

## BILL TEXT:

**STATE OF NEW YORK**

5695

2003-2004 Regular Sessions

**IN SENATE**

June 19, 2003

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public authorities law and the tax law, in relation to creating the Buffalo fiscal stability authority

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

1 Section 1. Legislative findings. The legislature hereby finds and  
2 declares that a condition of fiscal difficulty has existed for several  
3 years in the city of Buffalo, as a result of a weakened economy, popu-  
4 lation declines, and job losses. In recent months, the city's fiscal  
5 condition has been further weakened by the impact of the national  
6 economic recession, which has had a greater negative impact in Buffalo  
7 than in many other areas of the state. These factors have led to a  
8 structural imbalance between revenues and expenditures which, when  
9 combined with the city's limited ability to increase taxes on its resi-  
10 dents, has resulted in a downgrade of Buffalo's bonds by independent  
11 bond rating services.

12 It is hereby found and declared that the city is in a state of fiscal  
13 crisis, and that the welfare of the inhabitants of the city is seriously  
14 threatened. The city budget must be balanced and economic recovery  
15 enhanced. Actions should be undertaken which preserve essential services  
16 to city residents, while also ensuring that taxes remain affordable.  
17 Actions contrary to these two essential goals jeopardize the city's  
18 long-term fiscal health and impede economic growth for the city, the  
19 region, and the state.

20 It is, therefore, further found and declared that a combination of  
21 enhanced budgetary discipline and short-term budgetary relief is neces-  
22 sary to assist the city in returning to fiscal and economic stability,  
23 while ensuring adequate funding for the provision of essential services  
24 and for the maintenance, expansion, and rebuilding of the infrastructure

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 of the city. If the city financial plan incorporates the annual targets  
2 required by this act for recurring cost-saving measures, the Buffalo  
3 fiscal stability authority shall make savings available to the city  
4 through a restructuring of a portion of the city's outstanding debt,  
5 and/or through limited borrowing for operating costs, in either case,  
6 secured by an intercept of sales tax net collections as well as state  
7 aid.

8 It is hereby further found and declared that a control and advisory  
9 finance authority should be established to oversee the city's budget,  
10 financial and capital plans; to issue bonds, notes or other obligations  
11 to achieve budgetary savings through debt restructuring; to finance  
12 short-term cash flow or capital needs; and, if necessary, to develop  
13 financial plans on behalf of the city if the city is unwilling or unable  
14 to take the required steps toward fiscal stability.

15 Based upon the fiscal crisis in the city of Buffalo, the legislature  
16 through this act creates a Buffalo fiscal stability authority with  
17 certain control, advisory and borrowing powers, and imposes on the city  
18 of Buffalo certain requirements as to budgetary operations and fiscal  
19 management, including minimum annual requirements to produce recurring  
20 budget savings in increasing amounts over the next four years. The  
21 agreements for financial and budgetary discipline between the authority  
22 and the city shall be for such period as is necessary under the stand-  
23 ards set forth in this act to restore the city of Buffalo to fiscal  
24 integrity, with a control or advisory role for the authority continuing  
25 until June 30, 2037.

26 § 2. Article 10-D of the public authorities law is amended by adding a  
27 new title 2 to read as follows:

28 **TITLE 2**

29 **BUFFALO FISCAL STABILITY AUTHORITY**

30 **Section 3850. Short title.**

31 **3850-a. Legislative declaration of need for state intervention.**

32 **3851. Definitions.**

33 **3852. Buffalo fiscal stability authority.**

34 **3853. Administration of the authority.**

35 **3854. General powers of the authority.**

36 **3855. Assistance to the authority; employees of the authority.**

37 **3856. City fiscal year two thousand three--two thousand four**  
38 **budget modification and four-year financial plan.**

