NEW YORK STATE FINANCIAL EMERGENCY ACT FOR THE CITY OF NEW YORK *

* Terminates July 1, 2008 or ... see § 13

*** Section 1. 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".

* Terminates July 1, 2035 or ... see § 13

*** § 2. 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 New York city transitional finance authority, 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.

7. "Deputy comptroller" means the 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.

9. "Short-term obligations" means tax anticipation notes, bond anticipation notes, revenue anticipation notes, budget notes and urban renewal notes of the city.

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. "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, (b) the board shall determine, based on annual audit reports furnished in accordance with section seven-a, 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 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 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 hereof, the board shall reimpose 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, (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 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 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 (c) 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, nineteen hundred seventy-eight or were issued in exchange for or in refunding or renewal of notes held by such corporation on such date.

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

* Terminates July 1, 2035 or ... see § 13

*** § 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.

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*** § 3. 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.

* Terminates July 1, 2035 or ... see § 13

*** § 4. 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.

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*** § 5. 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.

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*** § 6. 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 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 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 nor shall service as such member, representative, officer, employee or agent of the board be deemed incompatible or in conflict with such office or employment.

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.

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*** § 7. 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 reports to be prepared by or on behalf of the city pursuant to section seven-a; (ii) shall receive from the city and the covered organizations and from the 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 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 muncipal 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 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 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, 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.

i. The board shall coordinate with the municipal assistance corporation for the city of New York and the 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 June thirtieth, nineteen hundred eighty-six.

* NB Expires June 30, 1986

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.

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 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 l978, 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.

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.

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*** § 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 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 city and to the board within four months after the close of the city's fiscal year.

2. Not later than January fifteenth, nineteen hundred eighty-one, the city shall issue a report to the board on its program designed to enable the city (i) during its fiscal years ending June thirtieth, nineteen hundred eighty-three and June thirtieth, nineteen hundred eighty-four, to minimize its dependence upon the state financing agency to the extent that it shall be prudent to satisfy the city's financing needs by the sale of obligations of the city or its agencies in the public markets, and (ii) thereafter to satisfy its financing needs entirely by the sale of such obligations. The report shall describe such actions that the city proposes to take, in addition to those actions required by law, to implement the program and shall contain such further information as the board may reasonably specify. After the issuance of such initial report, the city shall report to the board at least semi-annually through June thirtieth, nineteen hundred eighty-two and thereafter at least quarterly on the actions it has taken to implement the program and on the results thereof. The city may revise the program from time to time but shall promptly describe any revisions and the reasons therefor to the board. The city may comply with the requirements of this subdivision by submitting the necessary information as supplementary material to a financial plan or financial plan modification in accordance with the standards and procedures of section eight of this act. The provisions of this subdivision shall terminate on June thirtieth, nineteen hundred eighty-five.

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*** § 8. 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 would 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. Notwithstanding the foregoing and the provisions of any general or special state law or local law to the contrary, including but not limited to the New York city charter: (i) all costs that would be capital costs in accordance with generally accepted accounting principles, but for the application of governmental accounting standards board statement number forty-nine, shall be deemed to be capital costs for purposes of this act and any other provision of state or local law, including but not limited to the New York city charter, relevant to the treatment of such costs; and (ii) the determination as to the existence of a deficit pursuant to this act and any other provision of state or local law, including but not limited to the New York city charter, shall be made without regard to changes in restricted fund balances, as defined by the governmental accounting standards board, where restrictions in relation to such fund balances are imposed by state or federal law or regulation, or otherwise by private or governmental parties other than the city of New York, and without regard to funds held in the health stabilization fund, the school crossing guards health insurance fund, any revenue stabilization fund established pursuant to section fifteen hundred twenty-eight of the New York city charter and the management benefits fund established by the city of New York. Deposits into any such revenue stabilization fund shall be deemed to be expenses of such city in the fiscal year in which such deposits are made, and withdrawals from such fund shall be deemed to be revenues of such city in the year in which such withdrawals are made; provided however, that surpluses of such city, whether accumulated from fiscal years ending prior to the effective date of the chapter of the laws of two thousand twenty that amended this paragraph or existing at the close of any fiscal year ending after such effective date, shall be deposited into such revenue stabilization fund as soon as practicable, and such deposits shall not be deemed expenses of the city in the fiscal year in which such deposits are made.

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 (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 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 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 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 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 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 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.

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.

* Terminates July 1, 2035 or ... see § 13

*** § 9. 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 nine. Commencing on October twentieth, nineteen hundred seventy-five, and for the duration of 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.

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 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.

* Terminates July 1, 2035 or ... see § 13

*** § 9-a. Establishment and application of a general debt service fund.** 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 account 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.

* Terminates July 1, 2035 or ... see § 13

*** § 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", "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 issued in exchange for or in refunding or renewal of any such note.

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; 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 one year after their date of issuance and may be renewed for a period not to exceed two years, or such longer period as may be permitted for bond anticipation notes of the state, from the date of original issue.

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.

* Terminates July 1, 2035 or ... see § 13

*** § 10. 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 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.

* Terminates July 1, 2035 or ... see § 13

*** § 10-a. 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 1, 2027, 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 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 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 this act, 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 of this act, 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 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 inclusion 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 of 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.

* Terminates July 1, 2035 or § 13

*** § 11. 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 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.

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.

* Terminates July 1, 2035 or ... see § 13

*** § 12. 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 individiual 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 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.

* Terminates July 1, 2035 or ... see § 13

§ 13. Termination. This act shall terminate on the later 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 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.

* Terminates July 1, 2035 or ... see § 13

*** § 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.

* Terminates July 1, 2035 or ... see § 13

*** § 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.

* Terminates July 1, 2035 or ... see § 13