiscal conditions exist in the city which compel the legislature to exercise its duty under section twelve of article eight of the state constitution to restrict the powers of the city to prevent abuses in taxation and assessments and in contracting of indebtedness by the city for the control period as defined in subdivision twelve of section two of this act.
Rider § 11 -- Delete "emergency period or" before any control in line 6.
Rider § 13. -- Insert ", formulation" before and in line 7 of paragraph a.
Rider § 14. -- Delete considered by the board and insert "entered into." in lines 11 and 12 of paragraph (ii).
§ 16. Subdivision four of section seven of such law is hereby amended to read as follows:

4. During [an emergency] a control period neither the city nor a covered organization shall [not] enter any agreement or other arrangement, whether or not it creates a debt of the city or a covered organization, pursuant to which the revenues or credit of the city may be directly or indirectly pledged, encumbered, committed or promised, contingently or otherwise, for the payment of obligations of a public benefit corporation unless the board, by order, shall approve such agreement or other arrangement upon a determination that, in its judgment, such agreement or other arrangement is consistent with the financial plan and the objectives and purposes of this act. Nothing in this subdivision shall limit the right of the city to comply with the provisions of any existing agreement or other arrangement in respect of the obligations of a public benefit corporation.
§ 20. Paragraph c of subdivision one of section eight of such law is hereby amended to read as follows:

c. Provision shall be made for the payment in full of the debt service on all bonds and notes of the city and the covered organizations (other than bond anticipation notes held by the municipal assistance corporation for the city of New York to the extent that such corporation has agreed not to present such notes for payment during the fiscal year in which the determination is made provided that such notes were held by such corporation on June ninth, nineteen hundred seventy-eight or such notes were issued in exchange for or in refunding or renewal of notes held by such corporation on such date), [and]

for the adequate funding of programs of the city and the covered organizations which are mandated by state or federal law and for which obligations are going to be incurred during the [then ensuing] fiscal year, for payment of any amounts payable to the United States of America or any agency or instrumentality thereof in connection with the guarantee of the payment of the principal or interest on bonds issued by the city or a state financing agency. Rider 20.
Rider § 21. -- Insert "(other than pursuant to subdivision one of section eight of this act)" before made in line 5 of paragraph 2-a.
Rider § 22. 3-c. Insert "estimates" after revenue in (ii). Delete projections for any source and insert "(or any item thereof)" before during in item (ii).

Rider § 22. 3-g. Insert "thereupon" before after in line 9 of paragraph 3-g.
Rider § 26. 11. Insert "bond anticipation " before note in line 6. Delete evidenced its intention, lines 8 and 9 and insert "agreed" before not in line 9. Insert "such notes" before were in line 12.
Rider § 29 -- Insert "to approve, disapprove, modify or formulate any financial plan or financial plan modification, including the revenue estimates or any item thereof contained therein, subject the standards of paragraphs a, c, d, e and f of subdivision one of section eight of this act as in effect on the date such notes or bonds are issued and paragraph b of such subdivision as in effect from time to time," after (i) in line 15.

Insert "and the agreements or other arrangements referred to in subdivision four of section seven of the act;", after organizations in line 31.
Rider § 30a. Paragraph 1. Delete wilfully in line 3 and line 7.

Paragraph 2. Delete wilfully in lines 2, 3, and 5.
Rider § 35. § 54.10 (b) -- Delete Prior to June thirtieth nineteen hundred eighty-two and--Line 1.
Line 2 Insert "N" in place of "n" in notwithstanding.
Delete which may be required in lines 6 and 7.
Rider § 36. paragraph 3. -- Insert "the bond to be refunded is guaranteed by the federal government whether or not" before the in line 26.
Rider § 38.(b) -- Insert "the bond to be refunded is guaranteed by the federal government whether or not" after (iii), line 17.
Rider § 39.3. -- Insert "the bond to be refunded is guaranteed by the federal government whether or not" after New York, in line 20.
f. [The] Upon submission thereof by the city, the board shall review the terms of each proposed long-term and short-term borrowing by the city and any covered organization to be effected during [an emergency] a control period but after October fifteenth, nineteen hundred seventy-five, and no such borrowing shall be made unless approved by the board. The board shall, by order, approve any borrowing only upon a determination that, in its judgment, such borrowing is consistent with a financial plan and the objectives and purposes of this act. The board shall consult and coordinate with the municipal assistance corporation for the city of New York with respect to borrowings of the city and any covered organization and shall receive reports from the municipal assistance corporation for the city of New York on its review of borrowings by the city. No covered organizations shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes.
a. For the fiscal year ending June thirtieth, nineteen hundred eighty-two, and for each fiscal year thereafter, the city's [expense] budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with [principles which are consistent with] generally accepted accounting principles [and that permit comparison of the budget with the report of actual financial results prepared in accordance with generally accepted accounting principles]. For the fiscal years ending June thirtieth, nineteen hundred seventy-nine through June thirtieth, nineteen hundred eighty-one, the city's budget covering all expenditures other than capital items shall show substantial progress in each such fiscal year towards achieving a city [expense] budget [balanced in accordance with such] covering all expenditures other than capital items the results of which would not show a deficit when reported in accordance with generally accepted accounting principles.

Rider 19. The city shall eliminate expense items from its capital budget not later than the commencement of the fiscal year ending June thirtieth, nineteen hundred eighty-two. For the fiscal year ending June thirtieth, nineteen hundred eighty-nine, the [expense] budgets covering all expenditures other than capital items of each of the covered organizations shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with [such] generally accepted accounting principles; and for each fiscal year prior thereto, there shall be substantial progress towards such goal.
4. Payments of interest or principal on any obligation of the city of New York not paid when due shall accrue interest at the rate borne for principal by such obligation from the date on which such payment was due until the earlier of (i) the date of payment in full or (ii) the date on which there shall have been deposited with an independent trustee sufficient monies to cover such overdue payment and any interest accrued thereon to the date of such deposit and provided, however that prior to the date of such deposit it shall have been announced for three days in succession in a paper of general circulation that monies shall be available for such payment on such date.
Preliminary Draft City Covenants

Special city covenants to secure bonds and performance of act. In this discretion of the city, any bonds or issue of bonds or bond anticipation notes, tax anticipation notes, tax 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 any guarantors or holders thereof, 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 on investment of public funds otherwise provided for by law; (b) the execution of an agreement with any guarantor or credit agreement with any purchaser of any bonds or notes issued, including, therein, the pledge of the faith and credit of the city with respect to the payment of any obligations of the city thereunder; (c) filings, review and correction of budgets, annual reports, audits and other matters of financial record; (d) compliance with the provisions of laws applicable to the city including the local finance law and the New York State Financial Emergency Act for the City of New York (the "Act"), and with further restrictions on the powers, rights and duties of the city necessary, appropriate or desirable for the proper, provident and efficient management of its financial affairs which the city determines will assure prompt payment when due of its debt and operation obligations; and (e) conditions which would give rise to an event of default under the terms of such ordinance or resolution and actions and remedies which the guarantor may take.

Rights and remedies of guarantors obligations of the city. The guarantors and holders of any bonds or notes shall have in addition to any other rights and remedies under law, the following rights and remedies subject to the terms of the notes or bonds or any credit agreement or other instruments related thereto:

(A) in the event that the city shall default in the payment of principal or of interest on any bond or note after the same shall become due, whether at maturity or upon call for redemption, or in the event that the state, the city, the board or the municipal assistance corporation for the city of New York shall fail or refuse to comply with the provisions, of the Act, or shall default in any covenant or agreement contained in any
credit agreement or other agreement made with the guarantor of any issue of said obligations, the guarantor or holder of such bond or note may, (a) bring suit for any principal or interest then due with respect to such obligations and any amounts payable under any agreement with the city with respect to the guarantees; (b) 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 or guarantor, 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 or guarantors perform its duties under this act and enforce any provisions of applicable law, including, without limitations, the Act; (c) bring suit upon such obligations and such agreements; (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 and the guarantor 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 or the guarantors of such obligations; (f) appoint a trustee to enforce their rights under such bond, note, credit agreement or other agreement with the holder or guarantor.

(B) Any guarantor of any such obligations at any time outstanding, whether or not then due and payable or reduced to judgment, or any trustee appointed as provided above may institute such proceedings either on his own behalf or on behalf of all persons similarly situated against the state, the city, the board, the municipal assistance corporation for the city of New York or their respective officials.

(C) The Supreme Court shall have jurisdiction of any suit, action or proceeding by or on behalf of the guarantors of such obligations may be brought in the Supreme Court or any United States District Court or other appropriate court.
Preliminary Draft State Covenant

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 and with any guarantor of such obligations 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, the board or the municipal assistance corporation for the city of New York to exercise, perform, carry out and fulfill its responsibilities under this act to the extent that the city, the board or the municipal assistance corporation for the city of New York incorporates in any bond note, credit agreement or any other agreement with any guarantor, 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 or guarantors to fully enforce in a court of law such covenants and agreements so incorporated in any bond note, credit agreement, or other agreement with any guarantor or to enforce the pledge and agreements of the state contained in this section 10, or (c) otherwise exercise any sovereign power contrary to or inconsistent with the provisions of such bond notes, credit agreements or other agreement with any guarantor, it being hereby determined and declared that the provisions of this act, and the powers and duties of the city, the board and the municipal assistance corporation for the city of New York 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. Nothing contained in this section 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 bond, note, any credit agreement or any agreement with any guarantor with respect thereto as and for a pledge and agreement of the state with and for the benefit of the holders and to guarantors of all obligations of the city issued pursuant to the local finance law and this act and, upon payment for such obligations or the issuance of any guarantee by the original and all subsequent holders or by
Rider 19

"For its fiscal years ending June 30, 1979 through June 30, 1981, the city's expense budget shall be balanced in accordance with the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the comptroller, in consultation with the city comptroller, for application to the city; subject to the provision of subdivision four of section three thousand thirty-eight of the public authorities law with respect to contributions by the city or other public employer to any retirement system or pension fund and subject to the provision of paragraph (c) of subdivision five of section 3038 of the public authorities law with respect to expense items included in the capital budget of the city."

Rider 20

", and compliance with the financial covenants of any agreement with any guarantor of bonds or notes of the city." after "agency".
August 24, 1978

BY HAND

Marilyn Friedman, Esq.
Municipal Assistance Corporation
Two World Trade Center
New York, New York

Re: EFCB Legislation

Dear Marilyn:

I am enclosing herewith a revised draft of our opinion.

Very truly yours,

[Signature]

R. Thornton Lurie

RTL/rf
Enc.
You have requested our opinion as to (i) the validity of the New York State Financial Emergency Act For The City of New York (Chapter 868 of the Laws of New York of 1975) as amended to the date hereof (the "Act") and (ii) the enforceability by a holder of obligations of the Municipal Assistance Corporation For The City of New York (the "Corporation") of the covenant of the State of New York (the "State") authorized to be included in certain of such obligations pursuant to Section 10-a of the Act (the "State Covenant") assuming the State Covenant is included in such obligations.

Although the matter is not free from doubt, we are of the opinion that a court of final jurisdiction would find:

1. That the Act has been duly enacted, and, except as noted below, under the Constitution and laws of the State, is valid; provided, however, that we express no opinion with respect to those portions of the Act relating to collective bargaining.
2. The State Covenant to be enforceable against the State by the holder of an obligation of the Corporation reciting the State Covenant, provided such holder is able to prove conclusively that its inclusion in such obligation constitutes an important security provision of such obligation.

The foregoing is limited to the extent that the enforceability of the Act or any part thereof is subject at all times to the proper exercise of the State's reserved police power.
6. "Board" means the governmental agency created by section five of this act.

7. "Special deputy controller" means the special deputy controller for the city of New York created by section forty-one of the executive law.

8. "Municipal assistance corporation for the city of New York" means the corporate governmental agency created by section three thousand thirty-three of the public authorities law.


10. "Revenues" mean all taxes, federal and state aid, rents, fees, charges, payments, all proceeds from borrowings and other income and receipts paid or payable to or for the account of the city or any of the covered organizations.

11. "Financial plan" means the financial plan of the city and the covered organizations to be developed pursuant to section eight of this act as from time to time modified.

12. "Emergency period" means the period of time from the effective date of this act until the date when the board determines that the emergency budget of the city shall have been in balance for fiscal years in accordance with the accounting methods prescribed for such budget by the state comptroller pursuant to subdivision two of section three thousand thirty-three of the public authorities law (i) there shall be no longer be effective or outstanding any guarantees by the United States of America as to payment of principal or interest on any note or bond issued by the city or a state financing agency and (ii) the board shall determine, based on annual audit reports furnished in accordance with section seven-a, that the emergency budget of the city has been in balance in accordance with generally accepted accounting principles (subject to any modification as shall be approved by the board pursuant to the provisions of subdivision two of section eight) for each of the three immediately preceding fiscal years. After termination of the emergency period in accordance with the foregoing provisions and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency which are entitled to the benefits of the pledge and agreement authorized by section twelve hereof, the board shall remain an emergency period upon a determination at any time that any of the following events has occurred and that there is a substantial likelihood of such occurrence: (i) the city shall have failed to pay the principal or interest on any of its bonds or notes when due or payable, (ii) the city shall have incurred an emergency budget deficit of more than one hundred million dollars, (iii) the city shall have issued notes in violation of section nine of this act as amended from time to time, or (iv) the city shall have otherwise violated any provision of this act and such violation substantially impairs the ability of the city to pay principal or interest on its bonds or notes when due and payable or its ability to adopt or maintain a balanced budget. Any such reinvested emergency period shall continue until the board shall determine that in circumstances warranting the reinstatement of the emergency period exists. After termination of an emergency period the board shall annually consider items (i) through (iv) above and determine whether, in its judgment, any of the events described in such items have occurred. Notwithstanding any part of the foregoing to the contrary, in no event shall any emergency period continue beyond July first, two thousand eight, or when all bonds and notes containing the pledge and agreement authorized by section ten-a of this act are refunded, redeemed, discharged or otherwise defeased.

13. "Debt service repayment account" means the special account established pursuant to subdivision four of section nine of this act.

14. "Fund" means the general debt service fund established pursuant to section nine-a of this act.

15. "Board fund" means the emergency financial control board fund established pursuant to section nine of this act.

16. "Short-term debt service account" means the tax anticipation note debt service account established within the fund pursuant to section nine-a of this act.
RIDDER 1

21. "Control period" means the period of time from the effective date of this act until the date when (a) the emergency period as defined in subdivision twelve of this section terminates, and (b) there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal of or interest on any note or bond issued by the city or a state financing agency. After termination of the initial control period in accordance with the foregoing provision, and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency which are entitled to the benefits of the pledge and agreement authorized by section ten-a of this act, the board shall reimpose a control period upon determination at any time that any of the following events has occurred or that there is a substantial likelihood of such occurrence: (i) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable, (ii) the city shall have incurred an expense budget deficit of more than one hundred million dollars, (iii) the city shall have issued notes in violation of section nine-b of this act as amended from time to time, or (iv) the city shall have otherwise violated any provision of this act and such violation substantially impairs the ability of the city to pay principal of or interest on its bonds or notes when due and payable or its ability to adopt or maintain a balanced expense budget. Any such reimposed control
3. The members of the board appointed by the governor and all representatives designated by 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 under this act, provided however that such member and representatives are not, at the time such expenses are incurred, public employees otherwise entitled to such reimbursement.

4. The governor and the mayor, jointly, shall appoint an executive director of the board who shall serve at the pleasure of the board and may be removed by the board. The board may delegate to the executive director or to one or more of its other officers, employees or agents, such powers and duties as the board may deem proper, except any duties inconsistent with the duties and functions prescribed by any other office or position any such person may hold.

5. Functions of the board

1. In carrying out the purposes of this act, the board shall perform the following functions:

2. As set forth in section eight, the board shall: (i) determine in connection with the disbursements of the financial plan, estimated payments for the city and the covered organizations, the need for revenue estimates for the preparation of the financial plan, and certify to the city the revenue estimates approved therein, (ii) prescribe the form of the financial plan and the support for information required in connection therewith, and (iii) exercise the rights of approval, disapproval and modification with respect to the financial plan, including without limitation the revenue estimates contained therein.

b. As set forth in section nine, the board to the extent it deems it necessary or desirable in order to accomplish the purposes of this act, shall establish and adopt procedures with respect to the (i) proper maintenance of the board fund, the fund, the TAN debt service account and the RAN debt service account, (ii) the deposit and investment of revenues of the city and the covered organizations in the fund in such funds and accounts and the (iii) disbursement of moneys from the fund in such funds and accounts.

c. The board shall, from time to time and to the extent it deems necessary, desirable in order to accomplish the purposes of this act, (i) review the operations, management, efficiency and productivity of such city operations and of such covered organizations or portions thereof as the board may determine and make reports thereon; (ii) audit, compliance with the financial plan in such areas as the board may determine; (iii) recommend to the city and the covered organizations such measures relating to their operations, management, efficiency and productivity as it deems appropriate to reduce costs and improve services so as to advance the purposes of this act; and (iv) obtain information of the financial condition and needs of the city and the covered organizations. Nothing herein shall diminish the powers of the controller otherwise provided by law and the board may request the assistance of the controller in performing the above functions.

d. §§ The board (i) shall receive from the city and the covered organizations and from the special duty comptroller, and shall review such financial statements and projections, budgetary data and information, and allow the inspection of the purposes of this act; (ii) (iii) shall inspect, copy and audit such books and records of the city and the covered organizations as the board deems necessary or desirable to accomplish the purposes of this act.
(a) Any party to a proceeding before the board of collective bargaining as described in paragraph (b) or other body as described in paragraphs (c) or (d) hereof may commence a special proceeding in the appellate division, first department, supreme court, state of New York, to review the threshold determination as to the city and or covered organization's financial ability to pay. Such proceeding shall be commenced not later than thirty days after the final determination has been made by the board of collective bargaining in the case of paragraph (b) or other body in the case of paragraphs (c) or (d). Such proceeding shall have preference over all other causes in such appellate division, other than causes relating to the election law.

(b) The court shall make a de novo review of the record solely for the purpose of determining whether an award of an increase in wages or fringe benefits was within the city's and or covered organization's financial ability to pay. The court's findings as to such issue shall be based upon a preponderance of all the evidence set forth in the record. Unless the parties stipulate otherwise, arguments or submission shall be had within fifteen days after commencement of the special proceeding and the court shall render its decision within fifteen days thereafter. All questions, other than the question relating to the threshold determination, shall be reviewed by the appellate division in the same proceeding in the manner provided by articles seventy-five or seventy-eight of the civil practice law and rules as may be appropriate, notwithstanding that the issue would otherwise have been remittable in the first instance before a special or trial term of the supreme court. If an appeal is otherwise lie from such determination of the appellate division to the court of appeals, notice of such appeal shall be filed within thirty days after the entry of the final order or judgment of the appellate division if such appeal is of right or within ten days after entry of an order granting leave to appeal and such appeal shall have preference over all other appeals other than appeals relating to the election law.

(c) At any stage of any proceeding under paragraphs (a), (b), (c), (d) and (e) hereof or any appeal from an order or judgment therefrom, the board may intervene as a party on the issue of the financial ability of the city and or covered organization to pay the cost of an increase in wages or fringe benefits.

(d) For the purposes of this subdivision, financial ability to pay shall mean the financial ability of the city and or covered organization to pay the cost of any increase in wages or fringe benefits without requiring an increase in the level of city taxes existing at the time of the commencement of a proceeding under paragraph (a), (c) or (d) hereof.

(e) The provisions of this subdivision shall terminate on December thirty-first, nineteen hundred eighty-two.

1 During the emergency period the city shall not enter any agreement or other arrangement, whether or not debt of the city, pursuant to which the revenues or credit of the city may be directly or indirectly pledge, encumbered, committed or promised, contingent or otherwise, as defined by statute.

modified financial plan, prepare and submit to the board financial plan modifications at such times, in such detail and within such time periods as the board may require in order to modify the financial plan to conform to the standards set forth in subdivision one of this section. Changes in such revenue estimates shall be made only by the board. In the event of reductions in such revenue estimates, the board shall determine that (i) revenue estimates must be adjusted to ensure compliance with the standards set forth in subdivision one of this section, or (ii) that the city or a covered organization shall expend funds at a rate that would cause expenditures to exceed the aggregate expenditure limitation for the city or covered organization provided for in the financial plan which has been approved. Prior to the expiration of the fiscal year, the city shall modify the financial plan, or submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such revised revenue estimates or standards or aggregate expenditure limitations. If, during a time period specified by the board, during an emergency period, the city fails to make such modifications, or to provide a modified financial plan modification, the board may, in its discretion, disapprove the modifications, or such modification or modifications of the financial plan as it deems necessary to ensure that the financial plan, as modified, continues to meet the standards set forth in subdivision one of this section. Such modification shall not become effective on its adoption. Notwithstanding the provisions of this section, in the event the city shall determine that, due to unforeseen events during a fiscal year, compliance with the standards set forth in subdivision one of this section would result in a material adverse impact upon the delivery of essential services, the city shall notify the board of such determination, together with such information, projections or analyses relating thereto as the board may require, and shall submit a modification to the financial plan reflecting such determination. During an emergency period, the board shall disapprove any such modification unless it finds that (i) the city’s determination is supported by information, projections and analyses which the board deems substantially accurate in all material respects and (ii) such events, in its judgment, warrant such modification to the financial plan.

f. The city may, from time to time, modify the expenditures specified in the financial plan, subject to the approval of the board. The board shall approve financial plan modifications for review by the board. During an emergency period, the board shall approve such modifications unless, in the judgment of the board, it determines that such modifications would constitute grounds for disapproval of the financial plan pursuant to paragraph e of this subdivision, or if applicable, pursuant to paragraph e of this subdivision.

g. Anything contained in this act to the contrary notwithstanding, during an emergency period, the board may at any time disapprove or rescind any financial plan, in whole or in part, and may, in its judgment, warranted to avoid such adverse impact on the delivery of essential services.
§ 10. Wages, etc.

1. Increases in salary or wages of employees of the city and employees of covered organizations which have taken effect since June thirtieth, nineteen hundred seventy-five or which will take effect after that date pursuant to collective bargaining agreements or other analogous contracts requiring such increased payments as of any date after nineteen hundred seventy-five as of any date thereafter are hereby suspended. All increased payments for holidays and vacation differentials, shift differentials, salary adjustments according to plan and step-up or increments for employees of the city and employees of covered organizations which have taken effect since June thirtieth, nineteen hundred seventy-five or which will take effect after that date pursuant to collective bargaining agreements or other analogous contracts requiring such increased payments as of any date after nineteen hundred seventy-five as of any date thereafter are hereby suspended. For the purposes of computing the pension base of retirement allowances, the suspended salary or wage increase and the suspended other payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable. The suspensions provided herein shall be effective for the first period ending on or subsequent to September first, nineteen hundred seventy-five and shall continue until one year thereafter and, to the extent of an, determination of the board that a continuation of such suspensions, to a date specified by the board, is necessary in order to achieve the objectives of the financial plan, such suspensions shall be continued to the date specified by such board, which date shall in no event be later than the end of the emergency period.

2. This section shall not be applicable to employees of the city or employees of a covered organization covered by a collective bargaining agreement or an employee of the city or a covered organization not covered by a collective bargaining agreement where the collective bargaining representative or such employee has agreed to a deferral of salary or wage increase by an instrument in writing which has been certified by the mayor or on or before September first, nineteen hundred seventy-five, or certified by the board after September first, nineteen hundred seventy-five as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the city. The board may, if it finds that the fiscal crisis has been substantially alleviated or for any other appropriate reason, direct that the suspensions of salary or wage increases or suspensions of other increased payments shall, in whole or in part, be terminated.

3. The provisions of this section shall terminate on July first, nineteen hundred seventy-five.

§ 10-a. Covenants. 1. In the event that after the date on which the provisions of this act become operative, any notes or bonds are issued by the city named in subdivision eleven, nineteen hundred eighty-two, or any bonds are issued by a state financing agency, the state of New York hereby authorizes the city and authorizes and requires such state financing agency to include a pledge and agreement of the state of New York in any agreement made by the city or such state financing agency with holders or guarantors of such notes and bonds that the state will not take any action which will (a) substantially impair the security or marketability of the noted or bonds, or (b) in subdivision two of this section in effect on the state such notes or bonds are issued (i) to disapprove or modify any financial plan or financial plan modification, including the revenue estimates contained therein, which does not comply with the standards of paragraphs a. and of subdivision one of section eight of this act as in effect on the date such notes or bonds are issued, (ii) to disapprove a contract of the city or a covered organization of the performance of such contract would be inconsistent with the financial plan and to approve or disapprove proposed short-term and long-term borrowings of the city or a covered organization, and (iii) to establish and adopt procedures with respect to the devotion in and disbursement from the board fund of city revenues; (b) substantially impair the authority of the board to review financial plans, financial plan modifications, contracts of the city or the covered organizations and proposed short-term and long-term borrowings of the city, and the covered organizations; (c) substantially impair the independent maintenance of a separate fund for the payment of debt services on bonds and notes of the city; (d) alter the composition of the board so that the majority of the voting members of the board are not officials of the state of New York or appointees of such officials; (e) substantially impair the existence of the board prior to the time to be determined in accordance with section thirteen of this act as in effect on the date such notes or bonds are issued; (f) substantially modify the requirement that the city's financial statements be audited by a nationally recognized independent certified public accounting firm or consortium of firms and that a report on such audit be furnished to the board; or (g) alter the definition of emergency period set forth in subdivision....
August 24, 1978

Mr. James L. Biggane
Senate Finance Committee
Room 913
Legislative Office Building
Albany, New York

Dear Mr. Biggane:

As you requested in our telephone conversation this morning, I am enclosing copies of the so-called "market access" language which we understand will be proposed to the State Legislature at its next session along with certain other technical amendments to the EFCB Act.

If I can be of any further assistance, please call me.

Sincerely,

[Signature]

Enclosures
Subdivision twelve of section two of the act is hereby amended as follows:

1. The following shall be added at the end of the first sentence thereof:

"and (c) the comptroller shall determine that securities sold by or for the benefit of the City during the fiscal year immediately preceding such date and the then current fiscal year in the general public market satisfied the capital and seasonal financing requirements of the City during such period and that there is a substantial likelihood that such securities can be sold in the general public market from such date through the end of the next succeeding fiscal year in amounts which will satisfy substantially all of the capital and seasonal financing requirements of the City during such period in accordance with the financial plan then in effect, provided that for these purposes sales to any fund whose governing body includes any designated representative of the State or City or to any financial institution which participates in the purchase of securities for the benefit of the City during its 1979 fiscal year shall not be deemed sales in the general public market, unless in the case of sales to such a financial institution the comptroller determines at the time of such sale that such sale could have been made in the general public market".

2. There shall be added at the end of the second sentence thereof the following:

"or (v) the comptroller's determination at any time, which determination shall be made from time to time as promptly as circumstances warrant and reported to the board, that on the basis of facts existing at such time he could not make the determination described by clause (c) of the preceding sentence".

3. There shall be added after the end of the fourth sentence thereof the following:

"Each determination by the comptroller hereunder shall be made on the basis of a report and opinion of a nationally recognized independent expert in the marketing of municipal securities selected by the board and each report of such a determination shall include the report and opinion of such expert and shall be made public when delivered to the board".

and 4. There shall be added at the end of the fourth sentence thereof the following:

"and the board shall publish each such determination".
August 22, 1978

Marilyn Friedman, Esq.
Municipal Assistance Corporation
For the City of New York
Two World Trade Center
New York, New York

Re: EFCB Legislation

Dear Marilyn:

I am enclosing herewith the changes which were conclusively agreed to at the meeting yesterday at Davis, Polk & Wardwell.

Very truly yours,

R. Thornton Lurie

RTL/cv
Encl.
August 18, 1978

Marilyn Friedman, Esq.
Municipal Assistance Corporation
For The City of New York
Two World Trade Center
New York, New York

Dear Marilyn:

I enclose a copy of the Emergency Financial Control Board Act, as amended, with our suggestions for further amendment. I also enclose a copy of a form of opinion which we would render in the event of the enactment of the amendments substantially in the form submitted to you.

The form of amendments and opinion are substantially in line with our discussions. The amendments and opinion in no way express our view as to the validity of the Act as presently enacted. We of course are willing to discuss our view with respect to the Act as presently enacted more fully with you at any time. If you have any questions with respect to the enclosures, kindly contact me.

Very truly yours,

[Signature]

R. Thornton Lurie

RTL/cv

Enclosures
You have asked our opinion as to the validity of the New York State Financial Emergency Act for The City of New York as enacted by Chapter 868 of the Laws of New York of 1975 and as amended to the date hereof (the "Act") and as to the enforceability by a holder of obligations of the Municipal Assistance Corporation for the City of New York (the "Corporation") of a certain covenant of the State of New York (the "State") authorized and required to be included in certain such obligations pursuant to Section 10-a of the Act (the "State Covenant") assuming the State Covenant was validly included in such obligations.

Although the matter is not free from doubt, we are of the opinion that a court of final jurisdiction, would find:

1. The Legislature had the power to restrict the power of taxation, assessment, borrowing money, contracting indebtedness and loaning the credit of the City so as to prevent abuses in taxation and assessments and in contracting of indebtedness by the City. Therefore the Act was addressed to a legitimate State concern, was an exercise of the duty of the Legislature and was duly enacted, and under
the laws of the State, including
the Constitution of the State, the
Act is valid with respect to all
provisions thereof material to the
subject matters of this opinion
letter.

2. An emergency existed which furnished
a proper occasion for the exercise
of State power to protect matters
of State concern. To the extent
that provisions of the Act depend on
the existence of an emergency and
certain other facts, it may lose its
force and effect if it is determined
that the emergency has ceased or the
facts have changed even though the
Act was valid when enacted.

3. The State Covenant to be enforce-
able against the State by the
holder of an obligation of the
Corporation reciting such Covenant
if such holder was able to prove
conclusively that the inclusion
of the State Covenant in such
obligation constituted an im-
portant security provision of
such obligation.
The foregoing is limited to the extent that the enforceability of the Act or any part thereof is subject at all times to the proper exercise of the State's reserved police power and to the extent that no opinion is expressed as to that portion of the Act relating to collective bargaining.
August 15, 1978

Marilyn Friedman, Esq.
Municipal Assistance Corporation
For The City of New York
Two World Trade Center
New York, New York

Dear Marilyn:

I enclose a copy of the Emergency Financial Control Board Act, as amended, with our suggestions for further amendment. I also enclose a copy of a form of opinion which we would render in the event of the enactment of the amendments substantially in the form submitted to you.

The form of amendments and opinion are substantially in line with our discussions of last evening. We, of course, are willing to discuss the matter more fully with you at any time. If you have any questions with respect to the enclosures, kindly contact me.

With kindest personal regards, I am

Very truly yours,

Donald J. Robinson

DJR:md
Enclosures
You have asked our opinion as to the validity of the New York State Financial Emergency Act for The City of New York as enacted by Chapter 868 of the Laws of New York of 1975 and as amended to the date hereof (the "Act") and as to the enforceability by a holder of obligations of the Municipal Assistance Corporation for the City of New York (the "Corporation") of a certain covenant of the State of New York (the "State") authorized and required to be included in certain such obligations pursuant to Section 10-a of the Act (the "State Covenant") assuming the State Covenant was validly included in such obligations.