39 **3857. City financial plans.**

40 **3858. Control period.**

41 **3859. Advisory period.**

42 **3860. Additional provisions.**

43 **3861. Declaration of need for financing assistance to the city.**

44 **3862. Bonds, notes or other obligations of the authority.**

45 **3863. Remedies of bondholders.**

46 **3864. Intercept of city tax revenues and state aid revenues.**

47 **3865. Resources of the authority.**

48 **3866. Agreement with the state.**

49 **3867. Agreement with the city.**

50 **3868. Bonds, notes or other obligations legal for investment and**  
51 **deposit.**

52 **3869. Tax exemption.**

53 **3870. Actions against the authority.**

54 **3871. Audits.**

55 **3872. Effect of inconsistent provisions.**

56 **3873. Separability; construction.**

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1 § 3850. Short title. This title shall be known and may be cited as the  
2 "Buffalo fiscal stability authority act."

3 § 3850-a. Legislative declaration of need for state intervention. The  
4 legislature hereby finds and declares that the city of Buffalo is facing  
5 a severe fiscal crisis, and that the crisis cannot be resolved absent  
6 assistance from the state. The legislature finds that the city has  
7 repeatedly relied on annual extraordinary increases in state aid to  
8 balance its budget, and that the state cannot continue to take such  
9 extraordinary actions on the city's behalf. The legislature further  
10 finds and declares that maintenance of a balanced budget by the city of  
11 Buffalo is a matter of overriding state concern, requiring the legisla-  
12 ture to intervene to provide a means whereby: the long-term fiscal  
13 stability of the city will be assured, the confidence of investors in  
14 the city's bonds and notes is preserved, and the economy of both the  
15 region and the state as a whole is protected.

16 § 3851. Definitions. For the purposes of this title, unless the  
17 context otherwise requires: 1. "Advisory period" means that period no  
18 earlier than July first, two thousand six, after which the authority has  
19 determined that (a) for each of the three immediately preceding city  
20 fiscal years, the city has adopted and adhered to budgets covering all  
21 expenditures, other than capital items, the results of which did not  
22 show a deficit, without the use of any authority assistance, as provided  
23 for under section thirty-eight hundred fifty-seven of this title, when  
24 reported in accordance with generally accepted accounting principles and  
25 (b) the comptroller and the state comptroller jointly certify that secu-  
26 rities were sold by the city during the immediately preceding city  
27 fiscal year in the general public market and that there is a substantial  
28 likelihood that such securities can be sold by the city in the general  
29 public market from such date through the end of the next succeeding city  
30 fiscal year in amounts that will satisfy substantially all of the capi-  
31 tal and cash flow requirements of the city during that period in accord-  
32 ance with the financial plan then in existence. The joint certification  
33 made by the comptroller and the state comptroller shall be based on  
34 their separate written determinations which may take into account a  
35 report and opinion of an independent expert in the marketing of securi-  
36 ties selected by the authority as well as other information available to  
37 the comptrollers. Once begun, an advisory period shall continue through  
38 June thirtieth, two thousand thirty-seven unless a control period is  
39 imposed.

40 2. "Authority" or "Buffalo fiscal stability authority" or "BFSA" means  
41 the public benefit corporation created by this title.

42 3. "BFSA assistance" means: (a) the amount of debt service savings in  
43 a given city fiscal year generated from the proceeds of bonds, notes or  
44 other obligations made available to or for the benefit of the city or  
45 any covered organization as determined by the authority; or (b) the  
46 proceeds of any deficit financing authorized by the authority, or some  
47 combination thereof pursuant to the provisions of section thirty-eight  
48 hundred fifty-seven of this title. Such assistance shall be made avail-  
49 able only upon a declaration of need by the city pursuant to section  
50 thirty-eight hundred sixty-one of this title and the approval of the  
51 BFSA board.

52 4. "Bonds, notes or other obligations" means bonds, notes and other  
53 evidences of indebtedness, issued or incurred by the authority.

54 5. "Chief fiscal officer" means the chief fiscal officer of the city  
55 as defined in section 2.00 of the local finance law.

56 6. "City" means the city of Buffalo.

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1 7. "City charter" means the city government law of the city of  
2 Buffalo, as amended.

3 8. "City tax revenues" means the portion of the county's "net  
4 collections", as defined in section twelve hundred sixty-two of the tax  
5 law, payable to the city under the agreement among the county, the city  
6 and the cities of Lackawanna and Tonawanda entered into pursuant to the  
7 authority of subdivision (c) of section twelve hundred sixty-two of the  
8 tax law. In the event that the city imposes sales and compensating use  
9 taxes pursuant to the authority of section twelve hundred ten of the tax  
10 law, "city tax revenues" shall also include net collections from such  
11 city taxes.

12 9. "Comptroller" means the comptroller of the city.

13 10. "Control period" means that period of time from the effective date  
14 of this title, continuing until the authority determines that conditions  
15 have been met as provided in subdivision one of this section and the  
16 city qualifies for the onset of an advisory period. A control period may  
17 be reimposed as determined by the authority in accordance with section  
18 thirty-eight hundred fifty-eight of this title.

19 11. "Council" means the city council of the city of Buffalo.

20 12. "County" means the county of Erie.

21 13. "Covered organization" means the city school district, the joint  
22 schools construction board of the city, as described in chapter six  
23 hundred five of the laws of two thousand, as amended, and the Buffalo  
24 municipal housing authority and any governmental agency, public authori-  
25 ty or public benefit corporation which receives or may receive moneys  
26 directly, indirectly or contingently from the city, but excluding the  
27 authority and (a) any other governmental agency, public authority or  
28 public benefit corporation specifically exempted from the provisions of  
29 this title by order of the authority upon application of such agency,  
30 public authority, or corporation to the authority or on the authority's  
31 own motion upon a finding by the authority that such exemption does not  
32 materially affect the ability of the city to adopt and maintain a budget  
33 pursuant to the provisions of this title, or (b) any state public  
34 authority defined in section two hundred one of the civil service law,  
35 unless specifically named above; provided, however, that the authority  
36 may terminate any exemption granted by order of the authority pursuant  
37 to this subdivision upon a determination that the circumstances upon  
38 which such exemption was granted are no longer applicable.

39 14. "Director of the budget" means the director of the budget of the  
40 state.

41 15. "Financeable costs" or "costs" means costs to finance (a) amounts  
42 necessary to accomplish a refunding, repayment or restructuring of a  
43 portion of the city's outstanding indebtedness or that of any covered  
44 organization, (b) cash flow needs of the city or any covered organiza-  
45 tion, (c) any object or purpose of the city or any covered organization,  
46 for which a period of probable usefulness is prescribed in section 11.00  
47 of the local finance law, including the costs of any preliminary  
48 studies, surveys, maps, plans, estimates and hearings, (d) amounts  
49 necessary to finance a portion of the operating costs of the city or any  
50 covered organization as provided in section thirty-eight hundred fifty-  
51 seven of this title, to the extent approved by the authority, or (e)  
52 incidental costs, including, but not limited to, legal fees, printing or  
53 engraving, publication of notices, taking of title, apportionment of  
54 costs, and capitalized interest, insurance premiums, costs related to  
55 items authorized in subdivisions seven through nine of section thirty-  
56 eight hundred fifty-four of this title or any underwriting or other

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1 costs incurred in connection with the financing thereof; provided howev-  
2 er that, to the maximum extent practicable, all financeable costs shall  
3 not adversely affect the requirements of subdivision two of section  
4 thirty-eight hundred sixty-nine of this title.

5 16. "Financial plan" means the financial plan of the city and the  
6 covered organizations to be developed pursuant to section thirty-eight  
7 hundred fifty-seven of this title, as from time to time amended.

8 17. "Major operating funds" means the city general fund, the board of  
9 education general fund, the city enterprise funds, the board of educa-  
10 tion special project funds, together with any other funds of the city or  
11 a covered organization from time to time designated by the authority.