Although the matter is not free from doubt, we are of the opinion that a court of final jurisdiction, would find:

1. An emergency existed which furnished a proper occasion for the exercise of State power to protect matters of State concern. The declaration by the legislature of the existence of the emergency is entitled to great respect, but is not conclusive. Also, the Act to the extent it depends
on the existence of an emergency and certain other facts may lose its force and effect if it is determined that the emergency has ceased or the facts have changed even though the Act was valid when enacted. In addition, the Legislature had the power to restrict the power of taxation, assessment, borrowing money, contracting indebtedness and loaning the credit of the City so as to prevent abuses in taxation and assessments and in contracting of indebtedness by the City. Therefore, the Act was addressed to a legitimate State concern, was an exercise of the duty of the Legislature and was duly enacted.

2. the State Covenant to be enforceable against the State by the holder of an obligation of the Corporation reciting such Covenant if such holder was able to prove
conclusively that the inclusion of the State Covenant in such obligation constituted an important security provision of such obligation.

The foregoing is limited to the extent that the enforceability of the Act or any part thereof is subject at all times to the proper exercise of the State's reserved police power.
United States Government

Memorandum

TO: Janice Griffiths
FROM: Luke Lynch

DATE: 7/29/78

SUBJECT: N.Y. State Legislation

Following are riders containing the Treasury Department's comments on the state legislation and copies of sections of proposed amendments on which we have comments not reflected on the riders. These sections are 13, 18, 21, 22 and 28. Page and line references are to the printed text of the bill.

I understand you are preparing riders on the audit committee, productivity council, repeal of Title 6A and repeal of authorization to file under the Federal bankruptcy statutes.

Please call after you have had a chance to review.

212-488-3920 - Flaxton

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Section 24, Page 17

Line 18--Insert "and shall state whether the audit of such financial statements was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as were considered necessary under the circumstances." after "act".

Section 25, Page 17

Line 51--Insert "The city's expense budget shall cover all expenditures of the city other than capital items." after "principles."
Section 25, Page 17

Line 55--Insert "For its fiscal years ending June 30, 1979 through June 30, 1981, the city's expense budget shall be balanced in accordance with the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as in effect on July__, 1978; subject to the provision of subdivision four of section three thousand thirty eight of the public authorities law with respect to contributions by the city or other public employer to any retirement system or pension fund and subject to the provision of paragraph (c) of subdivision five of section 3038 of the public authorities law with respect to expense items included in the capital budget of the city" after "principles."

Section 25, Page 18

Line 17--Insert "and compliance with the provisions of any agreement with any guarantor of bonds or notes of the city" after "year".
Section 27, Page 18

Line 43--Insert "change" after "or" and insert "rules of"
before "application."

Section 34, Page 26

Line 29--Insert "provided the municipal assistance
corporation for the city of New York has agreed not to
present such notes to the city of New York for payment
of principal or interest."
Section 36, Page 27

Line 39--Insert "approve" before "disapprove", Strike "or" and replace it with a comma. Insert "or formulate" after "modify."

Line 42--Insert "or paragraph (b) as in effect from time to time" after "issued."

Line 44--Insert "to determine whether a proposed finding is within the financial ability of the city or a covered organization to pay and to participate in arbitral and judicial proceedings as provided in subdivision three of section seven of this act" after "financial year."

Line 46--Insert "and to approve or disapprove the agreements or arrangements referred to in subdivision four of section seven of this act" after "organization."

Page 28, Line 11--Strike "or an agency thereof" and insert "obligations guaranteed by the United States."
Section 59, Page 36

Line 47—Strike "substantially reduced from the aggregate amount for the nineteen hundred seventy-nine fiscal year" and insert "three hundred million dollars and one hundred-fifty million dollars respectively".
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, tax 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 any guarantors thereof, 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 on investment of public funds otherwise provided for by law; (b) the execution of a guarantee agreement with any guarantor if any bonds issued, including, therein, the pledge of the faith and credit of the city with respect to the payment of any obligations of the city thereunder; (c) filings, review and correction of budgets, justification documents, annual reports, audits and other matters of financial record; (d) compliance with the provisions of laws applicable to the city including the local finance law and the New York State Financial Emergency Act for the City of New York (the "Act"), and with further restrictions on the powers, rights and duties of the city necessary, appropriate or desirable for the proper, provident and efficient management of its financial affairs which the city determines will assure prompt payment when due of its debt and operation obligations; and (e) conditions which would give rise to an event of default under the terms of such ordinance or resolution and actions and remedies which the guarantor may take.

Rights and remedies of guarantors, obligations of the city. The guarantors of any bonds shall have in addition to any other rights and remedies under law, the following rights and remedies subject to the terms of the ordinance authorizing such obligations or any credit agreement or other instruments related thereto:

(A) in the event that the city shall default in the payment of principal or of interest on any issue of obligations guaranteed after the same shall become due, whether at maturity or upon call for redemption, or in the event that the state, the city, the board or the municipal assistance corporation for the city of New York shall fail or refuse to comply with the provisions, of the Act, or shall default in any contract or covenant made with the guarantor of any issue of said obligations, the guarantor may, (a) bring suit for any principal or interest then due (whether by acceleration or other-
wise) with respect to such obligations and any amounts payable under any agreement with the city with respect to the guarantees; (b) 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 or guarantor, 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 or guarantors perform its duties under this act and enforce any provisions of applicable law, including, without limitations, the Act; (c) bring suit upon such obligations and such agreements; (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 and the guarantor 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 or the guarantors of such obligations; (f) declare all such obligations of such issue due and payable, and if all defaults shall be made good, then, annual such declaration and its consequences.

(B) Any guarantor of any such obligations at any time outstanding, whether or not then due and payable or reduced to judgment may institute such proceedings either on his own behalf or on behalf of all persons similarly situated against the state, the city, the board, the municipal assistance corporation for the city of New York or their respective officials.

(C) The Supreme Court shall have jurisdiction of any suit, action or proceeding by or on behalf of the guarantors of such obligations may be brought in the Supreme Court or any United States District Court or other appropriate court.
Preliminary Draft State Covenant

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 and any guarantor of such obligations 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, the board or the municipal assistance corporation for the city of New York to exercise, perform, carry out and fulfill its responsibilities under this act to the extent that the city, the board or the municipal assistance corporation for the city of New York incorporates in any bond ordinance, credit agreement or any agreements with any guarantor, 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 or guarantors to fully enforce in a court of law such covenants and agreements so incorporated in the bond ordinance, credit agreement, or agreement with any guarantor 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, credit agreement or agreement with any guarantor, it being hereby determined and declared that the provisions of this act, and the powers and duties of the city, the board and the municipal assistance corporation for the city of New York 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. Nothing contained in this section 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, any credit agreement or any agreement with any guarantor with respect thereto as and for a pledge and agreement of the state with and for the benefit of the holders and to guarantors of all obligations of the city issued pursuant to the local finance law and this act and, upon payment for such obligations or the issuance of any guarantee by the original and all subsequent holders or by
the guarantors, 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 or guarantor
and any action by the state contrary to or inconsistent with
the provisions hereof shall be void. The state hereby grants
any such benefitted holder or guarantor the right to sue
the state and enforce this covenant and agreement in such
an action or suit, as provided in section ___ of this act,
it being expressly determined and declared that the continued
integrity of the contract of any such holder and guarantor
is essential to the continued right of the city to operate
independently as a municipal corporation of the state.
Draft

In the discretion of the state, any agreement with a guarantor of bonds or notes issued by the city, state or a financing agency may contain a covenant by the state to provide financial assistance to the city during any particular fiscal year of the city in an amount at least equal to the amount of financial assistance provided by the state to the city during the fiscal year of the city ending June 30, 1979. For purposes of this section, financial assistance shall include categorical and unrestricted aid from the state to the city and shall not include any advances to the city which must be repaid. The governor of the state is hereby authorized to include this covenant in any agreement with a guarantor of bonds or notes of the city or a state financing agency and such agreement may be enforced by the guarantor in the manner provided in section ___ of this Act.
§ 13. Subdivision one of section eight of such law is hereby amended to read as follows:

1. Pursuant to the procedures contained in subdivision three of this section, each year the city shall develop, and may from time to time modify, with the approval of the board during an emergency period, a four year financial plan covering the city and the covered organizations.

Each such financial plan and financial plan modification shall comply with the requirements of subdivision four of this section and shall, except as otherwise provided pursuant to subdivision two-a of this section, conform to the following standards:

a. For the fiscal year ending June thirtieth, nineteen hundred eighty-two, and for each fiscal year thereafter, the city's expense budget shall be prepared so that it is balanced in accordance with [principles which are consistent with] generally accepted accounting principles (and that) in order to permit comparison of the budget with the report of actual financial results prepared in accordance with [generally accepted accounting] such principles. With respect to financial plans that include the fiscal years ending June thirtieth, nineteen hundred seventy-nine through June thirtieth, nineteen hundred eighty-one, the city's expense budget shall be prepared in accordance with generally accepted accounting principles and there shall be substantial progress in each such fiscal year towards achieving a city expense budget balanced in accordance with such principles. The expense budget for a fiscal year shall be deemed balanced in accordance with generally accepted accounting principles if it projects that the operations of the general fund, as defined for the annual report of the city comptroller, for such fiscal year will result in an excess or equivalence of revenues and transfers over expenditures and transfers for such fiscal year in accordance with principles which are consistent with generally accepted accounting principles. The city shall eliminate expense items from its capital budget not later than the commencement of the fiscal year ending June thirtieth, nineteen hundred eighty-two. For the fiscal year ending June thirtieth, nineteen hundred eighty-nine, the expense budgets of each of the covered organizations shall be prepared so that they are balanced in accordance with such principles; and for each fiscal year prior thereto, there shall be substantial progress toward such goal.

[Signature]
§ 9. Establishment and application of board fund.

There is hereby established a fund designated the board fund. Commencing on the effective date of the financial plan, and for the duration of the emergency period, all revenues of the city and any other available resources shall be deposited in such fund. The monies of the board fund shall be used to pay the expenses of the city board of directors, and any other amounts required by the financial plan.

§ 10. Subdivision of section nine of such law.

As hereby amended to read as follows:

§ 9. Establishment and application of board fund.

There is hereby established a fund designated the board fund. Commencing on the effective date of the financial plan, and for the duration of the emergency period, all revenues of the city and any other available resources shall be deposited in such fund. The monies of the board fund shall be used to pay the expenses of the city board of directors, and any other amounts required by the financial plan.
§ 21. Subdivision ten of section nine-a of such law is hereby amended to read as follows:

10. The limitations imposed upon the city by this section shall be in addition to any limitations imposed upon the city under the local finance law. In the event any provisions of the local finance law shall be inconsistent with the provisions of this section, the provisions of this section shall prevail. The requirements of this section shall not apply to any note of the city held by the municipal assistance corporation for the city of New York on the effective date of this act or any note of the city issued for the purpose of refunding or renewing any such note.
§ 22. Subdivision one of section nine-b of such law

is hereby amended to read as follows:

§ 9-b. Limitations on short-term borrowing. 1. The limitations on short-term borrowing imposed upon the city by this section shall be in addition to the limitations on short-term borrowing imposed on the city under the local finance law. In the event any provisions of the local finance law shall be inconsistent with the provisions of this section, the provisions of this section shall prevail. For the purposes of this section, the terms "bond anticipation notes", "tax anticipation notes", and "revenue anticipation notes" shall not mean one or more of or any of the respective notes held by the municipal assistance corporation for the city of New York on the effective date of this act or any note of the city issued for the purpose of refunding or renewing any such note.
§ 28. Section fifty four ten of the local finance law as amended by chapter two hundred one of the laws of nineteen-hundred seventy-eight is hereby amended to read as follows:

§ 54. 10 Costs of sales (a) Notwithstanding any other law to the contrary, to [To] facilitate the marketing of any issue of bonds or notes of the city of New York issued on or before June thirtieth, nineteen hundred eighty-two, the mayor and comptroller of such city may, subject to the limitations on private sales of bonds provided by law:

(i) arrange for the underwriting of its bonds or notes at private sale through negotiated agreement, and provide for compensation for such underwriting (to be provided) by negotiated fee or by sale of such bonds or notes to an underwriter at a price of less than the sum of par value of, and the accrued interest on, such obligations; or

(ii) arrange for the private sale of its bonds or notes through negotiated agreement, and provide for compensation for such sales (to be provided) by negotiated fee, if required.

Any such arrangements shall be effective upon the approval thereof by the New York state emergency financial control board. The cost of such underwriting or private placement shall be deemed a preliminary cost for purposes of section 11.00 of this chapter.

(b) Notwithstanding any other law to the contrary, the mayor and comptroller of the city of New York may provide or enter into agreements which provide for the payment of any guarantee fee which may be required in connection with the issuance of bonds by the city or a state financing agency. Any such provision or agreement shall be effective upon the approval thereof by the New York state emergency financial control board.
An Act to amend chapter two hundred one of the laws of nineteen hundred seventy-eight, making certain technical changes in relation to the issuance of obligations by the municipal assistance corporation for the city of New York and in relation to the New York state emergency financial control board for the city of New York; to amend the local finance law relating to the four year financial plan of the city of New York and to repeal section twenty-five-j of the local finance law relating to the issuance of revenue anticipation notes by the city of New York

Sections one and two authorize the municipal assistance corporation for the city of New York (hereinafter "MAC") to enter into agreements in connection with the federal guarantee and to provide for any reserve fund which may be required thereunder.

Section three exempts from the city's debt limit obligations issued by MAC for the purpose of funding reserves required under a guarantee agreement.

Section four updates the findings to reflect Public Law 95-319 and the requirements contained therein, to clarify the basis for the state concern in the continuation of the control board, and to take note of the reliance by the purchasers of MAC bonds on the inclusion of the state covenant in those bonds.

Section five clarifies the means and standards for the exemption or inclusion of a covered organization within the provisions of the act.

Section six changes the name of the period under which the control board actively exercises its powers from "emergency" to "control" period to emphasize the basis of the board's powers in the customary state power over issuance of debt by a locality rather than solely on the state's extraordinary emergency powers. The section also provides an additional market access test to be satisfied before the termination of the board's active powers and conforms the final termination provision to the termination language of section thirteen as amended by section thirty-seven of this act.

Section seven makes a conforming change.

Section eight refines the definition of available tax levy to account for the pre-funding requirements of the debt service fund, to clarify the treatment of debt service on sinking fund bonds, and to clarify the treatment of city notes held by MAC.
Section nine states the additional basis of state concern in the maintenance of the control board to prevent abuses in taxation, assessment and debt issuance by the city.

Section ten is a conforming change.

Section eleven changes the official name of the control board by deleting the word "emergency".

Section twelve and thirteen make changes to conform and clarify. The change from "desirable" to "appropriate" in section thirteen is intended to more explicitly define the standards to be applied by the board within constitutionally acceptable standards.

Section fourteen makes conforming changes and makes explicit the requirement that submissions by covered organizations to the control board go through the city. It also provides a standard to be applied by the board in determining whether to disapprove a borrowing and makes explicit the powers of the control board with respect to routine reporting by the city.

Section fifteen contains grammatical changes.

Section sixteen provides that the board may apply the same standards in approving an indirect obligation undertaken by the city or a covered organization as is provided by the act for a direct obligation.

Section seventeen authorizes the control board to comply with the requirements of Public Law 95-339 with respect to audit, productivity or similar committees or councils established by the city.

Section eighteen authorizes the control board to enter into and comply with any agreements required in connection with the federal guarantee of city obligations.

Section nineteen makes explicit customary auditing standards to be applied by the city's auditor's and described in their report.

Section twenty clarifies the criteria to be applied to the determination of whether the city's budget is balanced and continues the application of the state comptroller's auditing standards until the city becomes subject to generally accepted accounting principles in fiscal year 1982.

Section twenty-one clarifies the treatment of city notes held by MAC in the financial plan and makes explicit that payments required in connection with any federal guarantee must also be provided for in the financial plan.
Section twenty-two clarifies the extent of the control board's powers to phase in changes in accounting principles.

Section twenty-three makes conforming changes and provides more explicit standards for the exercise of the control board's powers.

Section twenty-four makes conforming changes, inserts specific dates to avoid the ambiguity of "effective date", and provides more specific standards for disbursements from the board fund by the control board.

Section twenty-five makes a conforming change.

Section twenty-six provides for the establishment of the debt service fund on October first only if federally guaranteed bonds are sold before that date. If guaranteed bonds are not sold until after October first, the debt service fund would begin January first. The section clarifies the treatment of debt service on sinking fund bonds and the actions to be taken by the control board to ensure that the funding of the debt service fund shall be adequate, and refines the procedures for management of the RAN and TAN debt service accounts, including a substantial addition in subdivision seven of section nine-a of language essentially taken from section twenty-five j of the local finance law (which is repealed by section forty-seven of this act) specifying the treatment of funds in the RAN debt service account.

Section twenty-seven clarifies the treatment of notes held by MAC in the determination of section nine-a limits.

Section twenty-eight is a change in the organization of the act.

Section twenty-nine enables the city, subject to the approved of the state comptroller, to designate an independent trustee to hold and administer the debt service fund.

Section thirty clarifies the treatment of notes held by MAC in the determination of limits on short term borrowing.

Section thirty-one makes various conforming and grammatical changes and includes in the state covenant short term debt limits on the city as they may be in effect from time to time and the ability of the board to approve or disapprove indirect obligations of the city or a covered organization. The covenant as to make-up of the board has also been clarified, as has the definition of proper investments to be held by an advance refunding account.
Section thirty-two clarifies the definition of those bonds to be callable and the period during which they shall be callable.

Section thirty-three provides various authorizations to agree and remedies which are necessary for agreements in connection with the federal guarantee of city bonds including authorization for the city to include city covenants in its bonds and notes.

Section thirty-four makes a conforming change and provides that the "knowingly and willfully" standard shall apply for all penalties under the act.

Sections thirty-five and thirty-six remedy an omission and an error.

Section thirty-seven prevents the possibility of termination of the board while federally guaranteed city obligations are outstanding.

Section thirty-eight adds a separability clause to the act itself. It also provides for court preference to avoid an extended period during which the powers of the control board may be in doubt.

Section thirty-nine clarifies the procedure for engaging and compensating an underwriter and further provides for the payment of a guarantee fee, payment of an independent trustee for the debt service fund, and payment of a financial advisor for the city.

Sections forty and forty-one end the legislative authorization for the city to go into bankruptcy under state law, but preserve the right of the city to go into bankruptcy under federal law.

Section forty-two authorizes the city to refund bonds that have been outstanding for less than five years.

Section forty-three authorizes the city to refund bonds in order to change the terms of a covenant or to terminate a federal guarantee.

Sections forty-four, forty-five and forty-six authorize the city to refund bonds by prepayment to terminate a guarantee or to modify a covenant.

Section forty-seven remedies an omission in this section which was intended to mirror the authorization of MAC to carry out such exchanges.

Section forty-eight repeals section twenty-five j of the local finance law as it is replaced by the RAN debt service account established under this act.
Section forty-nine provides that obligations of the city of New York shall continue to pay interest at their face rate if they are not paid when due.

Section fifty raises the bonding limit for the housing development corporation.

Section fifty-one and fifty-two amend appropriation language in the state budget to allow the city to recognize certain revenues in the fiscal year of the city to which they substantially pertain, rather than the previous fiscal year of the city when the appropriations otherwise became effective.

Section fifty-three amends the executive law to conform to the change in terminology from emergency control period to control period.
This bill makes a number of changes to the Financial Emergency Act for the City of New York, which must be enacted before the City and MAC can conclude agreements covering the city's four-year $4.5 billion financing program. These agreements must be signed for the city to obtain vitally needed cash from the sale of MAC bonds and federally guaranteed city bonds.

The city, MAC and the control board have developed this bill in consultation with representatives of the federal government, New York-based financial institutions (including commercial banks, savings banks and insurance companies), and city and state employee pension funds. Under the agreements to be made with the federal government and the city and state pension funds, the city will sell up to $1.65 billion of federally guaranteed city bonds during the next four years. Under the agreement to be made with the financial institutions, MAC will have commitments for $1.175 billion of MAC bonds during this period; and the city expects that a similar agreement with the city employee pension funds will provide an additional $625 million from MAC bond sales. (In addition, up to $2 billion is to be raised from public sales of MAC and city bonds.)

The majority of the provisions of this bill are intended to clarify and perfect certain provisions of the bill enacted last Spring as Chapter 201 of the Laws of 1978. These "technical" changes have been reviewed by counsel to the various parties.

In addition, this bill would achieve two major objectives. First, it incorporates a "market access" provision which the city has been informed is agreed upon by all local parties. This provision would require that, before any diminution of the control board's powers, the state comptroller must certify that the city has met and will meet all its seasonal and capital financing needs by sales of city or MAC bonds in the public market during the then current fiscal year, the prior fiscal year, and the coming fiscal year.

Second, the bill incorporates a number of changes that are necessary to comply with the Federal Loan Guarantee Act of 1978 (Public Law 95-339). Among other things, the bill would authorize MAC to establish a reserve fund as required by Section 103 of Public Law 95-339, and authorizes the control board to participate in the audit committee and productivity council mandated in such section.
As noted above, various financing agreements must be signed so that funds can be provided to the city in the very near future -- as early as September 28 -- to meet projected cash needs. Passage of this bill is necessary for the completion of these critical financing measures.

Accordingly, the mayor urges your favorable consideration of this bill at the earliest possible date.

Respectfully submitted

Peter Piscitelli
State Legislation

1. EFCB must require balanced budgets in accordance with State law prior to June 30, 1982 as part of its requirements for approving the Financial Plan.

2. EFCB must be authorized to appoint officers and employees of financial institutions and independent public accountants to the audit committee.

3. EFCB must be authorized to review the proposals of the productivity council.

4. Coincidence fund must be created -- presumably under the aegis of MAC.

5. Home Rule

6. Market Access Test

7. The Local Finance Law shall contain statutory authorization for:

(a) The City to issue covenants to the Federal government in connection with any guarantees of City debt as to deposits into the general debt service fund, compliance with the provisions of the EFCB Act and other provisions of State law and the City Charter, furnishing of financial information, conditions which give rise to an event of default and such other covenants to which the City shall agree with the Federal government.

(b) The Federal government to bring suit in state or federal courts to require the City to comply with any covenants made to it by the City to enforce the obligation of the City to assess, levy and collect taxes adequate to repay any of its debt which is guaranteed or to seek such other judicial relief as may be appropriate to enforce its rights.

(c) The Federal government to accelerate any obligation which it has guaranteed upon the occurrence of an event of default thereunder.

8. The State will waive sovereign immunity for itself, for the EFCB and the City and agree that the Federal government may bring suit in state or federal courts to enforce the state covenant provided by Section 10-a of the EFCB Act and any agreement with the Federal government and to
require the EFCB to exercise the powers provided in the EFCB Act, or to require the City to comply with the EFCB Act, other provisions of State law and the covenants provided to the Federal government as described in item 7. Officials of the City, State and EFCB will also be subject to suit.

9. The trustees of the pension fund will receive an appropriate indemnity to permit them to invest in City or MAC securities.

10. Adequate bonding authority will be provided to the City to enable it to issue the bonds contemplated by the financing plan.

11. P.L. 94-236
Proposal distributed to banks and pension funds

and (3) after consultation with a nationally recognized independent expert in the marketing of municipal securities, the board shall have determined that bonds, notes or other securities were issued by or on behalf of the City in amounts sufficient to provide for the financing needs of the City during the preceding and current fiscal years in a manner which is then customary for the marketing and sale of municipal securities, and that there is a substantial likelihood that such securities can be issued in like manner through the end of the next succeeding fiscal year in amounts sufficient to meet the financing needs of the City during such period.

Revised proposal not distributed

and (3) after consultation with a nationally recognized independent expert in the marketing of municipal securities, the board shall have determined that bonds, notes or other securities issued by or on behalf of the City during the preceding fiscal year and the then current fiscal year in a manner then customary in the general public market for municipal securities provided the financing for the City during such period and that there is a substantial likelihood that such securities can be issued and sold in like manner through the end of the next succeeding fiscal year in amounts which will provide the financing for the City during such period in accordance with the financial plan then in effect.
Subdivision two of section ten-a of such act is hereby amended to read as follows:

2. Every such bond or note which shall have the benefit of the pledge and agreement referred to in subdivision one above shall be callable for redemption [at] commencing not later than the eleventh anniversary of its date of issuance and shall contain on its face a recital to such effect, together with the terms and conditions under which such obligation may be redeemed.

Section three thousand ten of the public authorities law, as enacted by chapter on hundred sixty nine of the laws of nineteen hundred seventy five, is hereby amended by renumbering subparagraph eighteen thereof as subparagraph nineteen and by adding thereto a new subparagraph eighteen to read as follows:

(18) in connection with an agreement by the federal government or any agency or instrumentality thereof to guarantee obligations issued by the municipality for which the municipal assistance corporation was created, to enter into an agreement with the federal government or any agency or instrumentality thereof in respect of such guarantee and to comply with the terms and conditions thereof, including, without limitation, a requirement that the corporation deposit or cause to be deposited in a fund established for the repayment of the guaranteed obligations, amounts required to be deposited in such fund pursuant to the terms and conditions of such guarantee,
PROPOSED TECHNICAL AMENDMENTS TO THE
EFCB ACT AMENDMENT PASSED ON
MAY 26, 1978*

1. § 10, page 11, lines 10-11 ($1-a of the Act)
   -- To be consistent with the provisions of the statute, clause
   (v) should be modified as follows:
   
   (v) review, approval or disapproval by
       such board of city contracts and [the terms of
       each city] long-term and short-term borrowing.

2. § 11, page 11, lines 53-54 ($2 subd 5 of the Act)
   -- To be consistent throughout the statute, references to
   § 8 subd 2-a should be in the same language. The first
   reference occurs at page 11, lines 53-54 and should be amended
   to read as follows:
   
   in accordance with generally accepted accounting
   principles [as the same may be modified by the
   board pursuant to] (subject to the provisions of
   subdivision two-a of section eight) and

   The same change should be made at § 12, page 12, lines 18-20
   ($2, subd 12 of the Act) -- see item 3 below -- and at
   § 24, page 17, lines 16-18 ($7-a subd 1 of the Act).

3. § 12, page 12 ($2 subd 12 of the Act)
   -- While not technical, we understand that new language has
   been agreed upon by the City, MAC, the EFCB and the Governor's
   office.

4. § 14, page 12, line 50 ($2 subd 15 of the Act)
   -- The words "emergency financial control" have been deleted
   from section 9 of the act where the board fund is established

* Section and page references are to the printed text
of the Act.
(see page 23, lines 1-3). Therefore the definition of the "board fund" should read as follows:

15. "Board Fund" means the [emergency financial control] board fund established pursuant to section nine of this act.

5. § 14, page 13, line 15 (§ 2 subd 19 of the Act)
-- In defining "available tax levy" it should be specified whose projections of real estate taxes or assessments are to be used. Page 13, line 15 should be amended to read as follows:

projected, consistently with the financial plan then in effect, to be received in cash on or before the fifth day proceeding the maturity date of

6. § 16, page 13, lines 51-52 (§ 6 subd 1 of the Act)
-- The two references to the City Council of New York should be conformed. To do so, page 13, line 52 should be amended to read as follows:

majority vote, and the vice chairman and the minority leader of the [city] council of the city of New York, shall

7. § 19, page 14, lines 24-30 (§ 7 subd 1 par b of the Act) -- The provision here for establishment of procedures by the board for "investment" of monies in the debt service fund is inconsistent with § 9-a subd 2 par e of the Act as amended which vests the State comptroller with discretion over such investments. The same conflict exists with respect to "disbursements" from the debt service fund. We suggest reference to the debt service fund and its accounts

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be deleted. § 7 subdivision 1 paragraph b of the Act should accordingly be revised to read:

The Board, to the extent it deems it necessary or desirable in order to accomplish the purposes of this Act, shall establish and adopt procedures with respect to the (i) proper maintenance of the Board fund [, the fund, the TAN debt service account and the RAN debt service account,] (ii) the deposit and investment of revenues in such fund [s and accounts] and (iii) disbursement of monies from such fund [s and accounts].

8. § 25, page 18, line 16 (§ 8, subd 1, par c of the Act) -- To be consistent with similar language elsewhere in the Act (see page 19, line 51 and page 22, line 32), and to say what is intended, the words "then ensuing" should be deleted.

9. § 28, page 19, lines 1-3 (§ 8 subd 3 of the Act) -- To conform with the intention of the statute that during an emergency period the financial plan and modifications thereof are subject to approval by the board, these lines should be modified to read as follows:

3. The financial plan should be developed, [and, during an emergency period, shall be approved] and may from time to time be modified, subject in each case during an emergency period to the approval of the board, in accordance with the following procedures:

10. § 32, page 23, lines 3-14 (§ 9, subd 1 of the Act) -- To be consistent with the structure of the rest of the subdivision and the Act, and to clarify that real estate tax receipts are to be deposited directly in the debt service
fund (and not the board fund), these lines should be revised to read as follows:

Commencing on the effective date of the financial plan, and for the duration of the emergency period, all revenues received or to be received by the city or any covered organization shall, unless exempted by order of the board, be revenues of the board fund and shall be for the account of the city [and] or the appropriate covered organization, except (i) to the extent expressly prohibited by federal laws, (ii) where revenues of the city are deposited in the fund, the TAN debt service account or the RAN debt service account, or (iii) where such revenues are pledged to the payment of any outstanding bonds, notes or other obligations of covered organizations or state public authorities as defined in section two hundred one of the civil service law. [but] Disbursement from the board fund shall be made by the board in accordance with the approved financial plan. [except (i) to the extent expressly prohibited by federal laws, (ii) where revenues of the city are deposited in the general debt service fund, the TAN debt service account or the FAN debt service account, or (iii) where such revenues are pledged to the payment of any outstanding bonds, notes or other obligations of covered organizations or state public authorities as defined in section two hundred one of the civil service law.]

11. § 33, page 25, lines 16-18 (§ 9-a subd 3 of the Act) -- The language immediately preceding the proviso, "in lieu of initial receipts as required by such subdivision", is ambiguous and should be deleted. Since all real estate taxes are required to be deposited in the debt service fund upon receipt, the Board's ability to fix a formula for retention in the fund at less than 100% beginning with the first day's receipts should be expressed as follows:

, criteria for calculating a proportion of real estate tax receipts to be retained in

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the fund in order to provide for the retention at a different rate of amounts required by the provisions of subdivision two of this section [in lieu of initial receipts as required by such subdivision]

12. § 34, page 27, lines 9-15 ($ 9-b subd 4 par b of the Act) -- This paragraph is supposed to set an order of priority but does not indicate such. Page 27, line 9 should be amended to read as follows:

b. The proceeds of each bond issued shall be applied in the following order of priority (i) held in trust for the payment, at

13. § 36, page 27, line 52 ($ 10-a subd 1 of the Act) -- While this change might be considered substantive, clause (d) should be amended as follows:

d. alter the composition of the board so that the majority of the members of the board are not elected officials of the state of New York or appointees of [such officials] the Governor;

14. § 36, page 28 line ($ 10-a of the Act)

-- The following sentence, taken from Section 17 of the Yonkers legislation, should be included in order that the assurances offered by the covenant may be technically effectuated:

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.

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15. It is urged that the City's independent public accountants review the statute and confirm that the accounting language therein accurately expresses in technical terms the legislative intent. In particular, it should be confirmed that the language in § 12, page 12, lines 16-21 (§ 2 subd 12 of the Act) refers to three consecutive years in which year-end results (as opposed to a budget emanating from the planning process) have not shown a deficit, as evidenced by audited financial statements. Audited financial statements have in some instances shown planning budget figures for comparison purposes.