12 18. "Mayor" means the mayor of the city.

13 19. "Presiding officer" means the presiding officer of the council  
14 elected pursuant to the rules of the council.

15 20. "Projected gap" means the excess, if any, of annual aggregate  
16 projected expenditures over annual aggregate projected revenues for the  
17 major operating funds in each year of a financial plan as determined by  
18 the city and certified by the authority. For purposes of determining the  
19 projected gap in each fiscal year, annual aggregate projected revenues  
20 shall not include the amount of BFSAs assistance expected to be available  
21 for such fiscal year.

22 21. "Revenues" means revenues of the authority consisting of city tax  
23 revenues, state aid revenues, and all other aid, rents, fees, charges,  
24 payments and other income and receipts paid or payable to the authority  
25 or a trustee for the account of the authority to the extent such amounts  
26 are pledged to bondholders.

27 22. "State" means the state of New York.

28 23. "State aid" means: all general purpose local government aid; emer-  
29 gency financial assistance to certain cities; emergency financial  
30 assistance to eligible municipalities; supplemental municipal aid; and  
31 any successor type of aid and any new aid appropriated by the state as  
32 local government assistance for the benefit of the city.

33 24. "State aid revenues" means state aid paid by the state comptroller  
34 to the authority pursuant to this title.

35 25. "State comptroller" means the comptroller of the state.

36 § 3852. Buffalo fiscal stability authority. 1. There is hereby created  
37 the Buffalo fiscal stability authority. The authority shall be a corpo-  
38 rate governmental agency and instrumentality of the state constituting a  
39 public benefit corporation.

40 2. The authority shall conduct meetings as often as deemed necessary  
41 to accomplish its purposes, but not less than quarterly during a control  
42 period, and annually during an advisory period.

43 3. The authority shall continue until its control, advisory or other  
44 responsibilities, and its liabilities have been met or otherwise  
45 discharged, which in no event shall be later than June thirtieth, two  
46 thousand thirty-seven. Upon the termination of the authority, all of its  
47 property and assets shall pass to and be vested in the city.

48 § 3853. Administration of the authority. 1. The authority shall be  
49 administered by nine directors, seven of which shall be appointed by the  
50 governor. Of the seven directors, one such director shall be a resident  
51 of the city of Buffalo; one such director shall be appointed following  
52 the recommendation of the state comptroller; and one such director shall  
53 be appointed on the joint recommendation of the temporary president of  
54 the senate and the speaker of the assembly. The mayor and the county  
55 executive shall serve as ex officio members. Every director, who is  
56 otherwise an elected official of the city or county, shall be entitled

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1 to designate a single representative to attend, in his or her place,  
2 meetings of the authority and to vote or otherwise act in his or her  
3 behalf. Such designees shall be residents of the city of Buffalo.  
4 Written notice of such designation shall be furnished prior to any  
5 participation by the single designee. Such single designee shall serve  
6 at the pleasure of the representative, and shall not be authorized to  
7 delegate any of his or her duties or functions to another person. Each  
8 director appointed by the governor shall be appointed for a term of four  
9 years, provided however, that four of the directors first appointed by  
10 the governor, including the director appointed following the recommenda-  
11 tion of the state comptroller shall serve for a term ending June thirti-  
12 eth, two thousand seven, and the remaining three directors first  
13 appointed by the governor including the director appointed on the joint  
14 recommendation of the temporary president of the senate and the speaker  
15 of the assembly and shall serve for a term ending June thirtieth, two  
16 thousand nine. Each director shall hold office until his or her succes-  
17 sor has been appointed and qualified. Thereafter, each director shall  
18 serve a term of four years, except that any director appointed to fill a  
19 vacancy shall serve only until the expiration of his or her predeces-  
20 sor's term.