16. It is assumed that independent bond counsel is reviewing the legislation to confirm that it will be able to render its standard opinion with respect to obligations having the benefit of the legislation, including an opinion as to the validity of the legislation, the validity and enforceability of the State covenant pursuant to § 10-a and the validity and enforceability of agreements with bondholders and the Federal Government as guarantor. As Secretary Blumenthal stated in his testimony before the Proxmire Committee, "all parties recognize that this may require certain technical amendments to the legislation."
CITY PROPOSAL, AS REVISED

Section 13. Subdivision twelve of section two of such act is hereby amended to read as follows:

12. "Emergency period." a. Emergency period means the period of time from the effective date of this act until the date when (1) there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal or interest on any note or bond issued by the City or a state financing agency, (2) the board shall determine that, based on annual audit reports furnished in accordance with section seven-a, the expense budget of the city has been in balance in accordance with generally accepted accounting principles (subject to the provisions of subdivision two-a of section eight) for each of the three immediately preceding fiscal years, and (3) the comptroller shall determine and report to the board that the city has market access for the sale of securities.

b. For the purposes of this subdivision, the city shall be deemed to have "market access for the sale of securities" as of any date if the comptroller determines, on the basis of a report and opinion of a nationally recognized independent expert in the marketing of municipal securities selected by the board, that the city has obtained funds during the immediately preceding fiscal year and to the date of his determination,
and that there is no substantial likelihood, based on existing facts, that the city will not continue to be able to obtain funds during the balance of the then current and the next succeeding fiscal year, in amounts sufficient to satisfy all the capital and seasonal borrowing requirements of the city during such periods in accordance with the financial plan then in effect, by the sale of its securities or securities of another issuer for the benefit of the city (i) in the general public market for municipal securities, whether by competitive or negotiated sale, or (ii) by negotiated sale, not for public distribution, to purchasers other than (a) any pension fund or other purchaser similarly affiliated with the state or the city whose board of directors or trustees or council includes any designated representative of the state or city or (b) any financial institution which participates in the purchase of securities for the benefit of the city during the first year of the city's "Four-Year Financial Plan" for fiscal years 1979-1982, dated January 20, 1978 except that such a negotiated sale to such a financial institution shall be deemed to constitute market access for the sale of securities in the case where the comptroller determines at the time of any such sale to such financial institution, on the basis of a report and opinion of a nationally recognized independent expert in the marketing of municipal securities selected by the board, that securities
could have been sold by the city or another issuer for the benefit of the city in the general public market for municipal securities in the same amount). Such report and opinion of the independent expert shall be included in the report of the comptroller to the board which shall be made public when delivered to the board.

c. After termination of the emergency period in accordance with paragraph a of this subdivision and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency containing the pledge and agreement authorized by section ten-a hereof, the board shall reimpose an emergency period upon (1) its determination at any time that any of the following events has occurred or that there is a substantial likelihood of such occurrence: (i) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable, (ii) the city shall have incurred an expense budget deficit of more than one hundred million dollars, (iii) the city shall have issued notes in violation of section nine-b of this act as amended from time to time, or (iv) the city shall have otherwise violated any provision of this act and such violation substantially impairs the ability of the city to pay principal of or interest on its bonds or notes when due and payable or its ability to adopt or maintain a balanced expense budget, or (2) the comptroller's
d. After termination of an emergency period, if the board shall not have reimposed the emergency period during any fiscal year, between May first and June thirtieth of such fiscal year (1) the board shall publicly report its determination that, none of the events described in item (1) of paragraph c of this subdivision has occurred during the then current fiscal year and that there is no substantial likelihood of their occurrence and (2) the comptroller shall publicly report his determination that the city has market access for the sale of securities.

e. Notwithstanding any part of the foregoing to the contrary, in no event shall any emergency period continue beyond July first, two thousand eight; or when all bonds and notes containing the pledge and agreement authorized by section ten-a of this act are refunded, redeemed, discharged or otherwise defeased.
CITY PROPOSAL, AS REVISED

Section 13. Subdivision twelve of section two of such act is hereby amended to read as follows:

12. "Emergency period." a. Emergency period means the period of time from the effective date of this act until the date when (1) there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal of or interest on any note or bond issued by the City or a state financing agency, (2) the board shall [have] determine[d] that, based on annual audit reports furnished in accordance with section seven-a, the expense budget of the city has been in balance in accordance with generally accepted accounting principles (subject to the provisions of subdivision two-a of section eight) for each of the three immediately preceding fiscal years, and (3) the comptroller shall [have] determine[d] and report[ed] to the board that the city has market access for the sale of securities.

b. For the purposes of this subdivision, the city shall be deemed to have "market access for the sale of securities" as of any date if the comptroller determines, on the basis of a report and opinion of a nationally recognized independent expert in the marketing of municipal securities selected by the board, that the city has obtained funds.
during the [then current] immediately preceding fiscal year and to the date of his determination, and that there is no substantial likelihood, based on existing facts, that the city will not continue to be able to obtain funds during the balance of the then current and the next succeeding fiscal year, in amounts sufficient to satisfy all the capital and seasonal borrowing requirements of the city during such periods in accordance with the financial plan then in effect, by the sale of its securities or securities of another issuer for the benefit of the city (i) in the general public market for municipal securities, whether by competitive or negotiated sale, or (ii) by negotiated sale, [whether] not for public distribution [or not], to purchasers other than any pension fund or other purchaser similarly affiliated with the state or the city[,] whose board of directors or trustees or council includes any designated representative of the state or city[.], or to any financial institution which participates in the purchase of securities for the benefit of the city during the first year of the city's "Four-Year Financial Plan" for fiscal years 1979-1982, dated January 20, 1978 (except in the case where the comptroller determines at the time of any such sale to such financial institution, on the basis of a report and opinion of a nationally recognized independent expert in the marketing of municipal securities selected by the board, that securities could have
been sold by the city or another issuer for the benefit of
the city in the general public market for municipal securities
in the same amount). Such report and opinion of the independent
expert shall be included in the report of the comptroller to
the board which shall be made public when delivered to the
board.

c. After termination of the emergency period in
accordance with paragraph a of this subdivision and until
there shall no longer be outstanding any notes or bonds
issued by the city or a state financing agency containing
the pledge and agreement authorized by section ten-a hereof,
the board shall reimpose an emergency period upon (1) its
determination at any time that any of the following events
has occurred or that there is a substantial likelihood of
such occurrence: (i) the city shall have failed to pay the
principal of or interest on any of its bonds or notes when
due or payable, (ii) the city shall have incurred an expense
budget deficit of more than one hundred million dollars, (iii)
the city shall have issued notes in violation of section
nine-b of this act as amended from time to time, or (iv)
the city shall have otherwise violated any provision of this
act and such violation substantially impairs the ability of
the city to pay principal of or interest on its bonds or
notes when due and payable or its ability to adopt or main-
tain a balanced expense budget, or (2) the comptroller's
d. After termination of an emergency period, if the board shall not have reimposed the emergency period during any fiscal year, between May first and June thirtieth of such fiscal year (1) the board shall publicly report its determination that[, ] [in its judgment,] none of the events described in item (1) of paragraph c of this subdivision has occurred during the then current fiscal year and that there is no substantial likelihood of their occurrence and (2) the comptroller shall publicly report his determination that the city has market access for the sale of securities.

e. Notwithstanding any part of the foregoing to the contrary, in no event shall any emergency period continue beyond July first, two thousand eight; or when all bonds and notes containing the pledge and agreement authorized by section ten-a of this act are refunded, redeemed, discharged or otherwise defeased.
Sec. 13. Subdivision twelve of section two of such act is hereby amended to read as follows:

12. "Emergency period." a. Emergency period means the period of time from the effective date of this act until the date when, first, there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal of or interest on any note or bond issued by the city or a state financing agency, and, second, at the time such guarantee is no longer effective or outstanding or thereafter, the board shall have determined both that (i) based on annual audit reports furnished in accordance with section seven-a, the expense budget of the city has been in balance in accordance with generally accepted accounting principles (as the application of the same may be modified by the board pursuant to the provisions of subdivision two-a of section eight) for each of the three immediately preceding fiscal years, and (ii) the city has sold its securities in the general public market for municipal securities, or there have been alternative sales in accordance with paragraph e of this subdivision, in amounts sufficient to satisfy all the capital and seasonal borrowing requirements of the city in accordance with the respective financial plans then in effect for each of the three immediately preceding fiscal years.
b. After termination of the emergency period in accordance with paragraph a of this subdivision and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency which are entitled to the benefits of the pledge and agreement authorized by section ten-a hereof, the board shall re impose an emergency period upon its determination at any time that any of the following events has occurred or that there is a substantial likelihood of such occurrence: (i) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable, (ii) the city shall have incurred an expense budget deficit of more than one hundred million dollars, (iii) the city shall have issued notes in violation of section nine-b of this act as amended from time to time, (iv) the city shall have failed to satisfy all of its capital and seasonal borrowing requirements for any fiscal year in accordance with the financial plan then in effect by sales of its own securities in the general public market for municipal securities or by alternative sales in accordance with paragraph e of this subdivision, or (v) the city shall have otherwise violated any provision of this act and such
violation substantially impairs the ability of the city to pay principal of or interest on its bonds or notes when due and payable or its ability to adopt or maintain a balanced expense budget. Any such reimposed emergency period shall continue until the board shall determine that no circumstance warranting the redivision of the emergency period exists.

c. After termination of an emergency period if the board shall not have reimposed the emergency period during any fiscal year, the board shall, between May fifteenth and June first of such fiscal year, publicly report its determination that none of the events described in items (i) through (v) of paragraph b of this subdivision has occurred during the then current fiscal year and that there is no substantial likelihood of such occurrence.

d. Notwithstanding any part of the foregoing to the contrary, in no event shall any emergency period continue beyond July first, two thousand eight; or when all bonds and notes containing the pledge and agreement authorized by section ten-a of this act are refunded, redeemed, discharged or otherwise defeased.

e. For purposes of clause (ii) of paragraph a of this subdivision, the city may satisfy all or a portion of its borrowing requirements through non-public sales of its own securities or by receipt of proceeds of sale of
securities of another issuer for the benefit of the city
(i) if at the time of each such alternative sale, the
comptroller, upon the recommendation of an independent
expert of national standing in the marketing of municipal
securities selected by the board, shall have certified to
the board, and publicly reported such certification
including the recommendation of such expert, that the city
could have sold its own securities in the general public
market in the same amounts and at the same time but on
substantially the same or less favorable terms, and (ii) if
at the end of each such fiscal year in which any such alternative
sale took place, the comptroller, upon the recommendation of
an independent expert of national standing in the marketing
of municipal securities selected by the board, shall have
certified to the board, and publicly reported such certifica-
tion including the recommendation of such expert, that in
the aggregate all such alternative sales were, given the
city's total financing requirements in accordance with the
financial plan then in effect, within the financial capacity
of the city to make in the general public market for municipal
securities.
Sec. 13. Subdivision twelve of section two of such act is hereby amended to read as follows:

12. "Emergency period." a. Emergency period means the period of time from the effective date of this act until the date when [(a), first, there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal of or interest on any note or bond issued by the city or a state financing agency, and [(b)], second, at the time such guarantee is no longer effective or outstanding or thereafter, the board shall have determined both that (i) based on annual audit reports furnished in accordance with section seven-a, [that] the expense budget of the city has been in balance in accordance with generally accepted accounting principles ([subject to any modification as shall be approved] as the application of the same may be modified by the board pursuant to the provisions of subdivision two-a of section eight) for each of the three immediately preceding fiscal years, and (ii) the city has sold its securities in the general public market for municipal securities, or there have been alternative sales in accordance with paragraph e of this subdivision, in amounts sufficient to satisfy all the capital and seasonal borrowing requirements of the city in accordance with the respective financial plans then in effect for each of the three immediately preceding fiscal years.
b. After termination of the emergency period in accordance with [the foregoing provisions] paragraph a of this subdivision and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency which are entitled to the benefits of the pledge and agreement authorized by section ten-a hereof, the board shall reimpose an emergency period upon [a] its determination at any time that any of the following events has occurred [and] or that there is a substantial likelihood of such occurrence: (i) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable, (ii) the city shall have incurred an expense budget deficit of more than one hundred million dollars, (iii) the city shall have issued notes in violation of section nine-b of this act as amended from time to time, (iv) the city shall have failed to satisfy all of its capital and seasonal borrowing requirements for any fiscal year in accordance with the financial plan then in effect by sales of its own securities in the general public market for municipal securities or by alternative sales in accordance with paragraph e of this subdivision, or [iv] (v) the city shall have otherwise violated any provision of this act and such

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violation substantially impairs the ability of the city
to pay principal of or interest on its bonds or notes
when due and payable or its ability to adopt or maintain
a balanced expense budget. Any such reimposed emergency
period shall continue until the board shall determine that
no circumstance warranting the reimposition of the emer-
gency period exists.

c. After termination of an emergency period
if the board shall not have reimposed the emergency period
during any fiscal year, the board shall, between May
fifteenth and June first of such fiscal year, [annually
consider items (i) through (iv) above and determine whether,
in its judgment any] publicly report its determination that
none of the events described in [such] items (i) through (v)
of paragraph b of this subdivision has [have] occurred
during the then current fiscal year and that there is no
substantial likelihood of such occurrence.

d. Notwithstanding any part of the foregoing to
the contrary, in no event shall any emergency period con-
tinue beyond July first, two thousand eight; or when all
bonds and notes containing the pledge and agreement author-
ized by section ten-a of this act are refunded, redeemed,
discharged or otherwise defeased.

e. For purposes of clause (ii) of paragraph a
of this subdivision, the city may satisfy all or a portion
of its borrowing requirements through non-public sales of
its own securities or by receipt of proceeds of sale of
securities of another issuer for the benefit of the city
(i) if at the time of each such alternative sale, the
comptroller, upon the recommendation of an independent
expert of national standing in the marketing of municipal
securities selected by the board, shall have certified to
the board, and publicly reported such certification
including the recommendation of such expert, that the city
could have sold its own securities in the general public
market in the same amounts and at the same time but on
substantially the same or less favorable terms, and (ii) if
at the end of each such fiscal year in which any such alternative
sale took place, the comptroller, upon the recommendation of
an independent expert of national standing in the marketing
of municipal securities selected by the board, shall have
certified to the board, and publicly reported such certifica-
tion including the recommendation of such expert, that in
the aggregate all such alternative sales were, given the
city's total financing requirements in accordance with the
financial plan then in effect, within the financial capacity
of the city to make in the general public market for municipal
securities.
Draft 05/18/78

Proposed Coverage Provision for MAC Act

From and after the effective date of this Statute, the corporation shall not adopt any general bond resolution, unless such general bond resolution shall require that, as a condition to the issuance of any bond or note or other obligation thereunder, the sum of

(i) the most recent collections for the twelve consecutive calendar months ended not more than three months prior to the date of issuance of such bonds or notes or other obligations of the sales and compensating use taxes imposed by section eleven hundred seven of the tax law, as the same may be amended from time to time, and

(ii) the amount certified by the comptroller of the state or the director of the budget of the state as the amount of per capita aid payable to the city pursuant to section fifty-four of the state finance law, as the same may be amended from time to time estimated to be available to be apportioned and paid (or to the extent previously apportioned and paid, the actual amount so apportioned and paid and the estimated amount, if any, available to be apportioned and paid) into the special aid account created for the corporation in the municipal assistance state aid fund established pursuant to section ninety-two-e of the state finance law, for the fiscal year of the state during which such bonds or notes or other obligations are issued.

After deducting

(a) the maximum amount of principal and interest maturing or otherwise coming due in the current or any succeeding fiscal year of the corporation on any outstanding obligations of the corporation having any prior charge or lien or right to any revenues described in Clauses (i) and (ii) above, and

(b) the aggregate amount of operating expenses of the corporation as estimated by the corporation for the then current and next succeeding fiscal years of the corporation,

will equal or exceed 1.2 times
the aggregate amount of principal of and interest on all outstanding bonds and notes and other obligations issued pursuant to such general bond resolution, including the bonds or notes or other obligations then to be issued, which is maturing or otherwise coming due in the then current or any succeeding fiscal year of the corporation.
May 16, 1978

Memorandum of Additional Comments of Certain Financial Institutions Concerning Proposed Legislation Extending and Amending the Financial Emergency Act for the City of New York

1. It is assumed that the proposed legislation will have been reviewed by the City's bond counsel who, of course, must be prepared -- in connection with any issuance of securities to which is applicable the covenant provided for in Section 10-a of the Act as proposed to be amended -- to render their opinion confirming the validity and enforceability of such covenant and the operations of the debt service fund and the board fund.

2. Attached to this memorandum is a mark-up of the proposed legislation reflecting other changes believed to be necessary. Some revisions are contained in riders attached at the end of the mark-up.

3. With respect to the operation of the debt service fund, attached is a memorandum setting forth the manner in which such fund should operate in order to maximize the carrying-out of the following principles:
   a. the fund should receive all real estate tax payments immediately upon collection;
   b. real estate tax receipts should be used to the maximum extent possible for the payment of debt service (other than RAN principal amount);
c. an amount of real estate tax collections necessary for debt service payments should be retained in the fund and the balance paid over to the EFCB fund; and

d. the operation of the fund should be based on funding periods carefully constructed upon a schedule of real estate tax receipts and debt service payments so as to minimize the period of cash retention in the fund.

In our judgment the provisions of Section 9-a of the Act as proposed to be amended should be revised to implement the concept of the attached memorandum.

4. Section 10-a of the Act as proposed to be amended should be revised to broaden and strengthen the State pledges and City covenant along the lines of Section 17 of Chapter 488 of the Session Laws of 1976, a copy of which is attached. The revisions reflected in the attached mark-up should also be incorporated.
Memorandum Regarding Debt Service Fund

In each month in which real estate taxes are due and payable (currently July, October, January, and April), such receipts shall be deposited in the DSF sufficient to cover debt service for the following two months (currently August-September, November-December, February-March, and May-June). In each month following that in which real estate taxes are due and payable (currently August, November, February and May), such receipts shall be deposited in the DSF sufficient to cover debt service for the second month thereafter (October, January, April and July), and if the receipts deposited should prove insufficient to cover all such debt service, the real estate taxes for the following month (September, December, March and June) shall be so used as necessary. If the funding pattern described above shall prove inadequate to meet the debt service requirements, the Board shall have the right to accelerate the above pattern of funding from the real estate tax. As an interim measure, if required, General Fund revenues will be used for any funding shortfall.

Within each month of funding, either the first real estate taxes received will be retained in the DSF, or else the Board may accept, at its discretion, any other formula which the City may offer. Nevertheless if there
are inadequate real estate taxes in the fund at the end of each funding month, the Board shall then suspend the foregoing funding pattern and cause all subsequent real estate tax receipts be deposited into the DSF until it is fully funded.

Before approving any new City issuance of securities, the Board will ascertain that the proposed debt service schedule of the proposed securities, in conjunction with existing debt service and the projected real estate tax collections, will not make the funding pattern described above inadequate to meet all debt service requirements.
§ 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 money or direct obligations of the United States of America or the state the principal of and/or interest on which will provide money 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.
FOR DISCUSSION PURPOSES ONLY

Comments on April 28, 1978
draft of proposed New York State
Act to amend the Financial Emergency
Act of the City of New York

The following is a best judgment of experts at
certain financial institutions as to those significant changes
that should be made in this legislation in order to aid the
City to regain access to the capital market, the ultimate
objective.

I. ROLE AND FUNCTIONS OF EFCB

A. Powers and Responsibilities

1. EFCB Fund. The City's proposed legislation
would, by repealing Section 9 of the existing legislation in
its entirety (as provided in Section 23 at line 15 on page
20 of the April 28 draft), abolish the power currently held
by EFCB at all times to control a fund into which all
unpledged City revenues are deposited and disbursed in
accordance with EFCB regulations. Prospective purchasers of
City bonds and notes will need assurance that the EFCB con-
tinues to have that power, and will take the steps necessary,
to assure that the balanced budget approved by it is in fact
implemented. Section 9 should be retained.

2. Approval of a Balanced Budget by the
Board Before Beginning of each new Fiscal Year. Under
the City proposal, if the financial plan submitted by
the City prior to the beginning of the fiscal year has
not been approved by the commencement of such fiscal
year, the "financial plan in effect prior to the
beginning of such fiscal year" (ambiguous) would be con-
tinued in effect until such time as the new plan has been
approved by the Board. Prospective purchasers of City
obligations should be assured that the City will commence
a new fiscal year with a balanced budget containing
realistic revenue estimates based on both the experience
of previous years and projected revenues in the coming year.
In addition, any deficit in the previous year should be
required to be funded in the budget for the coming year.
Accordingly, it is necessary to provide that the Board is
authorized to formulate revenue estimates (as it is now
empowered to do under §7.1.a(1) of the existing legislation)
and a budget for the coming fiscal year if the budget
submitted by the City does not, in the opinion of the Board,
balance projected revenues and anticipated expenditure
aggregates. At such time as the City does propose a financial
plan that is acceptable to the Board, the plan will then
go into effect.
3. Board Authority to Revise Revenue Estimates and Cause Budget Modifications during Fiscal Year.
Under Section 8.1.f.1 of the existing legislation, the Board, in consultation with the City, is empowered to make revised revenue estimates in the course of the fiscal year. In the event of reductions in revenue estimates, or in the event that the City or any covered organization expends funds at a rate that would exceed the aggregate expenditure limitation for the City or covered organization, the Board is empowered to make financial plan modifications if the City fails to do so in appropriate amounts within a time established by the Board.

The amendments proposed by the City appear to create an ambiguity as to the functions of the Board in implementing financial plan modifications it deems necessary during the fiscal year in the light of revised revenue estimates and rates of expenditure. The language deleted from Section 7.1.a (at lines 20 through 23 on page 8) and from Section 8.3.e (at lines 17 through 19 on page 18) leaves unclear the powers of the Board to revise revenue estimates when it deems appropriate. The legislation (at lines 34 through 46 on page 18) should be revised to make it clear that, if the Board deems it necessary and if the City has not timely proposed a budgetary modification satisfactory to the Board, the Board may revise revenue estimates and expenditure limitations and make a financial plan modification reflecting the revision of such estimates and limitations. Such ambiguity in the proposed legislation might, unless corrected, permit a stalemate between the City and the Board.

Financial plan modifications proposed by the City during the fiscal year should be accompanied by the same information required for the financial plan pursuant to subdivision 4 of Section 8 of the legislation (see lines 13 through 36 on page 19).

4. Approval and Costing of Contracts. Section 7.1.e of the existing legislation authorizes EFCB to adopt regulations with regard to the categories and types of contracts or other obligations to be reviewed by it, requires the Board to review such contract and an analysis of the projected costs thereof submitted by the City and requires disapproval of contracts reviewed by it if it determines that the performance of such contracts would be inconsistent with the financial plan. The amendments
proposed by the City would limit the Board's review of "major" contracts, but retain in effect current Board regulations under existing statutory provisions, subject to the Board's ongoing power of amendment. While it is not necessary or desirable for the Board to review all contracts, it should be made clear that the Board has power to determine whether a particular contract is a "major contract." In addition, the Board should be required to obtain the report of an independent expert as to the cost (stated on an annual basis over the life of the contract) of any major contract, and to publish such report, prior to approving such contract.

5. Certification to Purchasers in connection with sale of City obligations. The existing legislation requires Board approval of any borrowing made by the City. In addition, in order to support the City's continuing efforts to regain access to the public markets, the Board, as the entity other than the City itself most intimately involved with the City's budget and financial plan, should be expressly authorized to certify to underwriters and other purchasers of City obligations that (a) to the knowledge of EFCB, the City is currently in compliance with the financial plan and no modifications thereof are presently required, (b) EFCB believes that, based on information available to it, any cash flow statement or other financial projection in the City official statement are in accordance with the provisions of the financial plan and (c) nothing has come to EFCB's attention which would cause it to believe that the official statement contains any material misstatements or omissions.

6. Reporting. The proposed legislation requires annual reports and quarterly debt service reports. There should be added the requirement for monthly and quarterly reports containing substantially the same information currently submitted to the Treasury. The reports should show, at least quarterly, variances between actual and budgeted revenues, expenses and cash. Further, such reports should be made publicly available.

B. Scope and Organization

1. Covered Organizations. The proposed legislation would empower the Board to exempt covered organizations from the provisions of the Act. Such exemptive power should only apply to covered organizations which are audited and receive less than $10 million annually.
from the City. The Board should be empowered to require the City to provide (and the City should be clearly empowered to provide or to require the covered organization to provide), within a fixed period, a financial plan of each of the non-exempted covered organizations, prepared in accordance with the Act.

2. Executive Director and Members. In place of the provisions of the City's proposal, which provide for the Governor and the Mayor to appoint jointly the Executive Director of the Board and which could lead to a stalemate, the Governor should appoint the Executive Director with the approval of the Board.

Further, at least two of the three members of the Board appointed by the Governor with the advice and consent of the Senate should be residents of the City or have their principal place of business in the City. Section 6.1 of the Act should be amended accordingly.

II. SECURITY FOR AND LIMITATIONS ON CITY DEBT

A. Debt Service Fund

1. Maintenance of Fund. The Debt Service Fund should be required to be maintained either under control of the State Comptroller or (when the City's financial situation stabilizes) with a bank, as trustee under an appropriate trust agreement, and real estate tax receipts should be deposited directly in the Fund as received. Provision may be made for the portion of such receipts not needed for debt service, determined by a formula, to be remitted from the Fund to the City daily (through the EFCB fund). The Fund would be for the benefit of all outstanding City debt, to the extent such debt is constitutionally protected (interest on all debt, principal on bonds, principal on certain notes after several years). In addition principal of TAN's would be provided for in the Fund on a current basis. The general formula for retention of amounts in the Fund must be consistent with the foregoing. The proposed legislation does not provide for the Fund to be held by an independent entity and does not make clear that real estate tax collections may not be commingled with other City funds prior to deposit in the Fund.

2. Debt Service Fund Formula. The formula for retention of real estate tax receipts in the Fund should be applied (insofar as applied to estimates) to
budgeted amounts approved by the EFCB. Such formula should make allowance for amounts of real estate tax not collectible and be responsive to any financial plan modifications which would affect revenues available for debt service or debt service payable. The City proposal does not make clear who determines the "amount of real estate taxes and assessments estimated to be realized" or on what basis the estimate is to be made in applying the City formula. Further, such proposal does not clearly indicate that the various factors in its formula are to be redetermined each time the formula is applied from time to time during the year. Within the foregoing recommendation there may be a number of formulae which are workable. One suggestion is contained in Appendix I attached.

B. Limitations on Short-Term Debt.

1. TAN's.

a. TAN's should be used only to finance intra-fiscal year timing differences between real estate tax receipts and disbursements, and therefore, there should be no TAN's outstanding at fiscal year end. By contrast, for example, the City proposal would appear to allow (to the extent permitted in the Local Finance Law) (1) issuance of TAN's in respect of taxes to be received in a succeeding fiscal year, (2) issuance of TAN's in respect of prior year's delinquent taxes, (3) issuance of TAN's in respect of taxes which are not scheduled to be received until after the maturity of such TAN's, and (4) renewal or extension for a period of up to one year. Each of these should be prohibited.

b. TAN's should be limited to 90% rather than 95% of the "available tax levy" and the amount of "available tax levy" should be determined in any year in accordance with an EFCB approved financial plan then in effect.

2. RAN's.

a. RAN's should be used only to finance intra-fiscal year timing differences between receipts and disbursements of revenues (other than real estate taxes). Therefore, there should be no RAN's outstanding at the fiscal year end, whether issued in respect of certain federal revenues or otherwise. Nor should there be any renewal or extension of RAN's beyond their maturity.
b. The percentage of any particular type of revenue which may be anticipated should be reduced below 90% for certain types of revenues which in the past have been difficult to estimate or have had relatively large amounts remaining uncollected at the end of the fiscal year. See Appendix II.

3. Budget Notes. Budget notes should be limited to the funding of deficits. Provision for prompt payment (no later than nine months) should be a mandatory part of the financial plan for a year during which budget notes are outstanding.

4. BAN's. Maturities of BAN's should be limited to 6 months with only one renewal of 6 months maturity allowed. The City proposal would provide no limit in addition to that in the Local Finance Law regarding BAN renewals. The aggregate principal amount of BAN's issued in any one fiscal year should be limited to 25% (rather than 50%, as in the City proposal) of the principal amount of Bonds issued in the preceding twelve months.

5. Guarantees. The City should be prohibited from in effect guaranteeing (whether by lease, title retention or other agreement or arrangement) or undertaking a "moral obligation" in respect of obligations of another. This prohibition shall not apply to guarantees or moral obligations issued in connection with existing authorizations under existing programs.

C. Contingency Reserve Fund

The City proposal provides for a general budgetary reserve of $100 million (lines 15 through 26 on page 13). Instead, each financial plan should provide for an annual appropriation of an amount equal to 3/4 of 1% of total budgeted revenues for each fiscal year covered by the plan (such appropriated amount to be paid into a Contingency Reserve Fund in regular payments) until the Fund is equal to 3% of total budgeted revenues in the then current fiscal year. The Contingency Reserve Fund should be in the custody of the City Comptroller and maintained as a separate bank account segregated from other money of the City. It should be maintained at 3% of budgeted revenues for each fiscal year by further budget appropriations and payments (or withdrawals) as needed.

It is contemplated that the Contingency Reserve Fund would be used only for uncontrollable budget deficits that cannot be monitored and adjusted through budget modifications during the year or that result from planned or negotiated activities. Any drawing on the Contingency Reserve Fund should be subject to the approval of the EFCB.
The money in the Contingency Reserve Fund must, to the maximum extent possible, be invested in short-term U.S. Treasury securities or in RAN's, TAN's or Budget Notes of the City. RAN's and TAN's would bear interest payable into the Fund at the market rate prevailing on the date of issuance. All earnings on investments of money in the Fund should accrue to and become part of the Fund except that such earnings would be paid over to the City at any time when the total amount in the Fund is at least equal to the required level. Budget Notes may be sold to the Contingency Reserve Fund on an interest-free basis in order to fund a deficit.

Any surplus remaining at the end of the fiscal year should be paid into the Contingency Reserve Fund to the extent that the Fund is then below the required level. Payments of surpluses made at year end would be credited against payments otherwise required to be made to the Fund in the next fiscal year.

III. BONDHOLDER PROTECTIONS

A. Legislative Findings

The bill should not seek to amend the legislative findings made in 1975, which should be retained, but should add a new, separate statement of legislative findings and purposes, confirming the continuation of the City's financial emergency in 1978, and relating the new legislation to the objective of restoring long-term investor confidence.

While many of the same potential effects stated in 1975 could occur today if the City were unable to obtain funds to provide services or were to default on outstanding securities, the condition of the City is different today. The crisis is not what it was in 1975, but the City has not yet been able to re-enter the capital markets. Restoring investor confidence in the City's securities will require additional measures, including those to be provided by the proposed legislation.

The necessity of guarantees by the Treasury of long-term obligations of the City or of a State financing agency for the benefit of the City should be included in the findings.

Finally, the findings should be reviewed to ensure factual accuracy. For instance, reference to coordination with "certain private financial institutions located in the City" (page 5, lines 37-38) in the development of the four year financial plan by the City should be deleted.
B. Duration of EFCB and Bond Covenant

The City's proposal contains a sunset provision allowing the Board's functions to terminate at the end of a redefined emergency period, without regard to the later maturity of the City's obligations. If protections afforded by the Board's role are to be an inducement to market acceptance of City securities, there must be an assurance to purchasers that such protections will continue throughout the life of the securities. Therefore, a provision should be included in the bill which would authorize a covenant to be included in resolutions authorizing City securities to the effect that the State would not repeal or modify adversely to the bondholders the terms of the Board's powers during the term of any securities having the benefit of such covenant. A statutory pledge by the State to honor any such covenant should also be included in the Bill. The duration of the Board and the emergency period should be for a period until the later of (i) the date when the City regains access to the public capital markets to the satisfaction of the Board or (ii) the final maturity redemption or defeasance (cf. §90.10 of the Local Finance Law) of City securities (including publicly issued securities) having the benefit of the covenant. If the City is able to publicly market bonds without a covenant, it is free to do so, either initially or pursuant to legislation similar to Local Finance Law §90.10 in order to refund covenant Bonds. It might also be possible for the City to sell bonds redeemable at it option after a period of seven or more year.

C. Bondholder suits to enforce EFCB Action

Bondholders should have the right to sue to force the Board to exercise its powers in requiring the City to perform its obligations under the Act.

* * * * *

Continued attention and consideration are being given to this recently proposed legislation.
Formula for Debt Service Fund

The Debt Service Fund will retain amounts calculated as follows:

First: The portion of real estate tax receipts that will be retained in the Debt Service Fund will be a percentage (the Debt Service Percentage) determined as follows on the basis of the annual budget approved by the Review Board prior to commencement of the fiscal year.

The Numerator will consist of the total of the following:

A. Principal of and interest payments on all long-term indebtedness payable in the fiscal year (including any interest payable on bonds issuable during such year in accordance with the Capital Budget);

B. Interest to maturity on any short-term indebtedness outstanding at the end of the prior fiscal year;

C. Budgeted interest payable during such fiscal year on all short-term indebtedness estimated to be incurred during the fiscal year;

D. Principal of any TANs and RANs which have not been retired within 2 years after the date of original issuance;

E. Principal of Budget Notes outstanding at the commencement of the fiscal year;

F. Less any direct cash contributions from the City's General Fund other than proceeds from the sale of TANs.
The Denominator will consist of the following:

A. The total amount of City real estate taxes levied for the fiscal year;

B. Less a reserve for uncollectible taxes for the fiscal year. The reserve to be deducted for uncollectible taxes in any fiscal year will be the greater of (1) the amount of taxes and assessments budgeted (in a budget approved by the Board) to be uncollectible for such fiscal year, (2) the average of amounts of taxes and assessments uncollected at the end of each of the preceding three fiscal years which were levied in each of such years, and (3) the amount of taxes and assessments uncollected at the end of the preceding fiscal year which were levied in that year.

Second: In the event of an issue of debt obligations (other than TANs) during a fiscal year, and the debt service for such issue would be required to be included in the Numerator of the Debt Service Percentage but is not, an additional portion of real estate taxes collected subsequent to such issuance will be retained in the Debt Service Fund. Such portion would be a percentage, to be applied in addition to the Debt Service Percentage, computed as follows:

A. The Numerator will consist of the debt service payable on such issue in such year.

B. The Denominator will be the Denominator in the Debt Service Percentage prorated over the remainder of the fiscal year subsequent to such issuance.

Third: In the event TANs are issued in a fiscal year, with respect to each such issue, either of the following alternative formulas for retention of additional amounts in the Debt Service Fund may be adopted with the approval of the Board; provided, however, Alternative II must be used for TANs the proceeds of which were deposited in the Debt Service Fund:

Alternative I. An amount in respect of each issue of TANs in a fiscal year will be retained in the Debt Service Fund as follows:
1. "Available Taxes" in respect of any issue of TANs shall mean an amount equal to the Denominator of the Debt Service Percentage (as adjusted from time to time) prorated over the life of such TANs minus an amount that results from multiplying the Debt Service Percentage times such Denominator so prorated [i.e., the amount of taxes expected to be collected over the life of the TANs minus the portion of such taxes to be retained for other debt service over such life];

2. When 90% of the amount of Available Taxes in respect of any TAN issue then uncollected equals the principal amount of such TAN issue, all Available Taxes thereafter collected shall be retained in the Debt Service Fund.

Alternative II. An amount in respect of each issue of TANs in a fiscal year shall be retained or deposited in the Debt Service Fund as follows:

1. That portion from the original proceeds of such TANs equal to the Debt Service Percentage; plus

2. After any such issuance of TANs all real estate taxes collected are to be retained in the Debt Service Fund until full provision is made for the payment of principal of such TANs.
The principal amount of RANs which may be issued in anticipation of the receipt of a specific revenue shall not exceed:

(i) in the case of a revenue receivable from the State or the United States Government the amount of which has been certified by appropriate officials of the State or the United States Government, as the case may be, prior to the issuance of the RANs, 95% of the amount of such revenue so certified;

(ii) in the case of specified taxes, rents, rates, charges, or other income as such terms are defined in Section 25.00a of the Local Finance Law (herein "City tax revenues"), 75% of the lower of (a) the actual collections of the specified City tax revenue in the fiscal year preceding the fiscal year of issuance, or (b) the amount of the specified City tax revenue budgeted (in a budget approved by the Board) for the fiscal year of issuance;

(iii) in the case of amounts of a specified revenue receivable from the State or the United States Government, not certified as provided in (a) above, 75% of the lower of (a) actual collections of the specified revenue in the fiscal year preceding the fiscal year of issuance or (b) the amount of the specified revenue in a budget approved by the Board for the fiscal year of issuance, provided that the program in respect of which such amount is receivable was in existence in the prior fiscal year; and

(iv) in the case of revenues receivable from the State or the United States Government under a program not in existence in the fiscal year preceding the fiscal year of issuance, 75% of the authorized estimates by the State or the United States Government of the revenues receivable under such program.
AGENDA
FINANCE TASK FORCE MEETING
THURSDAY MAY 11

I. Purpose: To assign tasks and responsibility for accomplishing the following by May 20:

A. Resolution of labor negotiations
B. State legislation
C. Financing for 4-year period
D. Spring Bond Sale

TASKS

A. Resolution of labor negotiations

B. State Legislation
   1. Fiscal Monitor
   2. Special Bonding Authority: (Rogers & Wells)
   3. Miscellaneous
      a. Repeal of down payment
      b. Exclude old RANS/TANS from debt limit
      c. Roll over Mitchell-Lama BANs
      d. Refunding
      e. Other?

C. Financing for 4-year period
   1. Reevaluation of seasonal needs and State Advance Bonding requirements
   2. Reevaluation of Capital
   3. Reevaluation of MAC Capital Reserve requirements

D. Spring Bond Sale
   1. Prospectus
   2. Maturities
   3. Discussions with Pension Funds w/MAC
   4. Legal Issues
   5. Further Capital Authorizations
   6. BAN interest sign off on calculation method
   7. Resolution of landfill w/Rogers & Wells

RESPONSIBILITY

Deputy Mayors

Griffith, Altman

Altman, Page
Corp. Counsel/Page

Rosen

Conway

Eisenstadt/Decker

Corp. Counsel/DiRuggiero
Eisenstadt
Corp. Counsel/Eisenstadt

Corp. Counsel/Page
DiRuggiero, Page, Griffith

Griffith
Conway
II. TIMING

1. Legislation: Drafting to be completed over the weekend
2. Maturities: Coordination w/Comptroller & MAC Friday
3. Report on all other Monday 5 p.m. OMB Conference Room
May 9, 1978

To: Messrs Cobbs
    Halverson
    Bender
    Schweitzer
    Hopkins

Ms. Griffiths
    Altman
    Friedman✓
    Weiss
    Eisenstadt

From: Mark Page, Deputy General Counsel, OMB

Various technical changes in the local finance law are needed to enable the city to sell its obligations under the requirements of federal guarantee legislation, the new MAC legislation, changed circumstances which would presumably accompany city re-entry into the public market, and the possible use of MAC for sales to the pension funds this month. Some changes are probably absolutely necessary, some would simplify sales otherwise made unnecessarily complicated by existing statutory requirements.

The current requirement for public sale of bonds to be purchased by MAC comes under the last category. A draft of an amendment to §57 of the local finance law to allow private sale of city bonds to MAC is attached. By the end of the week I hope to circulate similar draft amendments covering downpayment, notes, underwriters, refunding, extension of MAC BAN's and possibly other topics.

I would be very interested in your comments both as to the substance of amendments to the local finance law which may be needed, and as to when and how it would be best to submit these amendments to the legislature. I am at 566-2666, room 1204 Municipal Building, 1 Center Street, New York 10007.
An Act to amend the local finance law to allow the city of New York to sell bonds at private sale to the municipal assistance corporation for the city of New York, and to allow sale of bonds at an interest rate in excess of five percent until the first day of July, nineteen hundred eighty two.

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

§ 1. Paragraph a of section fifty seven of the local finance law, as last amended by chapter nine hundred two of the laws of nineteen hundred seventy-two, is hereby amended to read as follows:

a. Bonds shall be sold only at public sale and in accordance with the procedure set forth in this section and sections 58.00 and 59.00 of this chapter, except as otherwise provided in this paragraph. Bonds may be sold at private sale to the United States government, the state of New York municipal bond bank agency, [or] to any sinking fund or pension fund of the municipality, school district or district corporation selling such bonds, in the case of the city of New York, to the municipal assistance corporation for the city of New York, or, in the case of bonds or other obligations of a municipality issued for the construction of any sewage treatment works, sewage collecting system, storm water collecting system, water management facility, air pollution control facility or solid waste disposal facility, also to the New York state environmental facilities corporation. Bonds of a river improvement or drainage district established by or under the supervision of the department of conservation may be sold at private sale to the State of New York as investments for any funds of the state which by law may be invested, provided, however, that the rate of interest on any such bonds so sold shall be approved by the water power and control commission and the state comptroller. Bonds may also be sold at private sale as provided in section 63.00 of this chapter. No bonds shall be sold on option or on a deferred payment plan, except that options to purchase, effective for a period not exceeding one year, may be given:

1. in any case to the state of New York municipal bond bank agency with respect to any bonds or bond anticipation notes; and

2. in the case of a municipality to the New York state environmental facilities corporation with respect to
bonds or other obligations issued for the construction of any sewage treatment works, sewage collecting system, storm water collecting system, water management facility, air pollution control facility or solid waste disposal facility. A loan commitment may also be entered into by and between a municipality, and the state of New York municipal bond bank agency and by and between a municipality and the New York state environmental facilities corporation, such commitment to be fulfilled by the purchase of the bonds or other obligations referred to therein by such agency or such corporation, as the case may be. As used in this paragraph, the term "sinking fund" means a fund required by law to be established and maintained for the purpose of amortizing indebtedness evidenced by sinking fund bonds issued pursuant to the provisions of this chapter or issued by any municipality, school district or district corporation under any other law.

§ 2. Paragraph b of section fifty seven of the local finance law, as last amended by chapter two hundred thirty one of the laws of nineteen hundred seventy-seven, is hereby amended to read as follows:

b. Bonds shall be sold at a rate of interest not to exceed five per centum per annum, and for a sum not less than the par value of, and the accrued interest on, such obligations, except that bonds may be sold at any time after the thirtieth day of June, nineteen hundred seventy-six, and prior to the first day of July nineteen hundred [seventy-eight] eighty-two, without limitation as to the rate of interest and may also be sold by municipalities at private sale to the state of New York municipal bond bank agency, and by the city of New York to the municipal assistance corporation for the city of New York at such rate or rates of interest as may be agreed upon by and between the issuing [municipality] municipalities and such [agency] agencies. When sold at public sale, the rate of interest shall be determined in the manner provided in section 59.00 of this chapter. However, the agency prescribing the terms, form and contents of such bonds, subject to the foregoing provisions of this paragraph, may fix a maximum rate of interest at which such bonds shall be sold.
An Act to amend the local finance law to exempt all obligations of the city of New York from the requirement of section one hundred seven of the local finance law for down payment

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

§ 1. Paragraph d of section one hundred seven of the local finance law, as last amended by chapter nine hundred twenty-one of the laws of nineteen hundred seventy two, is hereby amended by the addition of a subdivision eight, to follow subdivision seven, which shall read as follows:

9. The financing by the city of New York of any object or purpose which has a period of probable usefulness under the local finance law.
May 4, 1978

BY HAND

James G. Greilsheimer, Esq.
First Assistant Corporation Counsel
Law Department
The City of New York
Municipal Building, Room 1656
New York, N.Y. 10007

Re: Proposed legislation

Dear Jim:

I enclose a revised draft of a proposed statute and legislative findings and declarations along the lines that we discussed in our meeting on Tuesday at your office.

Sincerely,

[Signature]

Melvin L. Schweitzer

Enclosure

cc: Ms. Alexandra Altman
Ms. Janice Griffith
Mr. Paul O'Brien
Mark Page, Esq.
William Wood, Esq.
§ 1. Legislative findings and declarations.

In this session, the legislature has previously found and declared that a financial emergency and an emergency period continue to exist in the City of New York ("the City"). In an effort to respond to this emergency situation, legislation has been enacted to establish a fiscal monitor for the City and to permit the Municipal Assistance Corporation, established by the legislature in 1975 in the MAC Act, to make available to the City additional financial assistance.

As part of the legislation enacted in 1975 to assist the City in its fiscal emergency, it was mandated that, commencing with its fiscal year ending June 30, 1986, the City cease including in its capital budget those expenses that are properly includable only in its expense budget under the Uniform System of Accounts for Municipalities as modified by the State Comptroller in consultation with the City Comptroller. The City was permitted to eliminate such items on a phased basis over a ten year period at the cumulative rate of ten percent per annum, beginning with the fiscal year of the City ending June 30, 1977. Such expenses have been
AN ACT in relation to the
finances of the City
of New York with re-
spect to a specified
object or purpose for
which certain obligations may
be issued by such city
and the period of probable
usefulness of such object
or purpose

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

Section 1 Notwithstanding the provisions or limita-
tions of any other law, general, special or local the city
of New York is hereby authorized and empowered from time to
time but prior to June thirtieth, nineteen hundred eighty-two,
to issue its serial bonds in an aggregate principal amount not
to exceed eight hundred million dollars for the purpose of
obtaining reimbursement to the city's general fund for monies
advanced and expended for various items included within the
capital budgets of the city during its nineteen hundred seventy-
six, nineteen hundred seventy-seven and nineteen hundred
seventy-eight fiscal years to eliminate the need for the advance
by the State of New York to the city of funds in such amount
and which monies (i) represent expenditures in contemplation
of the sale of bonds for certain items permitted to be included
in the capital budgets of the city in accordance with section three thousand and thirty-eight of the public authorities law and (ii) remain on the books of the city as unfinanced expenditures as of June thirtieth, nineteen hundred and seventy-eight and with respect to which the comptroller of the city shall have certified that he has been advised by the corporation counsel of the city that under current interpretations of applicable laws and court decisions, reimbursement cannot be obtained through the sale of serial bonds or other obligations of the City other than through the sale of serial bonds pursuant to this section. In anticipation of the issuance of such serial bonds the city is authorized and empowered to issue bond anticipation notes.

Section 2 Such bonds and bond anticipation notes issued in anticipation thereof shall be authorized, executed, issued, sold and delivered in the manner provided by the local finance law and the Charter of the city for the issuance of serial bonds and bond anticipation notes subject to the conditions hereto set forth.
Section 3 It is hereby determined and declared that the object or purpose described above is a specific object or purpose of the city of New York for which indebtedness may be incurred. The period of probable usefulness is hereby determined to be twenty years, computed from the date of such bonds or from the date of the first bond anticipation note issued in anticipation of such sale of such bonds whichever date is earlier. Such bonds or bond anticipation notes shall be general obligations of the city of New York and said city shall make an annual appropriation sufficient to pay the principal of and interest on such bonds and the interest on such bond anticipation notes as the same shall become due. All other proceedings in connection with the issuance of such bonds or bond anticipation notes shall be had and taken in accordance with the provisions of the local finance law, and the provisions of § 107.00 of the local finance law shall not be applicable to the issuance of such bonds or bond anticipation notes with respect to any requirements for a down payment. The proceeds of such bonds or bond anticipation notes shall
become part of the general fund of the city of New York
and may be expended for any purpose for which monies in
the general fund may be expended.

Section 4 This act shall take effect immediately.
l in the City's capital budgets as permitted by
slation for its 1976, 1977 and 1978 fiscal years
of obtaining a balanced budget. The City will
all expense items from its capital budget beginning
fiscal year ending June 30, 1982, thereby terminating
included in the City's capital budgets as permitted by the legislation for its 1976, 1977 and 1978 fiscal years as a means of obtaining a balanced budget. The City will eliminate all expense items from its capital budget beginning with its fiscal year ending June 30, 1982, thereby terminating the permissible phase-out period provided in the MAC Act five full years ahead of schedule.

The City continued to advance funds for items in its capital budget in contemplation of the sale of bonds after it lost access to the public capital market at the inception of its financial crisis. As of June 30, 1975, at a time when the City was unable to market its obligations to the public, $ billion of advanced funds for capital expenditures were outstanding and unfinanced. As of June 30, 1977, $1.393 billion of advances were outstanding and unfinanced. The City projects that the amount will rise to $ by June 30, 1978.

The amounts advanced by the City include amounts advanced for certain of the items included in its capital budgets as permitted by the MAC Act. The Corporation
Counsel of the City has advised the Comptroller of the City that, under current interpretations of applicable laws and court decisions, notwithstanding the permitted phase-out financing program, reimbursement for certain of such advances cannot be obtained by the sale of serial bonds as had been contemplated by the City. Of the $1.304 billion of unfinanced expenditures on the City's books as of February 28, 1978, the Corporation Counsel has advised that reimbursement cannot be obtained as to $805 million of these expenditures.

The City has been suffering from a continuing working capital shortage since 1975 in part because its loss of access to the public capital markets resulted in an inability to recover its advances for capital budget items through the sale of bonds. The City turned to the State government as a means of meeting its working capital shortage. The State provided the City with $800 million in advances in the first quarters of each of the 1976, 1977 and 1978 fiscal years of the State. To provide the City with this advance, the State has been required to
increase the amount of its seasonal borrowing by approximately 20%.

The City has established a financial plan for the four year period from 1979 through 1982 designed to provide an end to the financial emergency and to permit the City to return to a financial position from which the needs of its present and future citizens can be met. Elimination of the State advance is an integral part of the financial plan, but elimination of the State advance must be combined with a concomitant increase in the City's working capital, if the City is to avoid bankruptcy. The legislature finds that the required increase in the City's working capital cannot be achieved through reductions in spending or increases in taxes and that the bankruptcy of the City is not an acceptable solution. The legislature further finds that continued reliance by the City on the device of the State advance is unacceptable because it will preclude the City from returning on its own to financial health and from access to the public capital market.

The sale of bonds authorized by this legislation will result in an increase in the working capital available to the
and ultimate elimination
City, and will permit reduction of the State advance during
each of the next four succeeding fiscal years of the City.
Payment of the bonds over the period of their maturity
will spread over a period of years the costs of recovering
the advances made by the City for capital budget items
permitted to be included by the MAC Act. The additional
working capital will be available to the City to assist
it in meeting its budgeted expenditures during future years.

Enabling the City to reimburse its general fund
by selling bonds authorized by this legislation will not
increase the amount of expense items which the City is
permitted to include in its capital budgets. The $800
million expenditures covered by the Corporation Counsel's
opinion are comprised of expense items previously permitted
to be included in capital budgets of the City pursuant to
the phase-out provisions.

The City has made a commitment to the State that
it will seek no similar legislation to give it additional
authority to sell bonds to finance such expenditures that
have been or will be incurred.
To bring the continuing emergency under control and the emergency period to an end, and to respond to the overriding State concern, the State must enact this remedial legislation. Without this legislation the City will be unable to recover the advances it made in contemplation of the sale of bonds for items included in its capital budget and will continue to suffer from the resultant working capital shortage. The purpose is to insure the continuity of governmental operations in the City and to provide the means by which the present emergency can in time be overcome so that the City is restored to financial health and so that intervention by the State finally can be brought to an end.
1. Revise legislative findings to reflect achievements of City and problems remaining.

2. Require covered organizations to conform to GAAP requirements within specified number of years and require adoption and maintenance of balanced budget in accordance with accounting principles in effect at time budget is adopted.

3. Require City take responsibility for financial plans of covered organizations.

4. Require that emergency period be reinstituted upon happening of specified events and provide guidelines for Board's reinvolve-ment.

5. Provide for gubernatorial appointment of Executive Director of Board with approval by Mayor (joint appointment language change).

6. Have City present revenue estimates to Board for approval in advance of adoption of expense budget so that expense budget is based on approved revenues.

7. Provide for Board to receive and comment upon capital budget (aggregate commitments). Make technical change to assure Board receipt of revenue and expense budgets.

8. Make provision for payment of Board's expenses.

9. With respect to approval of contracts, assure issue as to whether a particular contract is "major" is resolved by the Board.

10. Discuss inclusion of provision for Board takeover of City funds in emergency period.

11. Further discussion needed on Board review of impasse panel awards.
MEMORANDUM

May 3, 1978

TO: DONALD D. KUMMERFELD
FROM: John C. Bender
RE: Continuation of the Control Board

The City's draft legislation for the continuation of the EFCB, distributed on April 27, 1978, substantially follows the substance and provisions of the Financial Emergency Act ("FEA"). The draft, in part, attempts to conform the FEA with the present practices of the City and the Board. It also reflects certain policy and technical changes which the City believes will facilitate its ultimate return to the private credit market. This memorandum highlights significant changes to the FEA which may warrant particular consideration.

1. Legislative Findings

The draft amends the 1975 legislative findings that supported enactment of the FEA, in order to establish that a state of emergency continues to exist with respect to the City's financial affairs. Although the City is arguing that such findings are necessary to justify an extension of the Control Board, the findings are probably particularly pertinent to an extension of the wage freeze legislation.

As drafted, the amended findings ignore the substantial progress which the City and State have made since 1975 to improve the City's financial condition and require some additional work in order to reflect factual differences between then and now. This oversight, as well as certain technical problems presented by the City's draft, could be corrected by additional attention to the drafting. However, the use of such findings represents a policy choice between the presentation of a very bleak picture (emphasizing...
bankruptcy, in order to justify the wage freeze and support the request for federal guarantees) or a more moderate view (that would give more emphasis to accomplishments, in order to pave the City's re-entry into the public market).

2. Covered Organizations

Although provisions dealing with the so-called "covered organizations" are largely unchanged, the draft does grant the Board discretion to exempt a covered organization from the provisions of the FEA. In addition, the Board retains discretion to determine the financial and other information pertaining to any specific covered organization that must be included in the financial plan.

However, the draft leaves largely unanswered several major questions concerning the covered organizations. Although the City will be operating under generally accepted accounting principles (GAAP) by FY 1982, no mention is made of the accounting or other fiscal standards applicable to the various covered organizations and neither the Control Board nor the City is authorized to require compliance with any such standards. In addition, no attempt has been made to give the City any additional powers to obtain financial or other information for financial plan purposes, although it has the responsibility to obtain and evaluate this information for presentation to the Control Board.

3. Definition of Emergency Period

The draft continues the existing "emergency period" until the board determines that the City has operated with a budget balanced in accordance with GAAP for three successive fiscal years. Once this determination is made and the initial emergency period is ended, the Board's power to approve financial plans, borrowings and contracts is suspended and the wage freeze is terminated.

During the dormant stage that follows the Board continues to have monitoring responsibilities and the City continues to prepare and present four-year financial plans for review by the Board. In addition, the Board can reinstate the "emergency period" (and thereby reassert its full powers) if it determines that there is a likelihood of a default, a substantial budget deficit or other events likely to impair the City's ability to pay its debt or balance its budget.

I see no reason to object to these "sunset" provisions on a policy basis; however, there is some question as to whether this concept will satisfy the requirement of draft federal guarantee and pension legislation which call for the continuation of an
"independent fiscal monitor" with authority to control the fiscal affairs of the City for the foreseeable future. Resolution of that question obviously requires consultation with appropriate federal officials. Furthermore, even if satisfactory for purposes of the federal legislation, the draft is technically deficient and requires revision to insure smooth operation of the sunrise provision.

4. Administration of the Board

The draft does not change the existing membership of the Board (or the appointment of members) although it does provide for the joint appointment of the executive director by the Governor and the Mayor.

5. Financial Plan

The draft requires a four-year rolling financial plan, in a form approved by the Board, under which the City will have an expense budget balanced in accordance with GAAP by FY 1982 and will make substantial progress toward that goal in the intervening years. Although provisions dealing with the mechanics of preparing, submitting and reviewing a financial plan are similar to those currently in effect, there are some differences worthy of note.

As an initial matter, the draft gives the board the authority to permit a phasing-in of any modifications to GAAP which are promulgated after the effective date of the act if the City demonstrates that the modification could not be accommodated without a substantial adverse impact on the delivery of essential services. In addition, the draft authorizes the Board, in appropriate circumstances (i.e., the occurrence of unforeseen events near the end of a fiscal year), to approve unavoidable budget deficits, but requires that these deficits be funded in the following fiscal year. Although this is probably an acceptable concept, the draft requires further work on the standards on which these judgments will be based. Finally, the draft authorizes the City to develop estimates of revenues for use in the financial plan. Under the law currently in effect the Board has the authority to develop revenue estimates (i.e., to determine the size of the budget available in any fiscal year), although the practice has been to permit the City to develop its own revenue estimates subject to approval by the Control Board. Since the draft follows current practice (and since the Board has sufficient authority to require modifications of estimates with which it disagrees), this change should not pose a problem.
6. Debt Service Funds and Accounts; Limitations on Short-Term Borrowing

The draft provides for the creation of debt service funds and accounts as well as limitations on short-term borrowing. However, it also deletes existing Section 9 of the FEA under which the Control Board was authorized to control all bank accounts of the City. Since, as a practical matter, this was a power that the Board would exercise only in connection with the bankruptcy of the City, its absence will not affect our operations. However, whether the absence of this power will be considered a material weakening of the Board's essential powers (even with the addition of the debt service funds) remains to be seen.

7. Wage Freeze

There's little to say about the wage freeze provision except that they're there and that, for the most part, they are an attempt to continue and broaden the existing statutory controls. The boardening has probably made the provision unconstitutional—e.g., it purports to freeze fringe benefit increases "pursuant to law" (which is broad enough to cover increases in Federal social security benefits) and requires the Board to review and approve judicial decisions which grant wage increases.

However, quite apart from the technical defects (which could conceivably be cured) the inclusion of this provision has obvious major policy implications for all concerned.

8. Indemnification

The draft includes an indemnification provision modeled on a similar provision in the proposed amendments to the MAC legislation.

9. Covenants

Although the proposed federal guarantee and pension legislation require that the state covenant not to repeal, invalidate or substantially impair the powers of the Board for the foreseeable future, the draft includes no provision authorizing the Board to make such a covenant on the State's behalf.

10. Termination

The act provides that the existence of the Board will terminate on July 1, 1997.
AN ACT

To amend chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, entitled "An Act in relation to enacting the New York state financial emergency act for the city of New York; to amend the executive law, in relation to the appointment of a special deputy comptroller for the city of New York; to amend the local finance law, in relation to tax receivable notes; to amend the state finance law, in relation to the investment of state funds in bonds and notes issued for any of the corporate purposes of the municipal assistance corporation for the city of New York; to amend the retirement and social security law, in relation to investment of public pension funds in such municipal assistance corporation securities; in relation to enacting the investment of funds by pension and retirement systems for public employees act; to amend the workmen's compensation law, in relation to the purchase by the state insurance fund of bonds and notes of such municipal assistance corporation; to amend the public authorities law, in relation to the issuance and maturity of bonds and notes of such municipal assistance corporation; to amend the state finance law, in relation to the payment of per capita aid to the city of New York; to amend the state finance law, in relation to the establishment of a municipal assistance state aid fund; to amend the education law, in relation to the payment by the city of New York to the city university construction fund; to amend the private housing finance law, in relation to bonds and notes of the New York city housing development corporation; to amend the New York city charter, in relation to the investment of sinking fund moneys of the city of New York in obligations of the municipal assistance corporation for the city of New York; to amend the public authorities law, in relation to the contents of certain agreements with holders of notes or bonds issued by any municipal assistance corporation; to amend the public authorities law, in relation to making bonds or notes of the New York city stabilization reserve corporation legal investments for public authorities; to amend the local finance law, in relation to the authority of municipalities to assign for collateral or pledge its mortgage interest; to amend the private housing finance law, in relation to certain assignments for collateral or pledges by a municipality of its mortgage interest in a project; to amend the local finance law, in relation to assistance to certain municipalities during periods of financial emergency; to amend the public authorities law, in relation to certain payments and funds of the municipal assistance corporation for the city of New York; and making an appropriation for the corporate purposes of the city of New York; and making a first instance appropriation from the local assistance fund to the city of New York" as last amended by chapter eight hundred eighty-eight of the laws of nineteen hundred seventy-five.

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

Section 1. Section one of a chapter of the laws of nineteen hundred seventy-five entitled "An Act in relation to enacting the New York state financial
bonds or notes of the New York city stabilization reserve corporation legal investments for public authorities; to amend the local finance law, in relation to the authority of municipalities to assign for collateral or pledge its mortgage interest; to amend the private housing finance law, in relation to certain assignments for collateral or pledges by a municipality of its mortgage interest in a project; to amend the local finance law, in relation to assistance to certain municipalities during periods of financial emergency; to amend the public authorities law, in relation to certain payments and funds of the municipal assistance corporation for the city of New York; and making an appropriation for the corporate purposes of the city of New York; and making a first instance appropriation from the local assistance fund to the city of New York," as last amended by chapter eight hundred eighty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

Section 1. Legislative findings and statement of purposes.

Since the emergency was first declared in nineteen hundred seventy-five, the city has been unable to regain access to the public credit markets. Two principal impediments to the city's access to these markets are (1) the inability of the city to balance its budget in accordance with generally accepted accounting principles (GAAP) and (2) the city's large annual financing requirements of three billion dollars for both seasonal and long term purposes, an amount which is more than the market can reasonably be expected to absorb. The four year financial plan proposes actions to remove these impediments. The plan calls for a balanced budget in accordance with GAAP by the end of the fiscal year beginning July first, nineteen hundred eighty-one and the elimination of one-half of the city's present annual financing needs. The plan also mandates the removal of operating expenses from the city's capital budget by June thirty, nineteen hundred eighty-one and commits funds to improve and to prevent further decay to its physical plant so as to provide essential governmental services to support the city's economy and to stimulate its economic development.

To accomplish these goals the city will require long-term financing which it hopes to obtain in part from the guarantee of the principal of and interest on
its bonds by the federal government. The plan also
proposes the continuation through June thirty, nine-
teen hundred eighty-two of federal seasonal loan
financing which will otherwise terminate on June
thirty, nineteen hundred seventy-eight.

It is hereby found and declared that a financial
emergency and an emergency period [exists] continues
to exist in the city of New York. The city without
the receipt of federal guarantees of its obligations,
and, or, continued federal seasonal financing which
terminates on June thirty, nineteen hundred and
seventy-eight pursuant to the New York city seasonal
financing act of 1975, is unable to obtain the funds
needed by the city to continue to provide essential
services to its inhabitants or to meet its obligations
to the holders of outstanding securities. Unless
such funds are obtained the city will soon (i) fail
to pay salaries and wages to employees and amounts
owed vendors and suppliers to the city, (ii) fail to
pay amounts due to persons receiving assistance from
the city and (iii) default on the interest and principal
payments due the holders of outstanding obligations
of the city.

If such failures and defaults were to occur, the
effect on the city and its inhabitants would be
devastating: (i) unpaid employees might refuse to
work; (2) unpaid vendors and suppliers might refuse
to sell their goods and render services to the city;
(3) unpaid recipients of public assistance would be
unable to provide themselves with the basic necessities
of life; and (4) unpaid holders of city obligations
would seek judicial enforcement of their legal rights
as to city revenues. These events would effectively
force the city to stop operating as a viable
governmental entity and create a clear and present
danger to the health, safety and welfare of its
inhabitants.

The difficulties of finding solutions to such events
would be compounded by the likelihood that the city,
as well as the municipal assistance corporation for
the city of New York, would be foreclosed indefinitely
from seeking funds in the public markets. The
elimination of the public markets as well as federal
financing as a source of funds would leave the city
with no foreseeable way to [refund] pay its outstanding
short-term indebtedness. Thus, the city might be
unable for an extended period to operate defaults on its
outstanding obligations and that event could almost
permanently destroy the fiber of the city. The
status of the city as the financial capital of the
nation and of the world and as the headquarters of
American and international commerce would be severely
shaken. Just as significantly, the exodus from the
city of corporate and individual taxpayers would
increase, thereby having the effect of imposing a
greater burden on the remaining taxpayers.

It is a matter of substantial and imperative
state concern that the city not fail to meet its
obligations and thereby suffer the above consequences.
Such a failure could require the state to provide
costly financial assistance to the city to ameliorate
the emergency conditions that would result. Aside
from the avoidance of that expense, it is the con-
cept of the state that the above-described events
not occur, because the city represents a major part
of the state. In addition to being the state's
largest city, the city is the commercial, financial,
cultural, communications and transportation center
of the state. If the city were unable, because of
the lack of funds, to function in its normal manner,
the economy of the state would, therefore, be drastically
hampered.
A failure by the city to meet its obligations would also affect the state's own ability to raise funds in the public markets. Defaults by the city would adversely affect the ability of all public issuers within the state to market securities to meet their cash requirements. To the extent the state and other public issuers within the state would be able to market their securities at all, the interest rates would significantly exceed those which otherwise would be paid. This effect has already been clearly demonstrated since the urban development corporation defaulted on its obligations in February nineteen hundred seventy-five. Notwithstanding that such default was soon cured as the result of state action, other public authorities [have been] were unable to market their securities or [have been] were required to pay much higher interest rates [than ever before] for a considerable period thereafter and numerous municipalities, school districts and sewer districts throughout the state [have been] were similarly affected.

This situation is a disaster and continues to [create] create a state of emergency. To end this disaster, to bring the emergency under control and to respond to the overriding state concern described above, the state must continue to undertake an extraordinary exercise of its police and emergency powers under the state constitution, and exercise controls and supervision over the financial affairs of the city of New York, but in a manner intended to preserve the ability of city officials to determine programs and expenditure priorities within available financial resources.

To forestall the effects on the city and the state of a failure by the city to meet its obligations when due, [the state] the city has developed, in coordination with the state and the municipal assistance corporation for the city of New York and certain private financial institutions located in the city, a four year financial [program] plan covering fiscal years ending June thirty, nineteen hundred seventy-nine through nineteen hundred eighty-two designed to [infuse] provide the city with funds needed by it during the [next several months] period covered by the plan. This financial program is only a short-term means of helping the city to meet its obligations during this emergency period. For longer range success, the city must restore investor receptivity to the obligations of the city.

The program embodied in this act provides the necessary statutory changes to permit the financial assistance required by the city at this time, including the [mandated] investment of a portion of the funds of the state and city retirement systems in obligations [of the municipal assistance corporation for] of the city of New York, the payment of the principal of or interest on, or both, of which will be guaranteed by the United States of America, or an agency thereof, and provides for (i) the [creation] continued existence of a state board with some city representation to review, control and supervise the financial management of the city, (ii) the adoption, with the approval of such board, of a four-year financial [plan] plans that will provide the basis for a return of the city to sound financial condition, (iii) [control] review by such board [over] of the disbursement of city funds, under which debt service requirements will be met as a first priority, and (iv) review and audit of city operations by such board.
to assure that sound management practices are observed
or restored and that operations are conducted in
accordance with the plan. [In addition, the program
provides for the purchase of an aggregate of seven
hundred twenty-five million dollars of the securities
of the municipal assistance corporation for the city
of New York by pension and retirement systems for
public employees in the state of New York and in the
city of New York. The purpose of this requirement
is to provide the city with a certain source of
revenues in the immediate future.] This legislative program is intended to accomplish
the objectives described above and thereby to insure
the continuity of governmental operations in the city
and to provide the means by which the present emergency
can in time be overcome, the city restored to financial
health and this intervention by the state brought to
an end.

Furthermore, in view of the present danger that
the city may fail to meet its obligations, it is equally
imperative that steps be taken at this time; in ad-
advance of any such failure, to ameliorate to the extent
possible the disastrous consequences of any such failure
by the city (or by any other municipality) by providing
a framework to lessen the impact on a municipality
(end thereby to lessen the impact on the state itself)
of a failure by such municipality to meet its obligations,
to insure the continuity of governmental operations
therein during the period of any default, and to pro-
provide the means by which such defaults may in time be
overcome. To that end, the exercise of the police
power of the state is appropriate to accomplish four
additional objectives during the period that an
emergency exists for a municipality: first, to provide
a municipality with prior notice of the intention of
any person to take action against it on a debt or
obligation; second, to provide for a stay of attempts
by creditors to enforce their remedies while a
municipality attempts to develop a plan to cure any
defaults; third, to permit such a plan providing for
the satisfaction of debts and obligations of a
municipality to be submitted to, and approved by a court
of this state; and, fourth, to authorize a municipality
of this state, or an emergency financial control board
created for such municipality, if necessary, to seek
the benefits of any federal statute now or hereafter
enacted to provide relief to financially distressed
municipalities.]

§ 2. Subdivision five of section two of such
act is hereby amended to read as follows:

5. "Covered organization" means any governmental
agency, public authority or public benefit corporation
which receives or may receive monies directly, indirectly
or contingently, (other than monies received for the
sale of goods or the rendering of services or the loan
of monies to the city) from the city, and in any event
includes, without limitation, the board of education
of the city of New York, the board of higher education
of the city of New York, the health and hospitals
corporation, the New York city transit authority, the
New York city housing authority, the New York city
housing development corporation, city university
construction fund, Battery park city authority, New
York city convention and exhibition center corporation,
Manhattan and Bronx surface transit operating authority,
Staten Island rapid transit operating authority, the
New York city sports authority and the Brooklyn sports
center authority but shall not include (i) any
governmental agency, public authority or public
benefit corporation specifically exempted from
the provisions of this act by order of the
board pursuant to regulations adopted by the
board, (ii) any state public authority as defined
in section two hundred one of the civil service
law, unless specifically named above, or (iii)
yany governmental agency, authority, commission
or instrumentality created by agreement
between the state of New York and another
state or states.

§3. Subdivision twelve of section two of such act
is hereby amended to read as follows:

12. "Emergency period" means the period of time
from the effective date of this act until the
date when, based upon the reports to be delivered
by the city to the board pursuant to sections
seven and seven-a, the board determines that the
expense budget of the city shall have been in
balance for [one] three consecutive fiscal [year]
years in accordance with [the accounting method
prescribed for such budgets by the state comptroller
pursuant to subdivision two of section three thousand
thirty-eight of the public authorities law]
generally accepted accounting principles as the
same may be modified by the board pursuant to
subdivision two-a of section eight of this act.
The board may reimpose the emergency period
upon determining that the following events have
occurred or that there is a substantial likelihood
of their occurring: (i) the city shall have failed
to pay the principal of and interest on its bonds;
and notes when due and payable; (ii) the city
shall have incurred an expense budget deficit
of more than one hundred million dollars; (iii)
the city shall have issued notes in violation
of section nine-a of this act; (iv) the city shall
have otherwise violated applicable provisions
of this act, if such violations substantially
impair the city's ability to pay principal of
and interest on its bonds and notes when due and
payable or its ability to adapt and maintain
a balanced expense budget. Any such emergency
period shall continue until the board shall
determine that the circumstances which warranted
the reimposition of such emergency period no
longer exist.

§4. Subdivisions thirteen, fourteen and fifteen of
section two of such act are hereby repealed.

§5. Section two of such act is hereby amended by
adding thereto five new subdivisions, to be subdivisions
thirteen, fourteen, fifteen, sixteen and seventeen,
to read, respectively, as follows:

13. "Fund" means the general debt service fund
to be established pursuant to section nine of
this act.

14. "TAN debt service account" means the tax
anticipation note debt service account to be
established within the fund pursuant to section
nine of the act.

15. "TAN debt service account" means the revenue
anticipation note debt service account to be
established within the fund pursuant to section
nine of the act.

16. "Available funds" means at any date of
computation the moneys held by the city or a
covered organization which (1) are not required
(a) to be applied to the fund, the TAN debt
service account or to meet the debt service
requirements of the city and the covered organi-
zations on their bonds and notes (other than
bonds and notes of covered organizations payable
from revenues not included in the fund) as they
become due, or (b) to pay other liabilities of
the city and the covered organizations having
statutory or contractual priority over remaining
liabilities of the city and the covered organi-
zations, and (ii) therefore, may be applied to
the payment of other obligations on an allocated
basis as specified by the city for expenditures
in accordance with a financial plan.

17. "Available tax levy" means at any date of
computation the total amount of city real estate
taxes or assessments levied for such fiscal year,
less (i) the amount reasonably estimated for
such year as a reserve for uncollected taxes and
assessments, (ii) taxes and assessments levied
for such fiscal year and previously collected,
other than taxes on deposit in the TAN debt
service account and (iii) the amount of interest
and principal maturing or otherwise coming due
during such fiscal year on all bonds of the
city and interest and required amortization
during such year on all bond anticipation notes
of the city outstanding at the time any such
calculation is made.
§6. Section two-a of such act is hereby amended to read as follows:

2-a. Legislative declaration of financial emergency. The legislature hereby finds and declares that a state of financial emergency continues to exist within the city.

§7. Subdivision four of section six of such act is hereby amended to read as follows:

4. The governor and the mayor, jointly, may appoint an executive director of the board. The board may delegate to the executive director or to one or more of its officers, employees or agents, such powers and duties as the board may deem proper, except any duties inconsistent with the duties and functions prescribed by any other office or position any such person may hold.

§8. Paragraph a of subdivision one of section seven of such act is hereby amended to read as follows:

a. As set forth in section eight, the board shall (i) determine in connection with the development of the financial plan, estimated revenues for the city and the covered organizations, (ii) consult with the city and the covered organizations in the preparation of the financial plan, (iii) prescribe the form of the financial plan and the supporting information required in connection therewith, and (iv) exercise the rights of approval, disapproval and modification with respect to the financial plan.

§9. Paragraph b of subdivision one of section seven of such act is hereby amended to read as follows:

b. [As set forth in section nine, the] The board, to the extent it deems necessary or desirable in order to accomplish the purposes of this act, shall establish and adopt procedures with respect to the (i) proper maintenance of the fund, the RAN debt service account and the RAN debt service account, (ii) the deposit and investment of revenues in such fund and accounts of the city and the covered organizations in the fund, and (iii) disbursement of monies from the fund. The board shall cause to be performed such preaudit and post-audit reviews of the fund, the RAN debt service account and the RAN debt service account and of the investment or deposit of such therein and the disbursement of monies therefrom as it may determine.
§10. Paragraph d of subdivision one of section seven of
of such act is hereby amended to read as follows:

d. [(i)] The board (i) shall receive from the
city and review the report or reports to be
prepared on behalf of the city pursuant to
section seven-a; (ii) shall receive from the
city and the covered organizations and from
the special deputy comptroller, and shall
review such financial statements and projections,
budgetary data and information, and management
reports and materials as the board deems
necessary or desirable to accomplish the
purposes of this act; [(iii)] and (iii) shall
[Inspect] inspect, copy and audit such books
and records of the city and the covered
organizations as the board deems necessary
or desirable to accomplish the purposes of
this act.

§11. The opening paragraph of paragraph e and subparagraph
(i) of paragraph e of subdivision one of section seven of
such act are hereby amended to read as follows:

e. [All contracts entered into by the city or
any covered organization must be consistent
with the provisions of this act and must comply
with the requirements of the financial plan as
approved by the board. With respect to all
contracts or other obligations to be entered
into by the city or any covered organization
after October fifteen, nineteen hundred
seventy-five, requiring the payment of funds
or the incurring of costs by the city or any
covered organization] In accordance with the
provisions set forth below, the board shall
review all major contracts and all other
major obligations not subject to review
pursuant to paragraph f of this subdivision
to be entered into by the city or any covered
organization for consistency with the provisions
of the act and compliance with the requirements
of the financial plan:
§12. Paragraph g of subdivision one of section seven of such act is hereby amended to read as follows:

"g. The board shall receive quarterly reports from the city comptroller setting forth the debt service requirements on all bonds and notes of the city and the credited organizations for the following quarter."

§13. Subdivision one of section seven of such act is hereby amended by adding thereto a new paragraph, to be paragraph j, to read as follows:

"j. The provisions of this section requiring approval by the board of financial plans, financial plan modifications, contracts and borrowings shall apply only during an emergency period."

§14. Such act is hereby amended by adding thereto a new section, to be section seven-a, to read as follows:

§7-a, Reports of the City

1. The city shall take such action as may be necessary to enable a nationally recognized independent certified public accounting firm or consortium of firms, to perform an annual audit and to furnish to the board an annual report which shall include a certified audit of the city's financial statements performed in accordance with generally accepted accounting principles as the same may be modified by the board pursuant to subdivision two of section eight and such other
information as such auditors, in consultation
with the comptroller, deem appropriate.
The city shall make available for inspection
and copying all books, records, work papers
and other data and material as required
by such auditors, and the city shall make
its officers and employees available to,
and shall cooperate with such auditors so
as to permit such annual audit to be com-
pleted and the report issued to the city
and to the board within one hundred twenty
days after the close of the city's fiscal
year.

2. The city controller shall prepare
quarterly reports setting forth the debt
service requirements on all bonds and notes
of the city and the covered organizations
for the following quarter. Such reports
shall be issued to the board no later than
sixty days prior to the start of the quarter
to which they pertain.

§15. Subdivision one of section eight of such
act is hereby amended to read as follows:

1. Pursuant to the procedures contained in
subdivision three of this section, [the
board, in conjunction with] each year the
city shall develop, and may from time to
time [amend] modify, a four year financial
plan [for] covering the city and the covered
organizations [with respect to the fiscal
years of the city ending June thirtieth,
nineteen hundred seventy-six, June thirtieth,
nineteen hundred seventy-seven and June
thirtieth, nineteen hundred seventy-eight.
The board may from time to time extend the
period to be covered by the financial plan

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through the end of any fiscal year of the
city in which the emergency period termi-
nates]. [The] Each such financial plan
shall [conform to] comply with the require-
ments of subdivision four of this section
and shall [constitute a program by which
the city will achieve the following objec-
tives], except as otherwise provided pur-
suant to subdivision two-a or this section,
conform to the following standards:

a. For [its] the fiscal year ending
June thirtieth, nineteen hundred
[seventy-eight] eighty-two, and for
each fiscal year thereafter, the city's
expense budget [will] shall be balanced
in accordance with [the accounting sys-
tem and procedures prescribed in sub-
division two of section three thousand
thirty-eight of the public authorities
law, with substantial progress toward
that goal to be achieved in each of the
fiscal years ending June thirtieth,
nineteen hundred seventy-six and June
thirtieth, nineteen hundred seventy-
seven.] Generally accepted accounting
principles. With respect to financial
plans that include the fiscal years
ending June thirtieth, nineteen hundred
seventy-nine through June thirtieth,
nineteen hundred eighty-one, there shall
be substantial progress in each such fiscal
year towards achieving a city expense
budget balanced in accordance with
generally accepted accounting principles
for the fiscal year ending June thirtieth,
nineteen hundred eighty-two. In accordance
with subdivision five of section three
thousand thirty-eight of the public
authorities law, progress toward the elimi-
nation of expense items from the capital
budget [will] shall also be required during
[this] this period [during which the finan-
cial plan is in effect].

b. The limitations on its outstanding
short-term obligations required by [sub-
division] section nine a of [section
three thousand thirty-eight of the public
authorities law] this act shall be observed
at all times.

c. Provision shall be made for the payment
in full of the debt service on all bonds
and notes of the city and the covered organi-
zations and for the adequate funding of pro-
grams of the city and the covered organizations
which are mandated by state or federal law.
d. All projections of revenues and expenditures contained in a financial plan shall be based on reasonable and appropriate assumptions and methods of estimation. All cash flow projections shall be based upon reasonable and appropriate assumptions as to sources and uses of cash (including but not limited to the timing thereof), and shall provide for operations of the city and covered organizations to be conducted within the cash resources so projected.

e. The city shall provide a general reserve for each fiscal year to cover potential reductions in its projected revenues or increases in its projected expenditures during each such fiscal year. The amount provided for such general reserve shall be estimated by the city in accordance with paragraph d of this subdivision, but in no event shall it be less than one hundred million dollars at the beginning of any fiscal year.

f. In the first fiscal year included in any financial plan, provision shall be made for the repayment of any deficit incurred by the city during the preceding fiscal year.

§16. Subdivision two of section eight of such act is hereby amended to read as follows:

2. In developing the financial plan the city (and the board) shall seek to achieve a stabilized work force for the city and, to the extent a reduction in the work force is required, primary recourse shall be had to the attrition process to accomplish such reduction.

§17. Section eight of such act is hereby amended by adding thereto a new subdivision, to be subdivision two-a, to read as follows:

2-a. The city and the board shall confer concerning the projected effect on the city's expense budget of any modification in generally accepted accounting principles, or the application thereof to the city, made after the effective date of this act. If the board determines that compliance with such modification will have a material effect on the city's expense budget over a time period insufficient to accommodate the effect without a substantial adverse impact on the delivery of essential services, the board may authorize and approve a method of phasing the requirements of such modification into the city's expense budget over such reasonable time period as the board deem appropriate.
§ 18. Subdivision three of section eight of such act is hereby amended to read as follows:

3. The financial plan shall be developed and approved, and may from time to time be modified, in accordance with the following procedures:

a. [Not later than September thirtieth] The city shall, by May fifteenth, nineteen hundred seventy-five, seventy-eight, [the board shall deliver to the city estimates of revenues of the city and the covered organizations for each month during which the plan is in effect.] prepare and submit a financial plan to the board covering the four year period which begins with the fiscal year ending June thirtieth, nineteen hundred seventy-nine. Thereafter, at least sixty days prior to the beginning of each fiscal year or on such other date as the board may approve upon the request of the city, the city shall prepare and submit a financial plan to the board covering the four year period beginning with such fiscal year. On such dates the mayor shall also submit to the board the city's executive expense budget for the ensuing fiscal year and a certificate of the mayor stating that such budget is consistent with the financial plan submitted therewith, that projections contained in the budget and financial plan are reasonable, and that operation within the budget is feasible.

b. [Based upon the revenues estimated by the board pursuant to paragraph a of this subdivision, the city shall, by October fifteenth, nineteen hundred seventy-five, prepare and submit the financial plan to the board. If the board shall, in its judgment, determine that such financial plan is complete and would achieve the objectives set forth in subdivision one of this section, the board shall approve the financial plan.] The board shall promptly review each financial plan and financial plan modi-
fication submitted by the city. Not more than forty-five days after submission of a financial plan or more than thirty days after submission of a financial plan modification the board shall determine whether the financial plan or financial plan modification is complete and complies with the standards set forth in subdivision one of this section and shall approve or disapprove the financial plan or financial plan modification in accordance with the provisions of this section. If the board determines that the financial plan or financial plan modification is incomplete and complies with the standards set forth in subdivision one of this section, the board shall approve the Financial plan or financial plan modification.

c. The board shall disapprove [the] a financial plan or financial plan modification (proposed by the city) if [ ], in the judgment of the board, such plan it determines that the financial plan or financial plan modification is incomplete or fails to comply with the provisions of subdivision one of this section. In disapproving a financial plan or financial plan modification the board may direct that:

(i) [fails to provide for the payment in full of the debt service requirements on all bonds and notes of the city and the covered organizations or a lesser amount approved by the board if a moratorium is in effect pursuant to state law suspending or staying the enforcement of rights with respect to such notes or fails to fund adequately programs of the city and the covered organizations mandated by state or federal law; expenditures or reserves to assure availability of amounts required for debt service requirements on all bonds and notes of the city and the covered organizations, or expenditures required for adequate funding of programs of the city and the covered organizations mandated by state or federal law, be increased to the levels required to provide for their payment in full; or]
(ii) [fails to provide that opera-
tions of the city and the covered
organizations will be conducted within
the cash resources available according
to the board's revenue estimates; the
revenues projected from any source
during any period be reduced to comply
with the standards set forth in subdiv-
dision one of this section; or]

(iii) [fails to achieve the objec-
tives set forth in subdivision one
of this section; or] the aggregate
expenditures projected for any period
be reduced to comply with the stan-
dards set forth in subdivision one of
this section.

(iv) In addition to the foregoing
limitations, provides for aggregate
expenditures (other than amounts
required to pay debt service, pension
costs, public assistance and care, and
such other amounts as the board deter-
mines to be required by law) in the
expense budget of the city or in the
expense budget of any covered organi-
zation for any of the years during
which the plan is in effect, above
the level contained in the expense
budget adopted by the city or by
such covered organization for the
fiscal year ending June thirtieth,
nineteen hundred seventy-six as
modified or amended to the effective
date of this act. The board may,
upon the request of the city, allow
(a) an increase in the expense budget
(other than amounts required to pay
debt service, pension costs, public
assistance and care, and such other
amounts as the board determines to
be required by law) of the city or
of a covered organization for any
fiscal year during the emergency
period (which increase may be cumu-
lative) equal to two percent of the
expense budget (other than amounts
required to pay debt service, pension
costs, public assistance and care,
and such other amounts as the board
determines to be required by law)
adopted by the city or by such covered
organization for the fiscal year ending
June thirtieth, nineteen hundred
seventy-six as modified or amended to
the effective date of this act, or (b)
such further increases as the board
may approve as required to meet the
impact of substantial inflation after
the effective date of this act, but in
either case only if the board determines
that increased revenues are available
in an amount equal to the requested
increase in expenditures.

[D. In disapproving the financial plan
proposed by the city the board may direct
that:

(i) expenditures or reserves to assure
availability of amounts required for
debt service requirements on all bonds
and notes of the city and the covered
organizations, or expenditures required
for adequate funding of programs of
the city and the covered organizations
mandated by state or federal law, be
increased to the levels required to
provide for their payment in full; or

(ii) the aggregate expenditures in any
period be reduced to conform to the
revenue estimates of the board pre-
pared pursuant to paragraph a of this
subdivision or to achieve the objectives
set forth in subdivision one of this
section.]

[E. D. In the event that the city
shall, for any reason, fail to submit
a financial plan [, as required pursuant
to paragraph b of this subdivision, or
to adopt a financial plan approved by
the board to be effective by October
twentieth, nineteen hundred seventy-
five, the board shall formulate and
adopt the financial plan to be effective
October twentieth, nineteen hundred
seventy-five. All subsequent operations
by the city or a covered organization
shall be in conformance and compliance
with the financial plan [prior to the
beginning of a fiscal year, as required
by paragraph a of this subdivision, or
in the event that the board has not,
for any reason, approved a financial
plan submitted by the city prior to
the beginning of a fiscal year, the
financial plan in effect prior to the
beginning of such fiscal year shall be
continued in effect until such time
as a new financial plan has been
approved by the board. The budgets
and operations of the city and the
covered organizations at all times shall
be in conformance and compliance with
the financial plan then in effect.

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[f. l. e. After the [initial adoption]
approval of [the] a financial plan,
the revenue estimates prepared by
the board pursuant to paragraph a of
this subdivision and [projections of]
revenues and expenditures and other
estimates contained in the financial
plan shall be [regularly] re-examined
by the board at least quarterly in
consultation with the city and the
covered organizations and the city
shall [provide] prepare and submit
to the board [a modified financial
plan] financial plan modifications
at such times, in such detail and
within such time [periods] periods
as the board may require. [Changes
in such revenue estimates shall be
made only by the board.] In the
event of [reductions in such revenue
estimates, or in the event the city
or a covered organization shall]
[expend funds at a rate that would
exceed the aggregate expenditure
limitation for the city or covered
organization, prior to the expiration
of the fiscal year, the city shall
modify the] submit a financial
plan modification to effect such
reductions in total expenditures
as may be necessary to conform to
such [revised revenue estimates or]
aggregate expenditure limitations.
If I, within a time period specified
by the board,] the city fails to [make such mod-
ifications after reductions in revenue estimates, or to]
provide [a modified financial plan modifications in the
detail and within [such] the time period [required]
specified by the board, the board
may formulate and adopt such
financial plan modifications
as it deems appropriate to ensure
that the financial plan [such]
continues to meet the standards
set forth in subdivision one of
this section. Such modifications
[to] shall become effective on
their adoption. Notwithstanding the
provisions of this section, in the
event the city shall determine that, due to
their adoption, in the event the
city shall determine that, due to
unforeseen events during a fiscal
year, compliance with the standards
set forth in subdivision one of
this section is unfeasible during
the remainder of such fiscal year,
the city shall notify the board
of such determination, together
with such information, projections
or analysis relating thereto as the
board may require, and a modification
to the financial plan reflecting such
determination. The board shall disapprove
any such modification unless it finds that (i)
the city's determination is supported by
information, projections and analysis which
the board deems substantially accurate in
all material respects and (ii) such events, in
its judgment, warrant such modification to the
financial plan.
§19. Subdivision four of section eight of such act is hereby amended to read as follows:

4. [The] Each financial plan shall be in such form and shall contain such information for each year during which the financial plan is in effect as the board may specify, [shall include the city and all the covered organizations,] and shall, in such detail as the board may from time to time prescribe, include [statements] projections of all [estimated] revenues [and of all] expenditures and cash [flow] flows [projections] [including but not limited to] projected capital expenditures and debt issuances of the city and, in such instances as the board may deem appropriate, [each of the covered organizations.]

The financial plan may, with the approval of the board, not include amounts necessary to provide for the payment of debt service on any notes of the city or any covered organization if a moratorium is in effect pursuant to state law suspending or staying the enforcement of rights with respect to such notes.]

In addition, the financial plan shall include a statement of the significant assumptions and methods of estimation used in arriving at the projections contained therein, set forth in such form and in such detail as the board may from time to time prescribe.

§20. Subdivision five of section eight of such act is hereby amended to read as follows:

5. The [financial plan shall, except to the extent waived by the board with respect to any limited period, include] city and the covered organizations shall promptly furnish the board with any information which the board may request to satisfy itself that (i) projected employment levels, collective bargaining agreements and other action relating to employee costs, capital construction and such other matters as the board may specify, are consistent with the provisions made for such [obligations] costs in the financial plan, (ii) the city and the covered organizations are taking whatever action is necessary with respect to programs mandated by state and federal law to ensure that expenditures for such programs are limited to and covered by the expenditures stated in the financial plan, and (iii) adequate reserves are provided to maintain essential programs in the event revenues have been overestimated or expenditures underestimated for any period.

§21. Subdivision six of section eight of such act is hereby amended to read as follows:

6. [The] For each financial plan and financial plan modification to be submitted pursuant to the provisions of this section, the covered organizations shall submit to the city and the board such information with respect to their [proposed] projected expenditures [and], revenues and cash flows for each year [during which the covered by such financial plan or modification is in effect] or the city or the board shall determine [for inclusion in the financial plan proposed by the city]. Notwithstanding any other provision of law limiting the authority of the city with respect to any covered organization, the city, in the preparation and submission of the financial plan and modifications thereof, shall (except for debt service
§22. Section eight of such act is hereby amended by adding thereto a new subdivision, to be subdivision seven, to read as follows:

7. The provisions of this section requiring approval by the board of financial plans and financial plan modifications, or authorizing the board to require or make financial plan modifications, shall apply only during an emergency period.

§23. Section nine of such act is hereby repealed.

§24. Such act is hereby amended by adding thereto a new section, to be section nine, to read as follows:

§9. Establishment and application of a general debt service fund

1. Upon the issuance of any bond following the effective date of this act the city shall establish and thereafter maintain a general debt service fund for the purpose of paying debt service due or becoming due in the ensuing and subsequent fiscal years. After each issuance the city shall pay into such fund on the first day of each and every calendar month from payments made on account of city real estate taxes or assessments or otherwise the amount necessary to establish or restore the fund to an amount equal to the monthly debt service due and payable for the ensuing month, such monthly debt service being the amount (herein sometimes called "monthly debt service requirement") of money equal to the aggregate of (i) all interest payable during such month on all bonds and notes, exclusive of revenue anticipation notes and tax anticipation notes, outstanding on said date of computation, plus (ii) the amount of principal maturing or otherwise coming due during such month on all bonds and required amortization during such month on all notes, exclusive of revenue anticipation notes and tax anticipation notes, outstanding on said date of computation, plus (iii) all amounts payable during such month as a sinking fund payment with respect to any outstanding bonds.

2. All payments of or on account of real estate taxes or assessments, other than the proceeds of tax anticipation notes, shall be immediately disbursed and applied by the city upon receipt in the following order:

FIRST, into the fund, an amount (herein sometimes called "debt service percentage") obtained by dividing the balance obtained by subtracting the total amounts theretofore deposited for the current fiscal year in the fund from the annual debt service for such year by the amount of real estate taxes and assessments estimated to be realized in cash during the remainder of such fiscal year.
For the purposes of this section, annual debt service shall mean the amount of money equal to the aggregate of (i) all interest payable during such fiscal year on all bonds and notes, exclusive of revenue anticipation notes and tax anticipation notes, outstanding on July first of such year, plus (ii) the amount of principal maturing or otherwise coming due during such year on all bonds and required amortization during such year on all notes, exclusive of revenue anticipation notes and tax anticipation notes, outstanding on July first of such year, plus (iii) all amounts payable during such fiscal year as a sinking fund payment with respect to any outstanding bonds;

SECOND, into the tax anticipation note debt service account, to the extent required under subdivision four of this section;

THIRD, into the general fund of the city, the remaining balance, if any.

3. The payment of monthly debt service shall be made, first, from amounts on deposit in the fund.

4. Upon the issuance of any tax anticipation notes following the effective date of this act the city shall establish and shall maintain, if any tax anticipation notes shall be outstanding, a tax anticipation note debt service account within the fund for the purpose of paying the principal of and interest on tax anticipation notes.

5. Commencing on the day when the city determines that the principal of and interest due or to become due on outstanding tax anticipation notes during a fiscal year shall equal ninety per cent (90%) of the available tax levy, as defined in this act, and remaining to be paid to the city on or before the fifth day prior to any principal and/or interest payment date, the city shall pay into the TAN debt service account from collections of such taxes and assessments, after paying amounts required to be deposited in the fund, amounts sufficient to pay when due, the principal of and interest on all such tax anticipation notes issued and then outstanding. The payments of the principal of and interest on tax anticipation notes shall be made, first, from amounts on deposit in the TAN debt service account.

6. Upon the issuance of any revenue anticipation notes following the effective date of this act the city shall establish and shall maintain, if any revenue anticipation notes shall be outstanding, a revenue anticipation note debt service account within the fund for the purpose of paying the principal of and interest on revenue anticipation notes.

7. Commencing on the day when the city determines that the principal of and interest due or to become due on the outstanding revenue anticipation notes issued during a fiscal year shall equal ninety per cent (90%) of the total amount of revenue, against which such notes were issued, remaining to be paid to the city on or before the fifth day prior to any principal and/or interest payment date, the city shall pay into the RAN debt.
1. Service account from amounts received by the city
2. for each specific type of revenue in anticipation
3. of which revenue anticipation notes were issued,
4. an amount sufficient to pay, when due, the principal
5. of and interest on all such revenue anticipation
6. notes issued and then outstanding in anticipation
7. thereof. The payment of the principal of and
8. interest on revenue anticipation notes shall be
9. made first, from amounts on deposit in the RAN
10. debt service account.

11. 8. If the amount contained in the fund, the RAN
12. debt service account or the RAN debt service account
13. exceeds the amount required to be contained in
14. such fund or account pursuant to this section or
15. pursuant to the terms of issuance of any bonds or
16. notes, such excess monies shall be withdrawn from
17. such fund or account and paid into the general fund
18. of the city. Any income or interest earned by,
19. or increment to a fund or account due to the
20. investment thereof shall be transferred to the
21. general fund to the extent it does not reduce the
22. amount of the fund or account below the amount
23. required to be on deposit in such fund or account.

24. 9. The limitations imposed upon the city by this
25. section shall be in addition to any limitations
26. imposed upon municipalities under the local finance
27. law. In the event any provisions of the local
28. finance law shall be inconsistent with the provisions
29. of this act, the provisions of this act shall prevail.

30. § 25. Such act is hereby amended by adding thereto a new
31. section, to be section nine a, to read as follows:

32. 9a. Limitations on short-term borrowing.

33. 1. The limitations on short-term borrowing imposed
34. upon the city by this section shall be in addition
35. to the limitations on short-term borrowing imposed
36. upon municipalities under the local finance law.
37. In the event any provisions of the local finance
38. law shall be inconsistent with the provisions of
39. this act, the provisions of this act shall prevail.
40. For the purposes of this section the terms "bond
41. anticipation notes", "tax anticipation notes"
42. and "revenue anticipation notes" shall not mean
43. one or more of or any of the respective notes held
44. by the municipal assistance corporation for the
45. city of New York.

46. 2a. No tax anticipation notes shall be issued by
47. the city in anticipation of the collection of taxes
48. or assessments levied for a fiscal year which would
49. cause the principal amount of tax anticipation notes
50. outstanding and the interest due or to become due
51. thereon to exceed an amount equal to ninety-five
52. per cent (95%) of the available tax levy
53. as defined in this act.
b. Tax anticipation notes shall mature not later than the last day of the fiscal year in which they were issued, and may be renewed or extended for a period not to exceed one year.

3a. No revenue anticipation note shall be issued by the city in anticipation of the collection of receipt of revenue in a fiscal year which would cause the principal amount of revenue anticipation notes outstanding, together with interest due or to become due thereon, to exceed ninety per cent (90%) of the available revenues for such fiscal year. For purposes of this subdivision, available revenues shall be the revenues other than real estate taxes and assessments which have been estimated in the financial plan to be realized in cash during such year, less revenues previously collected, other than revenues on deposit in the RAS debt service account or any special fund established pursuant to law for the payment of interest and/or principal of revenue anticipation notes.

b. Each issue of revenue anticipation notes shall be issued only in anticipation of the receipt of a specific type or types of revenue and the amount of revenue, the source of revenue and the anticipated date of payment shall be stated in the proceedings authorizing the issuance of such notes.

c. Revenue anticipation notes shall mature not later than the last day of the fiscal year in which they were issued, and may be renewed or extended for a period not to exceed one year.

4a. No bond anticipation note shall be issued by the city in any fiscal year which would cause the principal amount of bond anticipation notes outstanding, together with interest due or to become due thereon, to exceed fifty per cent (50%) of the principal amount of bonds issued by the city in the twelve months immediately preceding the month in which the note is to be issued.

b. The proceeds of each bond issue shall be (i) held in trust for the payment, at maturity, of the principal of and interest on any bond anticipation notes of the city issued in anticipation of such bonds and outstanding at the time of the issuance of such bonds, (ii) paid into the general fund of the city in repayment of any advance made from such fund pursuant to section one hundred sixty-five, ten of the local finance law, and (iii) any balance shall be expended for the object or purpose for which such bonds were issued.

C. Budget notes may be issued pursuant to section twenty-nine, zero zero of the local finance law.

6. The city shall issue no obligations which shall be inconsistent with the financial plan or with the limitations set forth in subdivisions one through five of this section.
§26. Subdivision one of section ten of such act is hereby amended to read as follows:

1. Increases in [salary or wages] the rate or amount of compensation of employees of the city and employees of covered organizations which have taken effect since June thirtieth nineteen hundred seventy-five or which will take effect after that date (including but not limited to wages and wage supplements, increments, differentials, adjustments, step-ups and base, and retirement benefits) pursuant to collective bargaining agreements or other analogous contracts or pursuant to law (including but not limited to recommendations of impasse panels, determinations of the city's board of collective bargaining, determinations of other administrative bodies or judicial orders and judgments confirming, implementing or adopting the recommendations or such impasse panels), arbitration awards and increases pursuant to section two hundred twenty of the labor law which orders or judgments shall not become final without prior certification by the board of the employment terms at issue pursuant to subdivision two of this section now in existence or hereafter issued or entered into and which have not been approved by the board prior to the effective date of this act I, requiring such salary increases as of July first, nineteen hundred seventy-five or as of any date thereafter) are hereby suspended except as provided in subdivision two of this section. [All increased payments for holiday and vacation differentials, shift differentials, salary adjustments according to plan and step-ups or increments for employees of the city and employees of covered organizations which have taken effect since June thirtieth, nineteen hundred seventy-five or which will take effect after that date pursuant to collective bargaining agreements or other analogous contracts requiring such increased payments as of July first, nineteen hundred seventy-five as of any date thereafter are hereby, in the same manner, suspended. For the purposes of computing the pension base on retirement allowances, the suspended (salary or wage) increases in the rate or amount of compensation (and the suspended other payments) shall not be considered as, part of
compensation or final compensation or of
annual salary earned or earnable. The sus-
pensions provided herein shall be effective
[for the first pay period ending on or
subsequent to September first, nineteen
hundred seventy-five and shall continue
until one year thereafter and, to the
extent of any determination of the board
that a continuation of such suspensions,
to a date specified by the board, is
necessary in order to achieve the objec-
tives of the financial plan, such sus-
pensions shall be continued to the date
specified by such board, which date shall
in no event be later than the end of
the emergency period until the date when, based
upon the reports to be delivered by the city to
the board pursuant to this act, the board deter-
mine that the expense budget of the city shall have
been in balance for three consecutive fiscal
years in accordance with generally accepted
accounting principles as the same may be modified
by the board pursuant to subdivision two-a of
section eight of this act.

§27. Subdivision two of section ten of such act

is hereby amended to read as follows:

This section shall not be applicable to
employees of the city or employees of a covered
organization covered by a collective bargaining
agreement or an employee of the city or a
covered organization not covered by a
collective bargaining agreement where the
collective bargaining representative or
such unrepresented employee has agreed to
employment on terms [a deferment of salary
or wage increase, by an instrument in writing
which has been] certified by the [mayor or
before September first, nineteen hundred
seventy-five, or certified by the] board
[after September first, nineteen hundred
seventy-five, as being within the wage and
salary policies which the board may adopt
from time to time] an acceptable and appropriate
contribution toward alleviating the fiscal
crisis of the city]. The board may, if it
finds that the fiscal crisis has been
sufficiently alleviated or for any other
appropriate reason, direct that the suspensions
of [salary or wage increases or suspensions
of other increased payments] increases in
the rate or amount of compensation pursuant
to this section shall, in whole or in part,
be terminated.

§28. Subdivision one of section eleven of such
act is hereby amended to read as follows:

1. During the emergency period (i) no officer
or employee of the city or of any of the
covered organizations shall make or authorize
an obligation or other liability in excess
of the amount available therefor under the
financial plan as then in effect; (ii) no
officer or employee of the city or of any of
the covered organizations shall involve
the city or any of the covered organizations
in any contract or other obligation or
liability for the payment of money for any
purpose required to be approved by the board
unless such contract, obligation or liability
has been so approved or deemed to be approved
as provided in [paragraph] paragraph e and f
of subdivision one of section seven and unless
such contract or obligation or liability is
in compliance with the financial plan as then
in effect.

§29. Section twelve of such act is hereby repealed.

§13. Indemnification

13. The state shall save harmless and
indemnity the members, officers, executive
director and employees of and representa-
tives to the board against any claim,
demand, suit, or judgment arising by reason
of any act or omission to act by such
member, officer, executive director,
employee or representative occurring in
the discharge of his duties and within
the scope of his service on behalf of such board, in the event of any such claim, demand, suit or judgment, a member, officer, executive director, or employee of or representative of the board shall be saved harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he reasonably believed to be in the best interest of such board or not to have had reasonable cause to believe that his conduct was lawful.

17. In connection with any such claim, demand, suit or judgment any member, representative, officer, executive director, or employee of the board shall be entitled to be represented by private counsel of his choice; provided, however, that the attorney general is authorized, as a condition to indemnification for the fees and expense of such representation, to require the appropriate groups of such individuals be represented by the same counsel; and provided further, that with the approval of the attorney general or of a court (obtained by application substantially as provided in section seven hundred twenty-five of the business corporation law) indemnification for such fees and expenses shall be paid from time to time during the pendency of any such claim, demand, suit, judgment or proceeding. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon members, the executive director, representatives, officers, employees and consultants of the board by section seventeen of the public officers law, by action of the board or otherwise. The provisions of this subdivision shall inure only to members, representatives, the executive director and employees of the board, shall not enlarge or diminish the rights of any other party, and shall not impair limit or modify the rights and obligation of any insurer under any policy of insurance.
§31. Such act is hereby amended by adding thereto, a new section, to be section fourteen, to read as follows:

§14. Termination

The existence of the board shall terminate on July first nineteen hundred ninety-seven.

§32. This act shall take effect immediately.
6. "Board" means the governmental agency created by section five of this act.

7. "Special deputy controller" means the special deputy controller for the city of New York created by section forty-one of the executive law.

8. "Municipal assistance corporation for the city of New York" means the corporate governmental agency created by section three thousand thirty-three of the public authorities law.


10. "Revenues" mean all taxes, federal and state aid, rents, fees, charges, payments, all proceeds from borrowings and other income and receipts paid or payable to or for the account of the city or any of the covered organizations.

11. "Financial plan" means the financial plan of the city and the covered organizations to be developed pursuant to section eight of this act; as from time to time modified.

12. "Emergency period" means the period of time from the effective date of this act until the date when the board determines that the expense budget of the city shall have been in balance for one fiscal year in accordance with the accounting methods prescribed for such budget by the state comptroller pursuant to subdivision two of section three thousand thirty-three of the public authorities law, there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal of or interest on any note or bond issued with the city or a state financing agency, and if the board shall determine, based on annual audit reports furnished in accordance with section seven-a, that the expense budget of the city has been in balance in accordance with generally accepted accounting principles (subject to any modification as shall be approved by the board pursuant to the provisions of subdivision one of this section eight) for each of the three immediately preceding fiscal years. After termination of the emergency period in accordance with the foregoing provisions and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency which are entitled to the benefits of the pledge and agreement authorized by section ten hereof, the board shall reimburse an emergency period upon a determination of any time that any of the following events has occurred and that there is a substantial likelihood of such occurrence: (i) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable, (ii) the city shall have incurred an expense budget deficit of more than one hundred million dollars, (iii) the city shall have issued notes in violation of section nine of this act as amended from time to time, (iv) the city shall have otherwise violated any provision of this act and such violation substantially impairs the ability of the city to pay principal of or interest on its bonds or notes when due and payable or its ability to adopt or maintain a balanced expense budget. Any such reimbursed emergency period shall continue until the board shall determine that no circumstances warranting the reimposition of the emergency period exists. After termination of an emergency period the board shall annually consider items (i) through (iv) above and determine whether, in its judgment, any of the events described in such items have occurred. Notwithstanding any part of the foregoing to the contrary, in no event shall any emergency period continue beyond July first, two thousand eight, or when all bonds and notes containing the pledge and agreement authorized by section ten-e of this act are refunded, redeemed, discharged or otherwise defeased.

13. "Debt service repayment account" means the special account established pursuant to subdivision four of section nine of this act.

14. "Fund" means the general debt service fund established pursuant to section nine of this act.

15. "Board fund" means the emergency financial control board fund established pursuant to section nine of this act.

16. "TAN debt service account" means the tax anticipation note debt service account established within the fund pursuant to section nine-a of this act.
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21. "Control period" means the period of time from the effective date of this act until the date when (a) the emergency period as defined in subdivision twelve of this section terminates, and (b) there shall no longer be effective or outstanding any guarantee by the United States of America as to payment of principal or interest on any note or bond issued by the city or a state financing agency. After termination of the initial control period in accordance with the foregoing provisions and until there shall no longer be outstanding any notes or bonds issued by the city or a state financing agency which are entitled to the benefits of the pledge and agreement authorized by section ten-a of this act, the board shall reimpose a control period upon determination at any time that any of the following events has occurred or that there is a substantial likelihood of such occurrence: (i) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable, (ii) the city shall have incurred an expense budget deficit of more than one hundred million dollars, (iii) the city shall have issued notes in violation of section nine-b of this act as amended from time to time, or (iv) the city shall have otherwise violated any provision of this act and such violation substantially impairs the ability of the city to pay principal or interest on its bonds or notes when due and payable or its ability to adopt or maintain a balanced expense budget. Any such reimposed control
3. The members of the board appointed by the governor and all representatives designated by 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 under this act, provided however that such members and representatives are not, at the same time, expenses are incurred, public employees otherwise entitled to such reimbursement.

d. The governor and the mayor, jointly, shall appoint an executive director of the board who shall serve at the pleasure of the board and may be removed by the board. The board may delegate to the executive director or to one or more of its other officers, employees or agents, such powers and duties as the board may deem proper, except any duties inconsistent with the duties and functions prescribed by any other office or position any such person may hold.

§ 7. Functions of the board.
1. In furthering the purposes of this act, the board shall perform the following functions:

b. As set forth in section six, the board shall determine in connection with the development of the financial plan submitted pursuant to the procedure set forth in connection with the city and the covered organizations in the preparation of the financial plan, the following:

- The revenue estimates contained therein;
- The form of the financial plan and the supporting information required in connection therewith; and
- Exercise the rights of approval, disapproval, and modification with respect to the financial plan, including without limitation the revenue estimates contained therein.

c. The board shall, from time to time and to the extent it deems necessary or desirable in order to accomplish the purposes of this act, establish and adopt procedures with respect to (i) the operation, maintenance, and administration of the board fund, the fund, the TAN debt service account and the RAN debt service account, (ii) the deposit and investment of revenues of the city and the covered organizations in the funds in such funds and accounts and (iii) disbursement of monies from the funds such funds and accounts.

d. The board shall, from time to time and to the extent it deems necessary or desirable in order to accomplish the purposes of this act:

- (i) Review the operations, management, efficiency, and productivity of such city operations and of such covered organizations or portions thereof as the board may determine; and make reports thereon;
- Audit compliance with the financial plan in such areas of the board as the board may determine; and (iii) recommend to the city and the covered organizations such measures relating to their operations, management, efficiency, and productivity as it deems appropriate to reduce costs and improve services so as to advance the purposes of this act and (iv) obtain information of the financial condition and needs of the city and the covered organizations. Nothing herein shall diminish the powers of the comptroller otherwise provided by law and the board may request the assistance of the comptroller in performing the above functions.

e. The board (i) shall receive from the city and the covered organizations statements and from the special deputy comptroller, and shall review such financial statements and projections, budgetary data and information, and management reports and materials as the board deems necessary or desirable to accomplish the purposes of this act; (ii) inspect, copy and audit such books and records of the city and the covered organizations as the board deems necessary or desirable to accomplish the purposes of this act.
(e) Any party to a proceeding before the board of collective bargaining as described in paragraph (b) or other body as described in paragraphs (c) or (d) hereof may commence a special proceeding in the appellate division, first department, supreme court, state of New York, to review the threshold determination as to the city and or covered organization's financial ability to pay. Such proceeding shall be commenced not later than thirty days after the final determination has been made by the board of collective bargaining in the case of paragraph (b) or other body in the case of paragraphs (c) or (d). Such proceeding shall have preference over all other causes in such appellate division, other than causes relating to the election law.

(f) The court shall make a de novo review of the record sole for the purpose of determining whether an award of an increase in wages or fringe benefits was within the city and or covered organization's financial ability to pay. The court's findings as to such issue shall be based upon a preponderance of all the evidence set forth in the record. Unless the parties stipulate otherwise, arguments or submission shall be had within fifteen days after commencement of the special proceeding and the court shall render its decision within fifteen days thereafter. All questions other than the question relating to the threshold determination shall be reviewed by the appellate division in the same proceeding in the manner provided by articles seventy-five or seventy-eight of the civil practice law and rules as may be appropriate, notwithstanding that the issue would otherwise have been cognizable in the first instance before a special or trial term of the supreme court. If an appeal shall otherwise be from such determination of the appellate division to the court of appeals, notices of such appeal shall be filed within thirty days after the entry of the final order or judgment of the appellate division if such appeal is of right or within ten days after entry of an order granting leave to appeal and such appeal shall have preference over all other appeals other than appeals relating to the election law.

(g) At any stage of any proceeding under paragraphs (a), (b), (c), (d) and (e) hereof or any appeal from an order or judgment therefrom, the board may intervene as a party on the issue of the financial ability of the city and or covered organization to pay the cost of an increase in wages or fringe benefits.

(h) For the purposes of this subdivision, financial ability to pay shall mean the financial ability of the city and or covered organization to pay the cost of any increase in wages or fringe benefits without increasing an increase in the level of city taxes existing at the time of the commencement of a proceeding under paragraph (a), (b) or (d) hereof.

(i) The provisions of this subdivision shall terminate on December thirty-first, nineteen hundred eighty-two.
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modified financial modifications at any periodic charges, or to declared the enterprise, and for in the event that the city shall, for any reason, fail to submit a financial plan as required provisions for the submission or to adopt a financial plan, in the event that the board is effective by October Thirtieth, inclusive and shall be in accordance and agreement with the financial plan prior to the beginning of a fiscal year. As provided in paragraph e of this subsection. In the event that the board has not, for any reason, submitted a financial plan to the extent that the board has not, prior to the beginning of a fiscal year, the board shall formulate and adopt a financial plan submitted to be effective until the board approves a financial plan submitted to the city. Any financial plan so formulated by the board shall comply with the standards set forth in subdivision one of this section. The plan shall state the purposes and objectives of the city and the covered organizations at all times, in which the city and the covered organizations at all times shall be in conformance and compliance with the financial plan then in effect.

6. After the initial adoption by the city, or the approval of the board during an emergency period as the case may be, the financial plan, the procedural or technical plan, the financial plan adopted by the board pursuant to paragraph e of this subdivision and the financial plan submitted by the city shall be regularly reviewed by the board at least quarterly in consultation with the city and the covered organizations and during an emergency period the city shall provide a financial plan. Changes or additions in text are indicated by underline.
modified financial plan prepare and submit to the board financial plan modifications at such times, in such detail and within such time periods as the board may require in order to modify the financial plan to conform to the standards set forth in subdivision one of this section.

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such modifications in the event of reductions in such revenue estimates as in the event the board determines that (i) revenue estimates must be adjusted to ensure compliance with the standards set forth in subdivision one of this section, or (ii) that the city or any covered organization should increase in spending funds at a rate that would result in excess expenditures to exceed the aggregate expenditure limitation for the city or any covered organization provided for in the financial plan which has been approved, prior to the expiration of the fiscal year, the city shall modify the financial plan modification to reflect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such revised revenue estimates or standards or aggregate expenditure limitations. If, within a time period specified by the board, during the emergency period the city fails to make such modification after reductions in revenue estimates, or to provide a modified financial plan modification in the detail and within the time period required specified by the board, or if such modification is disapproved by the board, the board may formulate and adopt such modifications to the financial plan modification as it deems appropriate to ensure that the financial plan, such modifications to continue to meet the standards set forth in subdivision one of this section. Such modification shall become effective on the date of adoption. Notwithstanding the provisions of this section, in the event the city shall determine that due to unforeseen events during a fiscal year, compliance with the standards set forth in paragraph a of subdivision one of this section would result in a material adverse impact upon the delivery of essential services, the city shall notify the board of such determination together with such information, projections or analyses relating thereto as the board may require, and shall submit a modification to the financial plan reflecting such determination. During the emergency period the board shall disapprove any such modification unless it finds that (i) the city’s determination is supported by information, projections and analyses which the board deems substantially accurate in all material respects and (ii) such events, in its judgment, warrant such modification to the financial plan.

2. The city may, from time to time, modify the expenditures provided in the financial plan, subject to the approval of the board. The city shall submit financial plan modifications for review by the board. During the emergency period, the board shall approve such modifications unless, in the judgment of the board, it determines that such modifications would constitute grounds for disapproval of the financial plan pursuant to paragraph c of this subdivision, or if applicable, pursuant to paragraph e of this subdivision.

4. Anything contained in this act to the contrary notwithstanding, during the emergency period, the board may at any time disapprove or delay, subject to its judgment, to avoid such adverse impact on the delivery of essential services.
§ 10. Wage Stabilization

1. Increases in salary or wages of employees of the city and employees of covered organizations, which have taken effect since June thirtieth, nineteen hundred seventy-five or which will take effect after that date pursuant to collective bargaining agreements or other analogous contracts, now in existence or hereafter entered into, requiring such salary increases as of June first, nineteen hundred seventy-five or as of any date thereafter are hereby suspended. All increased payments for holidays, overtime, vacation, and retirement, differential, shift, seniority, and other payments, adjustments according to plan and step-ups or increments for employees of the city and employees of covered organizations, which have taken effect since June thirtieth, nineteen hundred seventy-five or which will take effect after that date pursuant to collective bargaining agreements or other analogous contracts, are hereby suspended. For purposes of computing the pension base of retirement allowances, the increased salary or wages and the increased payments shall not be considered as part of compensation or final compensation or of annual salary earned or variable. The suspensions provided herein shall be effective for the first period ending on or subsequent to September first, nineteen hundred seventy-five and shall continue until one year thereafter and, to the extent of any determination of the board that a continuation of such suspensions, as a standard, is necessary in order to achieve the objectives of the financial plan, such suspensions shall be continued to the date specified by such board, which date shall in no event be later than the end of the emergency period.

2. This section shall not be applicable to employees of the city or employees of a covered organization covered by a collective bargaining agreement or an employee of the city or a covered organization not covered by a collective bargaining agreement where the collective bargaining representative or such unrepresented employees and employees have agreed to a deferral of salary or wages increase, by an instrument in writing which has been certified by the mayor on or before September first, nineteen hundred seventy-five, or certified by the board after September first, nineteen hundred seventy-five as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the city. The board may, if it finds that the fiscal crisis has substantially alleviated or for any other appropriate reason, determine that the suspensions of salary or wages increases or suspensions of other increased payments shall, in whole or in part, be terminated.

3. The provisions of this section shall terminate on July first, nineteen hundred seventy-six.

§ 10-a. Covenants. 1. In the event that the date on which the provisions of this act become operative, any notes or bonds are issued by the city or the city and the first thirteen hundred thirty-two, or any bond, is issued by a state financing agency, the state of New York, as authorized by the city and as provided by any state financing agency, to include a pledge and agreement of the state of New York in any agreement made by the city or such state financing agency with holders or warrantors of such notes and bonds that the city will not take any action which will (a) substantially impair the payment of the debt service on any such notes or bonds, (b) in any manner, have an adverse effect on the credit or financial condition of the city or its ability to pay the debt service on any such notes or bonds, (c) require the city to make any payments on any such notes or bonds, (d) substantially impair the authority of the city to control the financial plan, (e) substantially impair the authority of the city to make financial plan modifications, contracts of the city or the covered organization, and proposals and long-term borrowings of the city, or the covered organization, and (f) substantially impair the independent operations of the city or the covered organization, or (g) substantially impair the independent maintenance of a separate fund for the payment of debt services on any such notes or bonds, or (h) alter the composition of the board, so that the majority of the voting members of the board are not officials of the city or of any state or of any political subdivision thereof, or (i) alter the composition of the board prior to the time to be determined in accordance with section thirteen of this act as in effect on the date such notes or bonds are issued:

(1) substantially modify the requirement that the city's financial statements be audited by a nationally recognized independent certified public accounting firm or consortium of firms and that a report on such audit be furnished to the board, or

(2) after the termination of emergency period set forth in subdivision...
issued, or substantially alter the authority of the board, as set forth in 

any control

provisions of the United States constitution.

§ 11. Prohibitions, Penalties

1. During the control period, if no officer or employee of the city or of any of the covered organizations shall make or authorize any obligation or other liability in excess of the amount available therefor under the financial plan as then in effect; (ii) no officer or employee of the city or of any of the covered organizations shall violate the city or of any of the covered organizations in any contract of other obligation or liability for the payment of money for any purpose required to be approved by the board unless such contract, obligation or liability has been so approved or deemed to be approved as provided in paragraphs e, f, g, and h of subdivision one of section seven, and unless such contract or obligation or liability is in compliance with the financial plan as then in effect.

2. No officer or employee of the city or of any of the covered organizations shall take any action in violation of any valid order of the board or shall fail or refuse to take any action required by any such order. In the event of any action taken or not taken that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the board or its agents thereof. Any officer or employee of the city or of any of the covered organizations who shall violate subdivision one or two of this section shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of the governor or the mayor, and any officer or employee of the city or of any of the covered organizations who shall knowingly and wilfully violate subdivision one or two of this section shall, upon conviction, be guilty of a misdemeanor.

4. In the case of a violation of subdivision one or two of this section by an officer or employee of the city or of any of the covered organizations, the mayor or the chief executive officer of such covered organization shall immediately report to the board all pertinent facts together with a statement of the action taken thereon.
April 24, 1978

BY HAND

James Greilsheimer, Esq.
Corporation Counsel
The City of New York
Law Department, Room 1656
Municipal Building
New York, New York 10007

Re: Proposed legislation

Dear Jim:

Paul Hopkins told me of his conversation with you on Friday in which you asked to see the draft of the legislative findings and declarations that we have developed to date. I enclose a copy of the draft which is in rough form.

There are several places in the draft that need further elaboration and documentation with financial information. For example, I have asked Mark Shernicoff to prepare an analysis of how the City's operating expenses and other financial obligations from previous years have been and will continue to be met. Such an analysis hopefully will show that the only portion which still requires a long-term solution for its elimination is the $800 million State advance.

We would also like to see additional financial information to document the components of the City's annual cash flow needs. The City's four-year financial plan submitted to the federal government on January 20 contains information along these lines for fiscal year 1979. We propose to sit down with Mark Shernicoff to review these
figures as they may apply to future fiscal years. Finally, as we explained at our meeting a week ago Friday, the findings also should demonstrate that all of the bondable expenditures that remain unfinanced through February 28, 1978 and that will remain after the $700 million bond sales in May and June will not leave sufficient authority to reimburse the treasury for the $800 million represented by the State advance. This may require a discussion of why the Mitchell-Lama bonding authority, the major portion of which has BANs held by MAC that must be redeemed, cannot be used for this purpose.

Sincerely,

Melvin L. Schweitzer

Enclosure

cc: Paul M. Hopkins, Esq.
§ 1. Legislative findings and declarations.

It is hereby found and declared that a financial emergency and an emergency period continue to exist in the City of New York.

In the fall of 1975, New York City was unable to market its obligations to the public and was faced with the possibility of imminent default on its outstanding notes and the inability to maintain essential services. A program was then developed which was intended to provide New York City with sufficient cash resources to meet its needs through the end of its fiscal year ending June 30, 1978, to eliminate the causes of the crisis and to restore the City to financial health.

City pension funds, municipal employees, the taxpayers, the State of New York, the United States and the financial community participated in the implementation of the financial recovery plan. However, the actions and decisions taken since the fall of 1975 have been insufficient for the City to regain access to the public market.
For many years the City has financed by borrowing all of its true capital projects, other capital outlay items, and many expense type programs permitted to be so financed under the Local Finance Law. The Municipal Assistance Corporation of the City of New York Act (MAC Act) enacted in 1975 mandated that the City eliminate from its capital budget, on a phased basis over a ten year period at the cumulative rate of ten percent per annum, beginning with the fiscal year of the City ending March 31, those expenses that are properly includable only in its expense budget under the Uniform System of Accounts for Municipalities as modified by the State Comptroller in consultation with the City Comptroller. The City has pledged to eliminate all expense items from its capital budget beginning with its fiscal year ending June 30, 1982, thereby terminating the permissible phase-out period provided in the MAC Act three full years ahead of schedule. The City will include such expense items in its capital budgets for fiscal years 1979, 1980 and 1981 as permitted by the MAC Act and plans to sell bonds to finance such expense items during such fiscal years as permitted by the MAC Act.
The City's seasonal cash needs arise because of an imbalance between the City's cash inflow and expenditures during the fiscal year. As permitted by State law, the City has advanced funds for certain items in its capital budget prior to the realization of proceeds from planned sales of bonds or bond anticipation notes. As of June 30, 1975, at a time when the City was unable to market its obligations to the public, $\$ billion of advanced funds for capital expenditures were outstanding and unfinanced. As of June 30, 1977, $1.393 billion of advances were outstanding and unfinanced. As of February 28, 1978, the amount had increased to $\$ billion. The City projects that the amount will rise to $\$ billion by June 30, 1978. The Corporation Counsel of the City has advised that under current interpretations of applicable laws and court decisions, notwithstanding the permitted phase-out financing program, reimbursement cannot be obtained by the sale of serial bonds to finance certain of the expense items for which the sale of bonds had been contemplated by the City. Of the $\$ billion of unfinanced expenditures on the City's books as of February 28, 1978, the Corporation Counsel has advised
that reimbursement cannot be obtained as to $800 million of these expenditures.

To assist the City in meeting its cash needs, the State has provided the City with $800 million in advances in the first quarters of each of the 1975-76, 1976-77 and 1977-78 fiscal years of the State. In 1975-76 the $800 million advance was provided by prepaying specific types of State aid. In 1976-77 the advance was made from first instance appropriations, with the advance repaid by withholding funds from normal Local Assistance Fund payments to the City and crediting these funds as reimbursement of the advance. In 1977-78 the advance was made from

This annual $800 million State advance is a result of the financial crisis of the City and represents a working capital shortage of the City which has existed and continues to exist since the time of the first advance.

On June 30, 1978 the federal New York City Seasonal Financing Act of 1975, pursuant to which the federal government has made loans to the City to assist the City in meeting seasonal financing needs that arise from differences in timing between the making of expenditures and the receipt
of revenues, will expire. The Secretary of the Treasury has stated that the City can meet all of its seasonal financing needs beginning in its 1979 fiscal year without resort to borrowing from the United States Treasury.

The City estimates its seasonal financing needs for fiscal year 1979 to be approximately $1.8 billion. The City will be required to find a source for its seasonal financing needs to replace the funds previously available to it under its credit agreement with the federal government. The City's efforts to meet its seasonal financing needs on its own in the public market will be seriously hampered as long as it must rely, in part, on the $800 million State advance. The timing of the advance and its method of repayment increases by $800 million the peak seasonal borrowing requirements of both the City and the State. The $800 million State advance also eliminates a flow of State revenues to the City which otherwise could serve as a predicate for any revenue anticipation note offerings by the City to finance seasonal needs. The $800 million State advance requires the State itself to obtain the $800 million by borrowing in the public market which, when added to the State's spring borrowing of $4 billion for its own needs, so saturates the public market as to preclude the
City from entering with its own seasonal offerings.

Elimination of the $800 million State advance without substituting another source of $800 million will result in the bankruptcy of the City because the City will be unable to meet its seasonal cash needs. Therefore, the City's current financial cash position requires the elimination of the $800 million State advance by substituting a permanent source of $800 million to reimburse the City's general fund.

The purpose of enabling the City to reimburse its general fund by selling bonds to finance the $805 million expenditures for which the Corporation Counsel of the City has advised that reimbursement cannot be obtained with proceeds from the sale of bonds will eliminate the necessity for the State advance. For each of the next three succeeding fiscal years of the City, the State advance will be reduced and ultimately eliminated by the amount of bonds sold pursuant to this authority.

Enabling the City to reimburse its general fund by selling bonds to finance the $805 million expenditures for which the Corporation Counsel of the City has advised
that reimbursement cannot be obtained with proceeds from the
sale of bonds will not increase the amount of expense items
which the City is permitted to include in its capital bud-
gets. The $800 million expenditures covered by the Corpora-
tion Counsel's opinion are comprised of expense items pre-
viously permitted to be included in capital budgets of the
City pursuant to the phase-out provisions of the HAC Act.

The City, together with the State and federal
government, have developed a program to reduce the City's
seasonal borrowing needs by (i) the City accelerating col-
lection of real estate taxes within its fiscal year by
changing its quarterly tax payment dates, (ii) the State
changing its current practice of paying State aid for
health, mental health and the City University only
after the City has made related expenditures, (iii) the State
modifying its current practice of advancing State aid for
public assistance and Medicaid so that 100% is advanced on
a monthly basis instead of 80%, and (iv) the federal govern-
ment modifying its current procedures for making federal
revenue sharing payments so that they are made monthly
rather than after the end of each quarter.
The aforementioned program developed by New York City, the State and federal governments, if added to the elimination of the $800 million State advance, can reduce the City's peak seasonal borrowing needs by the City's fiscal year ending June 30, 1982 from approximately $1.8 billion to approximately $400 million.

Reduction of the City's seasonal borrowing needs to a level of $400 million, while at the same time freeing up a flow of State revenues to serve as a predicate for seasonal borrowing by the City will, in conjunction with other fiscal measures to be adopted by the City, enable the City to meet all of its seasonal borrowing needs in the public market on its own by the City's fiscal year ending June 30, 1982.

The City has made a commitment to the State that it will seek no similar legislation to give it additional authority to sell bonds to finance such expenditures that have been or will be incurred. The fiscal measures embodied in the program developed by the City, State and federal governments to restore the City to sound financial health provide a
sufficient basis to bring the emergency period to an end.

To bring the continuing emergency under control and the emergency period to an end, and to respond to the overriding State concern, the State must continue to undertake an extraordinary exercise of its police and emergency powers under the State Constitution. Without remedial legislation the City will lack sufficient authority to finance its cash needs. The objective is to insure the continuity of governmental operations in the City and to provide the means by which the present emergency can in time be overcome so that the City is restored to financial health and so that intervention by the State finally can be brought to an end.
AN ACT in relation to the finances of the City of New York with respect to a specified object or purpose for which certain obligations may be issued by such city and the period of probable usefulness of such object or purpose

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

Section 1 Notwithstanding the provisions or limitations of any other law, general, special or local the city of New York is hereby authorized and empowered from time to time but prior to June thirtieth, nineteen hundred eighty-one, to issue its serial bonds in an aggregate principal amount not to exceed eight hundred million dollars for the purpose of obtaining reimbursement to the city's general fund for monies advanced and expended for various items included within the capital budgets of the city during its nineteen hundred seventy-six, nineteen hundred seventy-seven and nineteen hundred seventy-eight fiscal years which monies (i) represent expenditures for expense items permitted to be included in the capital budgets of the city in accordance with section three thousand and thirty-eight of the public authorities law, (ii) remain on the books
of the city as unfinanced expenditures as of June thirtieth, nineteen hundred and seventy-eight and (iii) the comptroller of the city shall have certified as having been advised by the corporation counsel of the city that under current interpretations of applicable laws and court decisions, reimbursement cannot be obtained other than through the sale of serial bonds pursuant to this section. In anticipation of the issuance of such serial bonds the city is authorized and empowered to issue bond anticipation notes.

§ 2 Such bonds and bond anticipation notes issued in anticipation thereof shall be authorized, executed, issued, sold and delivered in the manner provided by the local finance law for the issuance of serial bonds and bond anticipation notes subject to the conditions hereto set forth.

§ 3 It is hereby determined and declared that the object or purpose described above is a specific object or purpose of the city of New York for which indebtedness may be incurred. The period of probable usefulness is hereby determined to be twenty years, computed from the date of such bonds or from the date of the first bond anticipation note issued in
anticipation of such sale of such bonds whichever date is earlier. Such bonds or bond anticipation notes shall be general obligations of the city of New York and said city shall make an annual appropriation sufficient to pay the principal of and interest on such bonds and the interest on such bond anticipation notes as the same shall become due. All other proceedings in connection with the issuance of such bonds or bond anticipation notes shall be had and taken in accordance with the provisions of the local finance law and the provisions of § 107.00 of the local finance law shall not be applicable to the issuance of such bonds or bond anticipation notes with respect to any requirements for a down payment. The proceeds of such bonds or bond anticipation notes shall become part of the general fund of the city of New York and may be expended for any purpose for which monies in the general fund may be expended.

§ 4 This act shall take effect immediately.
### Program of Fiscal Controls

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I. The Fiscal Monitor

State legislation will establish a fiscal monitor to oversee the City's financial affairs. The objective of this legislation will be to restore the City's credit, to protect its economic base, and to enhance the City's ability to provide essential services, by ensuring that the City observes appropriate fiscal disciplines. The monitor's powers will be sufficient for it to enforce the fiscal discipline set forth in the Legislation. Further, the City will be authorized to make covenants with its bondholders to observe these fiscal disciplines, and the monitor will act on behalf of bondholders to see that any such covenants are kept.

The monitor will be a board with seven members: the Governor, the Mayor, the City Comptroller, the State Comptroller, and three private members selected by the Governor; the Chairman will be appointed by the Governor. The members may engage a professional staff as required to assist them in performing their functions; the staff will be headed by an Executive Director jointly selected by the Governor and the Mayor. In addition, there will be a Special Deputy Comptroller, whose office will assist the State Comptroller and the monitor in evaluating the City's financial status.

The monitor will commence its functions on July 1, 1978.
The monitor's approval powers over City financial transactions will provisionally terminate when independent audits show that the City's budget has been balanced for three consecutive years in accordance with generally accepted accounting principles (except as noted below; see "Balanced Budget"). However, if there is a budget deficit of more than $100 million in a fiscal year after such provisional termination, the monitor may resume its approval powers over City financial transactions until the budget has again been balanced for three consecutive fiscal years.

The monitor will be responsible for determining whether the City is in compliance with legislative requirements with regard to planned expenditures, contracts, collective bargaining agreements and borrowings, as outlined below:

A. Review of Budget, Cash Flow Plan and Four-Year Plan

At least sixty days prior to the beginning of a fiscal year the City will submit to the monitor for review:

(a) a Financial Plan for the new fiscal year and the three succeeding fiscal years, showing estimated revenues and expenses;

(b) a month-by-month Cash Flow Plan for the new fiscal year, showing sources and uses of cash by major category (including capital expenditures and all planned borrowings), and annual cash flows by major category for each succeeding fiscal year;
(c) a balanced Executive Expense Budget for the new fiscal year.
The monitor will review these documents to ascertain that the Plan is properly balanced, that adequate provision is made for all mandated costs (including costs incurred under contracts) and that the City will be able to operate at all times within available sources of cash. The monitor will be required to disapprove any Financial Plan estimate if, in its opinion, the City has not demonstrated that the estimate can be supported by the use of reasonable and appropriate assumptions and methods of estimation. The monitor will be required to disapprove any cash source in the Cash Flow Plan if in its opinion realization of such cash source is not reasonably feasible.

The City will be prohibited from making any expenditures inconsistent with a Financial Plan approved by the monitor.

All items in the Financial Plan and Cash Flow Plan which are not disapproved by the monitor within ten days before the beginning of the new fiscal year will be deemed approved. All major modifications of the Financial Plan and Cash Flow Plan must be submitted to the monitor for review and approval. The monitor could disapprove any modification that would (a) cause the Financial Plan to become unbalanced or (b) cause the Cash Flow Plan to be infeasible. If the monitor fails to act upon a modification within ten days of receipt, the modification will become effective without further action by the monitor.
The monitor would conduct quarterly reviews of the Financial Plan and Cash Flow Plan, and any additional reviews it deems appropriate. The monitor may require the City to modify Financial Plan estimates during the fiscal year if, in its opinion, such estimates can no longer be supported by reasonable assumptions and methods of estimation. If by reason of the monitor's disapproval of any estimate the Financial Plan is out of balance, the monitor may order the City to reduce its aggregate expenditures to the level of the revenues applicable thereto. The monitor would have standing in court to seek enforcement of such orders, and in any such proceeding the City would bear the burden of showing that the monitor's order is unreasonable.

B. Review of Contracts

Within ten days of executing a major contract (as defined by the monitor) the City will be required to submit it to the monitor, together with a certificate setting forth (a) the cost of the contract during the current fiscal year and in subsequent fiscal years, (b) the source of funds to pay such costs during the current year and (c) the impact of such costs on the Financial Plan.

After receipt of any major contract, the monitor will review the City's estimate of its cost and the sufficiency of the stated source of funds to pay such cost. In reviewing the City's contract cost estimates, the monitor will apply the same standard it uses for Financial Plan estimates: it will determine whether the estimates can be supported by the use of reasonable and appropriate assumptions and methods of
estimation. The monitor may order the City to modify its Financial Plan to take into account the cost, as determined by the monitor, of any such contract.

No major contract will be binding or effective until the monitor determines its cost. If the monitor makes no such determination within ten days after receipt of a contract, the contract will become binding and effective without further action by the monitor.

C. Collective Bargaining Agreements

The "wage freeze" established by the Financial Emergency Act will be continued. The monitor's prior approval will be required before payment of any increased compensation to employees of the City or covered organizations pursuant to (a) collective bargaining agreements, (b) determinations made pursuant to Section 226 of the Labor Law, or (c) awards or determinations made by arbitrators or impasse panels. All such collective bargaining agreements will be submitted to the monitor for approval in accordance with the contract review procedures outlined above.

D. Review and Certification of Borrowing

The City will not be authorized to issue any bonds or notes without the prior approval of the monitor.

Prior to the issuance of any bonds or notes by the City, the monitor will review the proposed borrowing to determine whether (a) it is consistent with the City's Cash Flow Plan and (b) in the case of notes, that it is within the short-term debt limits discussed below.

Upon approval of any borrowing by the City the monitor shall issue a certificate stating (a) that it has approved such borrowing, (b) that it has conducted all required reviews of the City's
Budget, Financial Plan, Cash Flow Plan, contracts and borrowing and (c) that the City is in substantial compliance with all orders of the monitor having a material bearing on the current status of the Budget, Financial Plan and Cash Flow Plan.

E. Covered Organizations

The monitor will review Financial Plans, major contracts, collective bargaining agreements and borrowings of covered organizations in accordance with the procedures applicable to the City. All such items, together with any required certificates, will be submitted to the City by the covered organization for review. The City will submit such items to the monitor, together with a statement that the City's review indicates that the required certificates of the covered organization are complete and accurate.

F. General Powers of the Monitor

The monitor will have the right to request copies of or access to any material or information necessary for it to perform its functions, including but not limited to all financial records of the City. The City will transmit to the monitor all financial reports referred to below and all opinions and reports furnished to the City by its independent public accountant.

The monitor will have the power to issue any orders necessary to carry out its functions. City and covered organization officials will be expressly prohibited from making any expenditures inconsistent with a Financial Plan, or a modification
thereof, duly submitted to the monitor for review; and they will be required to comply promptly with all duly issued orders of the monitor. The monitor may proceed to have its orders enforced by a judge designated by the Appellate Division, First Department; in any such proceeding the City would bear the burden of showing that the monitor's order is unreasonable.

To the extent that the City covenants with its bondholders to observe the fiscal disciplines discussed below, bondholders will have the right to sue to compel the monitor to perform its functions.

II. Balanced Budget

The City will be required to prepare and adopt a balanced Expense Budget prior to the beginning of each fiscal year. The revenue and expense estimates in the Budget must be based on reasonable assumptions and reasonable and appropriate methods of estimation. Expenditure estimates must fully provide for (a) debt service, (b) any estimated deficit for the prior year, and (c) all other expenses required by contract or State or Federal Law. The Financial Plan must be consistent in all respects with the Budget.
The Budget will be balanced in accordance with generally accepted accounting principles (GAAP), except that (a) in fiscal years 1979, 1980 and 1981, expense items may be included in the City's Capital Budget; and (b) the City will budget its pension contributions on a cash basis. The monitor may authorize a partial deferral or phase-in of new GAAP requirements (those not determined to date) if in its judgment such a deferral or phase-in is warranted by the City's overall financial condition.

The Executive Expense Budget will be delivered to the fiscal monitor at least sixty days prior to the beginning of the fiscal year, together with a Financial Plan. They will be accompanied by a statement of the significant assumption used in making the revenue and expense estimates in the Budget and Plan and the methods of estimation used for major items or categories of revenues and expenses; the Mayor will certify that such assumptions and methods of estimation are reasonable and appropriate, and that operation within the Budget and Plan is feasible. Further detailed descriptions of how particular estimates are derived will be supplied promptly upon the monitor's request therefor. Estimates made by the City will have to be supportable on any of the following bases:

(a) reliable and objective information including demonstrable trends or data obtained from acceptable
techniques or systems of sufficient quality so as not to produce information that is speculative;

(b) changes in planned performance or in policy from current operations as evidenced by actions taken, authorized to be taken or demonstrable facts including increases or decreases in expenditures or revenues;

(c) law (including but not limited to federal, state or local laws and encompassing the statutory provisions, appropriations and percentage applicable);

(d) anticipated law (including but not limited to reenactment or enactment of a federal or state law) provided that there is a reasonable basis (including but not limited to precedent) for assuming the effectiveness of such law and its mandate with respect to expenditures during the fiscal year or its funding with respect to revenues during the fiscal year when required;

(e) presumed continuation of programs, purposes, functions and activities and the contracts related thereto and all sources of funding generally at current levels unless any of the foregoing reasons provide a basis for assuming either increased or decreased levels of expenditures or revenues.
The City will generally be required to maintain a balanced budget and Financial Plan during the fiscal year. Any major modification of the Financial Plan (as defined by the monitor) will be submitted to the monitor for review and approval prior to its effective date. In the event the City has reason to believe that estimates of expenses or revenues should be materially revised, it will so inform the fiscal monitor. In addition, the City will submit quarterly reports to the monitor on all major developments affecting the Financial Plan.

The City will implement and maintain control systems and procedures of sufficient quality to provide the City with the information required to ensure that expenditures do not exceed appropriations. The City will be required to review and report monthly on actual and projected revenues and expenditures. These control requirements will be met by the Integrated Financial Management System now being implemented by the City.

In the event of a revenue shortfall or another unforeseen circumstance that is expected to result in a deficit, the City will submit to the monitor a Financial Plan modification which reflects such deficit. As stated above, the amount of any such deficit will have to be appropriated in the Expense Budget for the succeeding fiscal year.
III. Financial Plan, Cash Flow Plan

Together with the Expense Budget, the City will annually prepare and submit to the monitor a Financial Plan and Cash Flow Plan for the four succeeding fiscal years. The Financial Plan will set forth projected revenues and expenditures by major category for each fiscal year. The Cash Flow Plan will set forth projected sources and uses of cash (including capital transactions) by fiscal year; however, the cash flow projections for the next fiscal year will be set forth by month. The Plans will be accompanied by a statement of the significant assumptions used in making the estimates set forth therein.

In the event the City prepares a Financial Plan in which projected expenditures for any fiscal year exceed projected revenues for that year, the City will indicate one or more alternative actions the City would propose to eliminate the imbalance.

The City will modify the Financial Plan and Cash Flow Plan to reflect any event that materially affects the Plan, and at any time the monitor so directs.

IV. General Reserve

The City will annually appropriate $100 million as a general reserve. This appropriation would be supported by
general revenues; it would thus be a source of funding for revenue shortfalls and expense overruns during a fiscal year. If after the end of a fiscal year the City's independent auditors find any amounts remaining in that year's general reserve, such amounts would constitute an audited budget surplus. Any such surplus would be used to build up the City's working capital, thus reducing the City's need for external borrowing (such working capital would be available to finance all the City's expenses).

It should be noted that in the event the City incurs a deficit, the full amount of the deficit must be appropriated in the following fiscal year, in addition to the $100 million general reserve appropriation.

V. Financial Reports

The City will be required to furnish certain financial reports to the monitor. These financial reports will form the basis of financial disclosure in connection with the issuance of securities and will be made available at all times to the general public. The City's financial reports will be presented in accordance with GAAP and with the Financial Plan. (GAAP will not be followed with respect to the City's treatment of fixed assets until fiscal year 1980).

Monthly and quarterly financial statements will be prepared as part of the City's Integrated Financial Management System. These statements will include a reporting of actual revenues, expenses and cash flow, and an analysis of the variance between
actual and expected results. Quarterly reports will be reviewed, but not audited, by the City's independent auditors.

The City will publish annual reports on the financial results of each fiscal year. These reports will present the City's audited financial statements, as well as other specified information relevant to the City's financial results and condition, and will be published within 120 days after the end of the fiscal year.

VI. Independent Audit

The City will have its financial statements audited each year by nationally recognized independent public accountants. The audit may be performed by a single firm or by a consortium of firms, but there will be a single report covering the financial statements of the City. The City will maintain books and records of sufficient quality to enable the independent firm to render an opinion without an exception or qualification as to the scope of the audit. In addition, the independent auditors will report annually on the City's compliance with the limitations on short-term debt set forth below and on the adequacy of the City's internal controls.

VII. Limitations on Short Term Debt

The City will observe the limitations on the issuance of short term debt set forth below. All short-term borrowing
will require the monitor's prior approval. The City's compliance with these limitations will be reviewed annually by its independent auditor, whose report will be made public.

A. Tax Anticipation Notes

Tax anticipation notes will be issued only against real estate taxes levied in the current fiscal year. Authority to issue TANs will be limited to 90% of available tax levy within the year. (Available tax levy is defined as total real estate tax levy for the current fiscal year, less reserve for uncollected taxes, less tax collections during the year, less debt service to be paid during the year). TANs will be repaid by payment to the TAN debt service fund of all real estate tax collections (after general debt service fund deposits) when TANs outstanding equal 90% of available tax levy; see "Debt Service Funds" below. TANs must mature by June 30 although under certain circumstances they may be renewed.

B. Revenue Anticipation Notes

Revenue anticipation notes issued during a fiscal year will be limited to 90% of estimated revenues attributable to
the current year's budget and the State advance. Revenues against which RANs are issued must be specified as to amount, program, estimated date of receipt, and donor government. Notes would be issued against State aid receivables in accordance with Section 25(j) of the Local Finance Law; notes issued against Federal aid or City taxes would be similarly issued under an expanded version of 25(j). RANs must generally mature by June 30, although under certain circumstances they may be renewed. The monitor may waive the June 30 maturity requirement if changes in patterns of Federal and State aid receipts warrant a later maturity.

C. Bond Anticipation Notes

Bond anticipation notes may be issued to finance specified objects or purposes and must be redeemed out of the proceeds of the first bond sale following the issuance of the BANs. The amount of BANs outstanding will be limited to the lesser of 25% of bonds issued in the public market in the previous 12 months or 3% of general fund revenues.

D. Budget Notes

Budget notes may be issued to finance unforeseen expenditure increases and shortfalls of revenue. Budget notes must mature no later than June 30 of the fiscal year following the fiscal year in which they were issued. Appropriation for the redemption of budget notes must be provided in the Budget as part of the required appropriation of any deficit. The Cash Flow Plan
will detail by month the sources of funds to pay any budget notes.

E. Inter-Fund Debt

Advances from the general fund to the capital projects fund must be repaid from the proceeds of the first BANs or bonds issued after any such advances and not required for the redemption of BANs.

F. Redemption of TANs and RANs Renewed

TANs and RANs which are renewed must mature no later than the fiscal year following the year in which they were issued or originally scheduled to mature. Funds for their redemption must be provided by appropriation in the Budget for that year.

VIII. Debt Service Funds

Three debt service funds will be established: a TAN Debt Service Fund for the retirement of TANs; a RAN Debt Service Fund for the retirement of RANs; a General Debt Service Fund for payment of Budgeted Debt Service, which includes principal and interest of bonds, interest and required
amortization of BANs, and principal and interest on budget notes. All real estate taxes paid to the City, as well as other receipts against which the City has borrowed, will be remitted to an independent trustee for the Funds, who will deposit required amounts in the appropriate Fund and remit the remainder to the City. All amounts in Debt Service Funds will be held in cash or invested in short term United States Government securities.

A. General Debt Service Fund

The General Debt Service Fund will be required to have a balance at the beginning of each month of an amount equal to Budgeted Debt Service for the month. The trustee will deposit a percentage of real estate tax collections into the General Debt Service Fund, calculated as follows:

\[
\text{Budgeted debt service for the year less City cash deposits to date} \quad \text{Estimated real estate tax cash collections from current year's levy}
\]

This percentage will be recalculated each time the City makes a cash deposit in the Fund. In addition, at the beginning of any month, the City will make a cash deposit to the Fund, if necessary, sufficient to bring the balance of the Fund to the required level. Under current debt service and real estate tax cash flow patterns, the City would have to make cash deposits only in the first two months of the fiscal year. Any cash remaining in the Fund at the end of the year will be considered a cash deposit for the next fiscal year.
B. TAN Debt Service Fund

The TAN Debt Service Fund will require the deposit of all real estate tax collections (after General Debt Service Fund deposits) when principal and interest of TANs outstanding equal 90% of available tax revenue (estimated future real estate tax collections from current year's levy less required future deposits in General Debt Service Fund).

C. RAN Debt Service Fund

The RAN Debt Service Fund will require deposit with the trustee of revenues against which the RANs have been issued when the principal and interest on RANs outstanding is equal to 90% of the remaining amount of revenues expected to be received prior to the due date of the notes. For RANs issued against State revenues, deposits to the Fund will be made directly by the State, pursuant to Section 25(j) of the Local Finance Law; for Federal revenues and City taxes other than the real estate tax, a similar arrangement will be established by legislation to the extent possible.
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 of 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 therefor 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 Depositary, 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 Depositary
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 Document 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 implementation 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 certificate 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 accountants 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 authenti-
cated 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 thereto-
fore 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 authoriz-
ing 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 Depositary 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 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 decrees, 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 Depositary. 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 depositary 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
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obligations shall not exceed the rate of interest per annum stated there-
in as payable on the principal sum at its maturity.

(F) Notwithstanding the provisions or limitations of the charter of
the city or any other law, general, special or local, upon deliveries 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.

(F) 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 enac-
ted 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
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, 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 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 or notes 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 in 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 records; (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, provident and effici-
ent management of its financial affairs which the city determines will
ensure 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 ob-
ligations.

§ 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
deletions by strikethrough

1135
In the Matter of The New York City Housing Authority, Respondent, against Andrew Muller et al., Appellants, Impleaded with Others.

Constitutional law — municipal corporations — New York city — housing authority — statute granting municipal housing authority power of eminent domain not violative of due process clause of State or Federal Constitution — condemnation proceedings to carry out slum clearing and reconstruction project — not a taking of private property for other than public use — replacement of unsanitary buildings a public benefit and use.

1. Article five of the State Housing Law (L. 1926, ch. 823; amd. L. 1934, ch. 4) providing that a city may set up an authority with power to plan and carry out projects for the clearing and reconstruction of slum areas for the purpose of providing housing accommodations for persons of low income and granting to it the power of eminent domain does not violate the due process clause of the State Constitution (Art. 1, § 6) or of the Fourteenth Amendment to the Federal Constitution.

2. Condemnation proceedings, under article five of the State Housing Law, to acquire property to carry out a slum clearing and reconstruction project in the city of New York, may not be successfully resisted on the ground that the statute authorizes the taking of private property for other than a public use, where it appears from the petition and proof that in the area included in the project, of which the property sought to be condemned is a part, there exists unsanitary and substandard housing conditions, with lack of proper light, air and space, constituting a menace to the health, safety, morals, welfare and comfort of the citizens of the State. The replacement of such buildings by sanitary housing accommodations for persons of low income is a public benefit and constitutes a public use of the land sought to be acquired.


(Argued January 30, 1936; decided March 17, 1936.)

Appeal, on constitutional grounds, from a final order of a Special Term of the Supreme Court, held in and for the county of New York, entered December 17, 1935, granting a motion by petitioner for confirmation of a
report of commissioners of appraisal in a condemnation proceeding to acquire title to certain real property in the borough of Manhattan for the purpose of constructing or reconstructing dwelling accommodations thereon; bringing up for review an order of a Special Term of the Supreme Court, held in and for the same county, entered May 27, 1935, granting a motion by petitioner for an order of condemnation of the real property of the defendants-appellants and appointing commissioners of appraisal to ascertain the compensation to be paid therefor. (See 155 Misc. Rep. 681.)


Paul Windels, Corporation Counsel (Paxton Blair of counsel), for respondent. The use to which the condemned lands are to be put is a public use. (New York Trust Co. v. Eisner, 255 U. S. 345; People v. Schweinler


Matter of N. Y. City H. Authority v. Muller.


Crouse, organized under (Laws of 1932, c. 275, the State Housing Authority, seeks to construct a public building owned by the State of New York for public use from a building converted from the property into the project. The State of New York, the land

As part of the plan, the purchase property is necessary to the project. The
Matter of N. Y. City H. Authority v. Muller. 337

1936.] Opinion, per Crouch, J. [270 N. Y. 333]


Crouch, J. The petitioner, a public corporation organized under the Municipal Housing Authorities Law (Laws of 1934, ch. 4, comprising §§ 60 to 78, inclusive, of the State Housing Law, being Laws of 1926, ch. 823), seeks to condemn certain premises in the city of New York owned by the defendant Andrew Muller. The public use for which the premises are required is stated in the petition to be “the clearance, replanning and reconstruction of part of an area of the City of New York, State of New York wherein there exist, and the petitioner has found to exist, unsanitary and substandard housing conditions.”

As part of its project the petitioner has acquired by purchase properties contiguous on both sides to the premises in question. Acquisition of the defendant’s property is, therefore, necessary for the carrying out of the project. The premises consist of two old-law tenement
houses. The owner resists condemnation upon the ground that the Municipal Housing Authorities Law violates article I, section 6, of the State Constitution and the Fourteenth Amendment of the Federal Constitution, because it grants to petitioner the power of eminent domain for a use which is not a public use.

Briefly and broadly stated, the statute provides that a city may set up an authority with power to investigate and study living and housing conditions in the city; and to plan and carry out projects for the clearing, replanning and reconstruction of slum areas and the providing of housing accommodations for persons of low income. It is empowered under certain limitations to issue and sell bonds which, however, shall not be a debt of the State or of the city; and it may not in any manner pledge the credit of the State or city or impose upon either any obligation. It is granted the power of eminent domain, to be exercised as provided, and it is exempted from the payment of certain taxes and fees. In enacting the statute, the Legislature, after thorough investigation, made certain findings of fact, upon the basis of which it determined and declared the necessity in the public interest of the provisions enacted and that the objects thereof were "public uses and purposes for which public money may be spent and private property acquired." (§ 61.) The facts found were that "in certain areas of cities of the state there exist unsanitary or substandard housing conditions owing to over-crowding and concentration of population, improper planning, excessive land coverage, lack of proper light, air and space, unsanitary design and arrangement, or lack of proper sanitary facilities; that there is not an adequate supply of decent, safe, and sanitary dwelling accommodations for persons of low income; that these conditions cause an increase and spread of disease and crime and constitute a menace to the health, safety, morals, welfare, and comfort of the citizens of the state, and impair economic values; that these con-


ditions cannot be cured by private enterprise.

It is true that condemnation of public (Pocantico Water) property, where they are entitled to compensation and relate to public events, are not cases according to the rule both by reason of the (Block v. Hirsi, 210 N. Y. 303, 108 N. Y. St. 840) and the conditions adverted to in the petition and proved by the petitioner in the project, of necessity and part. The public, even if those conditions, are understood to be areas the breeding ground not only from domestic animals of the entire race of crime and immorality to flourish. Enormous is the need of the necessary expenditure of health and hospital and to war against crime and to establish there is an equally necessary an equally return in taxes and to existence of the fact of the State concern since they vitally it of the public. To bring into no citation, the matter of taxation and of the cost of the slum, has been the continuation of an argument from won, the Let for a 

trinity of sovereignty, the power of eminent domain, whether under the
ditions cannot be remedied by the ordinary operation of private enterprise."

It is true that the legislative findings and the determination of public use are not conclusive on the courts. (Pocantico Water Works Co. v. Bird, 130 N. Y. 249.) But they are entitled at least to great respect, since they relate to public conditions concerning which the Legislature both by necessity and duty must have known. (Block v. Hirsh, 256 U. S. 135; People v. Schweitzer Press, 214 N. Y. 305.) The existence of all the conditions adverted to by the Legislature was alleged in the petition and proved with reference to the area included in the project, of which the premises in question are a part. The public evils, social and economic of such conditions, are unquestioned and unquestionable. Slum areas are the breeding places of disease which take toll not only from denizens, but, by spread, from the inhabitants of the entire city and State. Juvenile delinquency, crime and immorality are there born, find protection and flourish. Enormous economic loss results directly from the necessary expenditure of public funds to maintain health and hospital services for afflicted slum dwellers and to war against crime and immorality. Indirectly there is an equally heavy capital loss and a diminishing return in taxes because of the areas blighted by the existence of the slums. Concededly, these are matters of State concern (Adler v. Deegan, 251 N. Y. 467, 477), since they vitally affect the health, safety and welfare of the public. Time and again, in familiar cases needing no citation, the use by the Legislature of the power of taxation and of the police power in dealing with the evils of the slums, has been upheld by the courts. Now, in continuation of a battle, which if not entirely lost, is far from won, the Legislature has resorted to the last of the trinity of sovereign powers by giving to a city agency the power of eminent domain. We are called upon to say whether under the facts of this case, including the cir-
cumstances of time and place, the use of the power is a
use for the public benefit—a public use—within the
law.

There is no case in this jurisdiction or elsewhere directly
in point. Governmental housing projects constitute a
comparatively new means of remedying an ancient evil.
Phases of the general subject were before the courts in
Green v. Frazier (44 N. Y. 395; affd., 253 U. S. 233) and
in Willmon v. Powell (91 Cal. App. 1), where the power
to spend public funds for such projects was upheld. (See,
also, Simon v. O'Toole, 108 N. J. L. 32; affd., 108 N. J.
L. 549.) In United States v. Certain Lands in Louis-
ville (78 Fed. Rep. [2d] 684) it was held that while
such a project might be within the scope of a State's
activities, it was not one which the Federal government
had power to undertake. The cases in this State, which,
perhaps, afford the closest analogy are the drainage cases,
where land was permitted to be taken by eminent domain
in the interest of public health, even where there was
incidental benefit to private interests. (See e. g., Matter
of Ryers, 72 N. Y. 1; Board of Black River Regulating
District v. Ogburn, 203 App. Div. 43; affd., 235 N. Y.
600.) "To take," said the court, "for the maintenance
and promotion of the public health, is a public purpose."
(Matter of Ryers, supra, p. 7.) Over many years and in
a multitude of cases the courts have vainly attempted
to define comprehensively the concept of a public use and
to formulate a universal test. They have found here as
elsewhere that to formulate anything ultimate, even
though it were possible, would, in an inevitably changing
world, be unwise if not futile. Lacking a controlling
precedent, we deal with the question as it presents itself
on the facts at the present point of time. "The law of
each age is ultimately what that age thinks should be
the law." (People ex rel. Durham R. Corp. v. La Fetra,
230 N. Y. 429, 450.)

The fundamental purpose of government is to protect
the health, safety and general welfare of the public. All

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its complicated activities have that simple end in view. Its power plant for the purpose consists of the power of taxation, the police power and the power of eminent domain. Whenever there arises, in the State, a condition of affairs holding a substantial menace to the public health, safety or general welfare, it becomes the duty of the government to apply whatever power is necessary and appropriate to check it. There are differences in the nature and characteristics of the powers, though distinction between them is often fine. (People ex rel. Durham R. Corp. v. La Feta, supra, p. 444.) But if the menace is serious enough to the public to warrant public action and the power applied is reasonably and fairly calculated to check it, and bears a reasonable relation to the evil, it seems to be constitutionally immaterial whether one or another of the sovereign powers is employed.

The menace of the slums in New York city has been long recognized as serious enough to warrant public action. The Session Laws for nearly seventy years past are sprinkled with acts applying the taxing power and the police power in attempts to cure or check it. The slums still stand. The menace still exists. What objections, then, can be urged to the application of the third power, least drastic, but as here embodied probably the most effective of all?

It is said that private enterprise, curbed by restrictive legislation under the police power, is adequate and alone appropriate. There is some authority to that effect in other States. A sufficient answer should be the page of legislative history in this State and its result referred to above. Legislation merely restrictive in its nature has failed because the evil inheres not so much in this or that individual structure as in the character of a whole neighborhood of dilapidated and unsanitary structures. To eliminate the inherent evil and to provide housing facilities at low cost — the two things necessarily go together —
require large scale operations which can be carried out only where there is power to deal in ininitum with the occasional greedy owner seeking excessive profit by holding out. The cure is to be wrought, not through the regulated ownership of the individual, but through the ownership and operation by or under the direct control of the public itself. Nor is there anything novel in that. The modern city functions in the public interest as proprietor and operator of many activities formerly and in some instances still carried on by private enterprise.

It is also said that since the taking is to provide apartments to be rented to a class designated as "persons of low income," or to be leased or sold to limited dividend corporations, the use is private and not public. This objection disregards the primary purpose of the legislation. Use of a proposed structure, facility or service by everybody and anybody is one of the abandoned universal tests of a public use. (Mc Vern-Woodberry Cotton Duck Co. v. Alabama Interstate Power Co., 246 U. S. 30, 32; Strickley v. Highland Boy Gold Mining Co., 200 U. S. 527; Rindge Co. v. County of Los Angeles, 262 U. S. 700; Fallbrook Irrigation District v. Bradley, 164 U. S. 112, 161, 162.) The designated class to whom incidental benefits will come are persons with an income under $2,500 a year, and it consists of two-thirds of the city's population. But the essential purpose of the legislation is not to benefit that class or any class; it is to protect and safeguard the entire public from the menace of the slums. The so-called limited dividend corporations referred to were provided for in the State Housing Law (Laws of 1926, ch. 823), and embody another and different attempt to solve the problem. The constitutionality of the scheme was unsuccessfully attacked in the courts. (Mars Realty Corp. v. Sexton, 141 Misc. Rep. 622; Roche v. Sexton, 268 N. Y. 594; cf. Matter of Mount Hope Development Corp. v. James, 258 N. Y. 510.) After ten years of experiment its use, for economic reasons, has proved inadequate as a solution.

Nothing is given to the individual case, and the private use of incidental or colorable "public use" present no such difficulties. The concern, the maintenance of property and the right to receive and to use or retain one's own protection come at least as far back.

The orders of

CRANE, Chief Judge, concurring: Financing under consideration and votes to be taken.

Orders affirmed.

In the Matter of the Appellants.

Stocks and bonds - accounting - nonnonsensical - not binding - nonpartisan - after subsequent dissolution, as if it had been made for purposes of voting for judicial candidates in dissolution hearing, not holder receives shares participated in

1. The terms of the conveyance are in accordance with the rules of law (Laws, ch. 59), not with the terms of the subsequent dissolution.

2. Where, pursuant to the statute, invited to deposit the original stock be exchanged for stock, which, if entitled the holder to any payment the
Nothing is better settled than that the property of one individual cannot, without his consent, be devoted to the private use of another, even when there is an incidental or colorable benefit to the public. The facts here present no such case. In a matter of far-reaching public concern, the public is seeking to take the defendant's property and to administer it as part of a project conceived and to be carried out in its own interest and for its own protection. That is a public benefit and, therefore, at least as far as this case is concerned, a public use.

The orders should be affirmed, with costs.

Crane, Ch. J., Lehman, Hubbard, and Loughran, JJ., concur; Finch, J., concurs in result; O'Brien, J., dissents and votes to reverse.

Orders affirmed.

In the Matter of Philip H. Duer et al., as Directors and Trustees in Dissolution of Geo. P. Ide & Co., Inc., Appellants.

Spencer Trask & Co., Respondent.

Stocks and stockholders — corporations — liquidation — accounting — terms of plan of reorganization of corporation binding — non-consenting stockholder may not be treated, after subsequent dissolution of corporation, upon same terms as if it had complied with terms of reorganization — proceeding for judicial settlement of accounts of directors as trustees in dissolution — order directing that non-consenting stockholder receive the same pro rata share of assets as if it had participated in reorganization of corporation, erroneous.

1. The terms of a plan of reorganization of a corporation, adopted in accordance with the provisions of the Stock Corporation Law (Cons. Laws, ch. 30), are binding on the corporation, its liquidators upon its subsequent dissolution, all of the stockholders, and the courts.

2. Where, pursuant to such a plan, preferred stockholders were invited to deposit their stock by a certain date, each share thereof to be exchanged for a stated number of shares of participating preferred stock, which, upon dissolution or liquidation of the corporation, entitled the holder to payment of a fixed amount per share prior to any payment to holders of the old preferred or common stock, a
In the Matter of the Application of the New York City Housing Authority, etc., Petitioner, Plaintiff, against Andrew Muller and Others, Defendants.

Supreme Court, New York County, April 11, 1935.

Eminent domain — housing — Laws of 1934, chap. 4 (Municipal Housing Authorities Law, § 70), giving municipal housing authority power of eminent domain, is constitutional, where taking of land, although to furnish living quarters for benefit only of limited portion of public, is for public purpose of abolishing slums — motion to appoint commissioners of appraisal in condemnation proceeding instituted by New York City Housing Authority granted.

Section 70 of the Municipal Housing Authorities Law (Laws of 1934, chap. 4, adding art. 5 to Laws of 1926, chap. 823, known as the State Housing Law), giving a municipal housing authority the power of eminent domain, is constitutional, where the taking of land, although to furnish living quarters for the benefit only of a limited portion of the public, is for the public purpose of abolishing slums, to the advantage of all the people of the State.

Accordingly, the motion to appoint commissioners of appraisal in this condemnation proceeding, instituted by the New York City Housing Authority, will be granted.

APPLICATION to dismiss condemnation proceeding commenced by New York City Housing Authority involving constitutionality of section 70 of the Municipal Housing Authorities Law, article 5 of State Housing Law (Laws of 1926, chap. 823), added by chapter 4 of the Laws of 1934.

Charles Abrams, for the plaintiff.
Tally & Lamb, for the defendants Muller.
Ira S. Robbins, counsel for New York State Board of Housing, amicus curiae.

McLaughlin, J. The defendant Andrew Muller moves to dismiss the condemnation proceeding started by the New York City Housing Authority. This he does by opposing the petitioner's application for the appointment of commissioners of appraisal. He urges only unconstitutionality, and while he has divided his brief into five points, they are really but two: (1) That the act allows a taking of private property for a private use, and (2) that the act is class legislation. The right of eminent domain is a remnant of the ancient law of feudal tenure. In course of time the power to revoke the grants of lands was whittled away. The people still own the land with a power to take it back upon payment of just compensation if the taking back is for the use of the people. The entire question before me is, therefore, whether this taking is for the use of the people. The two points, (1) is this a taking of private prop-
Matter of N. Y. C. Housing Authority v. Muller.

Supreme Court, April, 1935.

May not be therefore, this law was not created to conciliate the property for use of other than the people, even if they pay just compensation. The case is very simple when the people take land to be used directly for governmental purposes. It becomes more complicated when the use is composite, i.e., partly by the people and partly by individuals for the benefit of the people. If we laid down the rule that all people must be allowed to use the land without any discrimination as to their ability to pay we would at once prevent all condemnation by public service corporations. It has been held "the inadequacy of use by the general public as a universal test is established." (Mt. Vernon-Woodberry Cotton Duck Co. v. Alabama Interstate Power Co., 240 U.S. 30.) That must be so, for in few of the cases where condemnation has been allowed, has there been any opportunity or right of one hundred per cent of the people to the unrestricted use of the land. Is it unconstitutional to use land condemned for a park as a public golf course because only 500 persons out of the entire State population can use the course on any one day, and because for any five minutes not more than four can use any one tee? Is it unconstitutional to condemn land for a hospital for the indigent because the millionaire will not be accommodated at all or only for pay? Is that taking private property for a private use when it is taken for the use of the poor? The defendant says his land cannot be taken by the people because instead of housing sick on it, it will house the well to prevent them from becoming sick. Such an argument is not sufficient to have the court declare the law unconstitutional. Nobody may question the statement that proper housing is not only a beneficent public act, but it is clear that it may not be left entirely to private enterprise. In the opinion of the Legislature this agency has failed to remedy the unsanitary and sub-standard conditions in housing that exist in some of our dwelling sections. The exercise of its police power by the State in the form of regulatory statutes has also been a failure in great part. It is true that these restrictive measures have been somewhat beneficial, but history and experience have shown that they were inadequate as a cure or to combat successfully the evils of the conditions they sought to remedy. Something constructive was essential. For that purpose the Legislature has passed this law (Municipal Housing Authorities Law [Laws of 1934, chap. 4]). Great respect must be shown the deliberate finding of the Legislature of this State as to the conditions and the necessary remedy, particularly where all other remedies have failed. The need for this legislation is present. It
may not be questioned that the proper housing contemplated by this law will be a boon to the citizens of this State. It is difficult to conceive of a law the purposes of which are more for the public good than the one under discussion. Similar legislation has been before our courts and they have invariably upheld the constitutionality of such legislation. (People ex rel. Durham Realty Corp. v. LaPeta, 230 N. Y. 429, 446; The Hermitage v. Goldfogle, 204 App. Div. 710; affd., 236 N. Y. 554; Mars Realty Corp. v. Sexton, 141 Misc. 622.) The courts of other States and the United States Supreme Court have decided kindred questions in the same manner. (Strickley v. Highland Boy Gold Mining Co., 200 U. S. 527; Mt. Vernon-Woodberry Cotton Duck Co. v. Alabama Interstate Power, 240 id. 30; Clark v. Nash, 198 id. 361; Roer v. Kansas, 278 id. 191; New Orleans Land Co. v. Board of Lease Commissioners, 171 La. 718; 132 So. 121, affd., without opinion, 283 U. S. 809; Butte, A. & P. Ry. v. Montana U. Ry. Co., 16 Mont. 504; 41 P. 232; Turnpike Co. v. News Co., 43 N. J. L. 31; State ex rel. Twin City Building & Investment Co. v. Houghton, 144 Minn. 1; 176 N. W. 159.)

The court cannot accept as controlling the case of United States v. Certain Lands in City of Louisville (9 Fed. Supp. 137 [Dist. Ct. W. D. Ky.]), if good law can readily be distinguished. The land there taken was not that of the sovereign who sought to condemn it. The sovereign there was the people of Kentucky. The United States was not exercising its feudal right. It was in effect an individual taking of private property for its individual purpose. That the use would be of benefit to the residents of Kentucky was (if the United States is taking as a private person) beside the mark. That was for Kentucky to decide. By this I do not mean to intimate that I take the ultra-conservative view of the Kentucky court. I think rather that the government was exercising its right to condemn land for interstate uses. Even the Kentucky court recognizes that "there must be a use, or right of use, by the public, or some limited portion of the public," adopting the view of the court in Arnsperger v. Crawford (101 Md. 247; 61 A. 413). That the land covered by this petition is to be used by a limited portion of the public is without question. The court holds nevertheless that the use here is a public use, i. e., to abolish disease-breeding slums for the benefit of all the people of the State, and to furnish a "limited portion of the public" (readily ascertainable) living quarters which will prevent disease. The people of the State of New York have the right to take back their land for such a purpose. The motion to appoint commissioners is granted.
March 17, 1978

TO : David Brown
    James Brigham
    Allen Schwartz
    Eugene Keilin

FROM : Alexandra Altman

RE : Fiscal Monitor

Attached is a draft of a program of fiscal control to replace the Emergency Financial Control Board. We will try to arrange a meeting next week to discuss any comments you may have. Please feel free to call me if you have any questions about the draft.
Program of Fiscal Controls

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I. The Fiscal Monitor

State legislation will establish a fiscal monitor to oversee the City's financial affairs. The objective of this legislation will be to restore the City's credit, to protect its economic base, and to enhance the City's ability to provide essential services, by ensuring that the City observes appropriate fiscal disciplines. The monitor's powers will be sufficient for it to enforce the fiscal discipline set forth in the Legislation. Further, the City will be authorized to make covenants with its bondholders to observe these fiscal disciplines, and the monitor will act on behalf of bondholders to see that any such covenants are kept.

The monitor will be a board with seven members: the Governor, the Mayor, the City Comptroller, the State Comptroller, and three private members jointly selected by the Governor and the Mayor. The Chairman will be one of the private members, to be appointed jointly by the Governor and the Mayor. The members may engage a professional staff as required to assist them in performing their functions; the staff will be headed by an Executive Director jointly selected by the Governor and the Mayor.

The monitor will commence its functions on July 1, 1978. Legislative authorization for the monitor will continue for as long as Federal guarantees of long-term bonds are in effect.
The monitor will provisionally terminate when independent audits show that the City's budget has been balanced for three consecutive years in accordance with generally accepted accounting principles (except as noted below; see "Balanced Budget"). However, if there is a budget deficit in a fiscal year after such provisional termination of the monitor, the monitor will automatically be reestablished until the budget has again been balanced for three consecutive fiscal years. The monitor will finally terminate upon the expiration of all Federal guarantees of long-term bonds.

The monitor will be responsible for determining whether the City is in compliance with legislative requirements with regard to planned expenditures, contracts, collective bargaining agreements and borrowings, as outlined below:

**A. Review of Budget, Cash Flow Plan and Four-Year Plan**

At least sixty days prior to the beginning of a fiscal year the City will submit to the monitor for review:

(a) a Financial Plan for the new fiscal year and the three succeeding fiscal years, showing estimated revenues, expenses and annual cash flows by major category for each such fiscal year;

(b) a month-by-month Cash Flow Plan for the new fiscal year, showing sources and uses of cash by major category (including capital expenditures and all planned borrowings);
(c) a balanced Executive Expense Budget for the new fiscal year.

The monitor will review these documents to ascertain that the Plan is properly balanced, that adequate provision is made for all mandated costs (including costs incurred under contracts) and that the City will be able to operate at all times within available sources of cash. The monitor will be required to disapprove any Financial Plan estimate if, in its opinion, the City has not demonstrated that the estimate can be supported by the use of reasonable and appropriate assumptions and methods of estimation. The monitor will be required to disapprove any cash source in the Cash Flow Plan if in its opinion realization of such cash source is not reasonably feasible.

The City will be prohibited from making any expenditures inconsistent with a Financial Plan approved by the monitor.

All items in the Financial Plan and Cash Flow Plan which are not disapproved by the monitor within ten days before the beginning of the new fiscal year will be deemed approved. All major modifications of the Financial Plan and Cash Flow Plan must be submitted to the monitor for review and approval. The monitor could disapprove any modification that would (a) cause the Financial Plan to become unbalanced or (b) cause the Cash Flow Plan to be infeasible. If the monitor fails to act upon a modification within ten days of receipt, the modification will become effective without further action by the monitor.
The monitor would conduct quarterly reviews of the Financial Plan and Cash Flow Plan, and any additional reviews it deems appropriate. The monitor may require the City to modify Financial Plan estimates during the fiscal year if, in its opinion, such estimates can no longer be supported by reasonable assumptions and methods of estimation. If by reason of the monitor's disapproval of any estimate the Financial Plan is out of balance, the monitor may order the City to reduce its aggregate expenditures to the level of the revenues applicable thereto. The monitor would have standing in court to seek enforcement of such orders.

B. Review of Contracts

Within ten days of executing a major contract (as defined by the monitor) the City will be required to submit it to the monitor, together with a certificate setting forth (a) the cost of the contract during the current fiscal year and in subsequent fiscal years, (b) the source of funds to pay such costs during the current year and (c) the impact of such costs on the Financial Plan.

After receipt of any major contract, the monitor will review the City's estimate of its cost and the sufficiency of the stated source of funds to pay such cost. In reviewing the City's contract cost estimates, the monitor will apply the same standard it uses for Financial Plan estimates: it will determine whether the estimates can be supported by the use of reasonable and appropriate assumptions and methods of
estimation. The monitor may order the City to modify its Financial Plan to take into account the cost, as determined by the monitor, of any such contract.

No major contract will be binding or effective until the monitor determines its cost. If the monitor makes no such determination within ten days after receipt of a contract, the contract will become binding and effective without further action by the monitor.

C. Collective Bargaining Agreements

The monitor's prior approval will be required before the payment of any wage or benefit increases of any kind to employees of the City or covered organizations pursuant to collective bargaining agreements. All such collective bargaining agreements will be submitted to the monitor for approval in accordance with the contract review procedures outlined below.

Prior to the expiration of City or covered organization collective bargaining agreements, the City will submit to the monitor proposed guidelines for new agreements. Such guidelines will be accompanied by a certificate stating (a) the projected costs of applying the guidelines to all relevant bargaining units for each fiscal year affected under the guidelines, (b) the source of funds to pay such costs, and (c) the impact of such costs on the Financial Plan.

After receipt of the proposed guidelines, the monitor will review the City's estimate of their projected cost and the sufficiency of the stated source of funds to pay such cost. If the monitor concludes that the estimates used can be supported
by the use of reasonable and appropriate assumptions and methods of estimation, the monitor shall approve the guidelines.

Each collective bargaining agreement to which the guidelines apply will be submitted to the monitor for review and approval, accompanied by a certification stating that the agreement is consistent with the guidelines, and setting forth the cost of the contract. If the monitor finds that the agreement is consistent with approved guidelines, it shall approve the contract. Such approval shall be accompanied by a statement setting forth the projected cost of the contract, as finally determined by the monitor. No amounts in excess of such stated cost may be paid under the contract for any reason without the approval of the monitor.

D. Review and Certification of Borrowing

The City will not be authorized to issue any bonds or notes without the prior approval of the monitor.

Prior to the issuance of any bonds or notes by the City, the monitor will review the proposed borrowing to determine whether (a) it is consistent with the City's Cash Flow Plan and (b) in the case of notes, that it is within the short-term debt limits discussed below.

Upon approval of any borrowing by the City the monitor shall issue a certificate stating (a) that it has approved such borrowing, (b) that it has conducted all required reviews of the City's Budget, Financial Plan, Cash Flow Plan, contracts and borrowing and (c) that the City is in substantial compliance
with all orders of the monitor having a material bearing on the current status of the Budget, Financial Plan and Cash Flow Plan.

E. Covered Organizations

The monitor will review Financial Plans, major contracts, collective bargaining agreements and borrowings of covered organizations in accordance with the procedures applicable to the City. All such items, together with any required certifications, will be submitted to the City by the covered organization for review. The City will submit such items to the monitor, together with a statement that the City's review indicates that the required certificates of the covered organization are complete and accurate.

F. General Powers of the Monitor

The monitor will have the right to request copies of or access to any material or information necessary for it to perform its functions, including but not limited to all financial records of the City. The City will transmit to the monitor all financial reports referred to below and all opinions and reports furnished to the City by its independent public accountant.

The monitor will have the power to issue any orders necessary to carry out its functions. City and covered organization officials will be expressly prohibited from making any expenditures inconsistent with a Financial Plan, or a modification
thereto, duly submitted to the monitor for review; and they will be required to comply promptly with all duly issued orders of the monitor. The monitor may proceed to have its orders enforced by a judge designated by the Appellate Division, First Department; in any such proceeding the City would bear the burden of showing that the monitor's order is unreasonable.

To the extent that the City covenants with its bondholders to observe the fiscal disciplines discussed below, bondholders will have the right to sue to compel the monitor to perform its functions.

II. Balanced Budget

The City will be required to prepare and adopt a balanced Expense Budget prior to the beginning of each fiscal year. The revenue and expense estimates in the Budget must be based on reasonable assumptions and reasonable and appropriate methods of estimation. Expenditure estimates must fully provide for (a) debt service, (b) any estimated deficit for the prior year, and (c) all other expenses required by contract or State or Federal Law. The Financial Plan must be consistent in all respects with the Budget.
The Budget will be balanced in accordance with generally accepted accounting principles (GAAP), except that (a) in fiscal years 1979, 1980, and 1981, expense items may be included in the City's Capital Budget; and (b) the City will budget its pension contributions on a cash basis. The only exception to GAAP that will be authorized on a permanent basis is item (b); as long as required pension contributions are fully paid when due, and all other requirements of GAAP are met, the City's Budget will be considered balanced.

The Executive Expense Budget will be delivered to the fiscal monitor at least sixty days prior to the beginning of the fiscal year, together with a Financial Plan. They will be accompanied by a statement of the significant assumption used in making the revenue and expense estimates in the Budget and Plan and the methods of estimation used for major items or categories of revenues and expenses; the Mayor will certify that such assumptions and methods of estimation are reasonable and appropriate, and that operation within the Budget and Plan is feasible. Further detailed descriptions of how particular estimates are derived will be supplied promptly upon the monitor's request therefor. Estimates made by the City will have to be supportable on any of the following bases:

(a) reliable and objective information including demonstrable trends or data obtained from acceptable
techniques or systems of sufficient quality so as not to produce information that is speculative;

(b) changes in planned performance or in policy from current operations as evidenced by actions taken, authorized to be taken or demonstrable facts including increases or decreases in expenditures or revenues;

(c) law (including but not limited to federal, state or local laws and encompassing the statutory provisions, appropriations and percentage applicable);

(d) anticipated law (including but not limited to reenactment or enactment of a federal or state law) provided that there is a reasonable basis (including but not limited to precedent) for assuming the effectiveness of such law and its mandate with respect to expenditures during the fiscal year or its funding with respect to revenues during the fiscal year when required;

(e) presumed continuation of programs, purposes, functions and activities and the contracts related thereto and all sources of funding generally at current levels unless any of the foregoing reasons provide a basis for assuming either increased or decreased levels of expenditures or revenues.
The City will generally be required to maintain a balanced budget and Financial Plan during the fiscal year. Any major modification of the Financial Plan (as defined by the monitor) will be submitted to the monitor for review and approval prior to its effective date. In the event the City has reason to believe that estimates of expenses or revenues should be materially revised, it will so inform the fiscal monitor. In addition, the City will submit quarterly reports to the monitor on all major developments affecting the Financial Plan.

The City will implement and maintain control systems and procedures of sufficient quality to provide the City with the information required to ensure that expenditures do not exceed appropriations. The City will be required to review and report monthly on actual and projected revenues and expenditures. These control requirements will be met by the Integrated Financial Management System now being implemented by the City.

In the event of a revenue shortfall or another unforeseen circumstance that is expected to result in a deficit, the City will submit to the monitor a Financial Plan modification which reflects such deficit. As stated above, the amount of any such deficit will have to be appropriated in the Expense Budget for the succeeding fiscal year.
III. Financial Plan, Cash Flow Plan

Together with the Expense Budget, the City will annually prepare and submit to the monitor a Financial Plan and Cash Flow Plan for the four succeeding fiscal years. The Financial Plan will set forth projected revenues and expenditures by major category for each fiscal year. The Cash Flow Plan will set forth projected sources and uses of cash (including capital transactions) by fiscal year; however, the cash flow projections for the next fiscal year will be set forth by month. The Plans will be accompanied by a statement of the significant assumptions used in making the estimates set forth therein.

In the event the City prepares a Financial Plan in which projected expenditures for any fiscal year exceed projected revenues for that year, the City will indicate one or more alternative actions the City would propose to eliminate the imbalance.

The City will modify the Financial Plan and Cash Flow Plan to reflect any event that materially affects the Plan, and at any time the monitor so directs.

IV. General Reserve

The City will annually appropriate $100 million as a general reserve. This appropriation would be supported by
general revenues; it would thus be a source of funding for revenue shortfalls and expense overruns during a fiscal year.

If after the end of a fiscal year the City's independent auditors find any amounts remaining in that year's general reserve, such amounts would constitute an audited budget surplus. Any such surplus would be used (a) to liquidate the $800 million State advance, as described below, and (b) to build up the City's working capital, thus reducing the City's need for external borrowing (such working capital would be available to finance all the City's expenses).

It should be noted that in the event the City incurs a deficit, the full amount of the deficit must be appropriated in the following fiscal year, in addition to the $100 million general reserve appropriation.

V. Liquidation of State Advance

The City will liquidate the annual $800 million State Advance. Audited expense budget surpluses, if any, and bond proceeds will be used for this purpose until the $800 million is entirely liquidated. The City would reduce the
annual advances from the State by the amounts so provided; thus, liquidation of the State advance will not change the City's cash position.

VI. Financial Reports

The City will be required to furnish certain financial reports to the monitor. These financial reports will form the basis of financial disclosure in connection with the issuance of securities and will be made available at all times to the general public. The City's financial reports will be presented in accordance with GAAP, except that GAAP will not followed with respect to the City's treatment of pension costs, expense items included in the capital budget (which must be phased out by fiscal year 1982), and fixed assets.

Monthly and quarterly financial statements will be prepared as part of the City's Integrated Financial Management System. These statements will include a reporting of actual revenues, expenses and cash flow, and an analysis of the variance between actual and expected results. Quarterly reports will be reviewed, but not audited, by the City's independent auditors.
The City will publish annual reports on the financial results of each fiscal year. These reports will present the City's audited financial statements, as well as other specified information relevant to the City's financial results and condition, and will be published within 120 days after the end of the fiscal year.

**VII. Independent Audit**

The City will have its financial statements audited each year by nationally recognized independent public accountants. The audit may be performed by a single firm or by a consortium of firms, but there will be a single report covering the financial statements of the City. The City will maintain books and records of sufficient quality to enable the independent firm to render an opinion without an exception or qualification as to the scope of the audit. In addition, the independent auditors will report annually on the City's compliance with the limitations on short-term debt set forth below and on the adequacy of the City's internal controls.

**VIII. Limitations on Short Term Debt**

The City will observe the limitations on the issuance of short term debt set forth below. All short-term borrowing
will require the monitor's prior approval. The City's compliance with these limitations will be reviewed annually by its independent auditor, whose report will be made public.

A. Tax Anticipation Notes

Tax anticipation notes will be issued only against real estate taxes levied in the current fiscal year. Authority to issue TANs will be limited to 90% of available tax levy within the year. (Available tax levy is defined as total real estate tax levy for the current fiscal year, less reserve for uncollected taxes, less tax collections during the year, less debt service to be paid during the year). TANs will be repaid by payment to the TAN debt service fund of all real estate tax collections (after general debt service fund deposits) when TANs outstanding equal 90% of available tax levy; see "Debt Service Funds" below. TANs must mature by June 30 although under certain circumstances they may be renewed.

B. Revenue Anticipation Notes

Revenue anticipation notes issued during a fiscal year will be limited to 90% of estimated revenues attributable to
the current year’s budget and the State advance. Revenues against which RANs are issued must be specified as to amount, program, estimated date of receipt, and donor government. Notes would be issued against State aid receivables in accordance with Section 25(j) of the Local Finance Law; notes issued against Federal aid or City taxes would be similarly issued under an expanded version of 25(j). RANs must generally mature by June 30, although under certain circumstances they may be renewed. The monitor may waive the June 30 maturity requirement if changes in patterns of Federal and State aid receipts warrant a later maturity.

C. Bond Anticipation Notes

Bond anticipation notes may be issued to finance specified objects or purposes and must be redeemed out of the proceeds of the first bond sale following the issuance of the BANs. The amount of BANs outstanding will be limited to the lesser of 25% of bonds issued in the public market in the previous 12 months or 3% of general fund revenues.

D. Budget Notes

Budget notes may be issued to finance unforeseen expenditure increases and shortfalls of revenue. Budget notes must mature no later than June 30 of the fiscal year following the fiscal year in which they were issued. Appropriation for the redemption of budget notes must be provided in the Budget as part of the required appropriation of any deficit. The Cash Flow Plan
will detail by month the sources of funds to pay any budget notes.

E. Inter-Fund Debt

Advances from the general fund to the capital projects fund must be repaid from the proceeds of the first BANs or bonds issued after any such advances and not required for the redemption of BANs.

F. Redemption of TANs and RANs Renewed

TANs and RANs which are renewed must mature no later than the fiscal year following the year in which they were issued or originally scheduled to mature. Funds for their redemption must be provided by appropriation in the Budget for that year.

IX. Debt Service Fund

Three debt service funds will be established: a TAN Debt Service Fund for the retirement of TANs; a RAN Debt Service Fund for the retirement of RANs; a General Debt Service Fund for payment of Budgeted Debt Service, which includes principal and interest of bonds, interest and required
amortization of BANS, and principal and interest on budget notes. All real estate taxes paid to the City, as well as other receipts against which the City has borrowed, will be remitted to an independent trustee for the Funds, who will deposit required amounts in the appropriate Fund and remit the remainder to the City. All amounts in Debt Service Funds will be held in cash or invested in short term United States Government securities.

A. General Debt Service Fund

The General Debt Service Fund will be required to have a balance at the beginning of each month of an amount equal to Budgeted Debt Service for the month. The trustee will deposit a percentage of real estate tax collections into the General Debt Service Fund, calculated as follows:

\[
\frac{\text{Budgeted debt service for the year less City cash deposits to date}}{\text{Estimated real estate tax cash collections from current year's levy}}
\]

This percentage will recalculated each time the City makes a cash deposit in the Fund. In addition, at the beginning of any month, the City will make a cash deposit to the Fund, if necessary, sufficient to bring the balance of the Fund to the required level. Under current debt service and real estate tax cash flow patterns, the City would have to make cash deposits only in the first two months of the fiscal year. Any cash remaining in the Fund at the end of the year will be considered a cash deposit for the next fiscal year.
B. TAN Debt Service Fund

The TAN Debt Service Fund will require the deposit of all real estate tax collections (after General Debt Service Fund deposits) when principal and interest of TANs outstanding equal 90% of available tax revenue (estimated future real estate tax collections from current year's levy less required future deposits in General Debt Service Fund).

C. RAN Debt Service Fund

The RAN Debt Service Fund will require deposit with the trustee of revenues against which the RANs have been issued when the principal and interest on RANs outstanding is equal to 90% of the remaining amount of revenues expected to be received prior to the due date of the notes. For RANs issued against State revenues, deposits to the Fund will be made directly by the State, pursuant to Section 25(j) of the Local Finance Law; for Federal revenues and City taxes other than the real estate tax, a similar arrangement will be established by legislation to the extent possible.