21 2. The governor shall designate a chairperson and a vice-chairperson  
22 from among the directors. The chairperson shall preside over all meet-  
23 ings of the directors and shall have such other duties as the directors  
24 may prescribe. The vice-chairperson shall preside over all meetings of  
25 the directors in the absence of the chairperson and shall have such  
26 other duties as the directors may prescribe.

27 3. The directors of the authority shall serve without salary, but each  
28 director shall be reimbursed for actual and necessary expenses incurred  
29 in the performance of such director's official duties as a director of  
30 the authority.

31 4. Notwithstanding any inconsistent provision of any general, special  
32 or local law, ordinance, resolution or charter, no officer, member or  
33 employee of the state, any city, county, town or village, any govern-  
34 mental entity operating any public school or college, any school  
35 district or any other public agency or instrumentality which exercises  
36 governmental powers under the laws of the state, shall forfeit his or  
37 her office or employment by reason of his or her acceptance of appoint-  
38 ment as a director, officer or employee of the authority, nor shall  
39 service as such director, officer or employee of the authority be deemed  
40 incompatible or in conflict with such office or employment.

41 5. Five directors shall constitute a quorum for the transaction of any  
42 business or the exercise of any power of the authority. No action shall  
43 be taken by the authority except pursuant to a favorable vote of at  
44 least five directors participating in a meeting at which such action is  
45 taken.

46 6. The authority shall appoint a treasurer and may appoint officers  
47 and agents as it may require and prescribe their duties.

48 7. At least annually, commencing no more than one year after the date  
49 on which authority bonds, notes or other obligations are first issued,  
50 the authority shall report to the council, comptroller, the director of  
51 the budget, and the state comptroller on the amount of financing and the  
52 cost savings for the city over the past year.

53 8. The authority shall cease to exist on June thirtieth, two thousand  
54 thirty-seven.

55 § 3854. General powers of the authority. Except as otherwise limited  
56 by this title, the authority shall have the following powers in addition

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1 to those specially conferred elsewhere in this title, subject only to  
2 agreements with bondholders:

- 3 1. to sue and be sued;
- 4 2. to have a seal and alter the same at pleasure;
- 5 3. to make and alter by-laws for its organization and management and  
6 subject to agreements with its bondholders, to make and alter rules and  
7 regulations governing the exercise of its powers and fulfillment of its  
8 purposes under this title;
- 9 4. to make and execute contracts and all other instruments or agree-  
10 ments necessary or convenient to carry out any powers and functions  
11 expressly given in this title;
- 12 5. to commence any action to protect or enforce any right conferred  
13 upon it by any law, contract or other agreement;
- 14 6. to borrow money and issue bonds, notes or other obligations, or to  
15 refund the same, and to provide for the rights of the holders of its  
16 bonds, notes or other obligations;
- 17 7. as security for the payment of the principal of and interest on any  
18 bonds, notes or other obligations issued by it pursuant to this title  
19 and any agreements made in connection therewith and for its obligations  
20 under bond facilities, to pledge all or any part of its revenues or  
21 assets;
- 22 8. to procure insurance, letters of credit or other credit enhancement  
23 with respect to its bonds, notes or other obligations, or facilities for  
24 the payment of tenders of such bonds, notes or other obligations or  
25 facilities for the payment upon maturity of short-term notes not  
26 renewed;
- 27 9. to enter into interest rate exchange or similar arrangements with  
28 any person under such terms and conditions as the authority may deter-  
29 mine, not inconsistent with the general laws of this state and other  
30 provisions of this title, including, without limitation, provisions as  
31 to default or early termination and indemnification by the authority or  
32 any other party thereto for loss of benefits as a result thereof;  
33 provided, however, that such exchanges or similar arrangements shall be  
34 limited to twenty-five percent of the amount authorized in subdivision  
35 one of section thirty-eight hundred sixty-two of this title to pay the  
36 financeable costs described in paragraph (a), (c), (d) or (e) of subdi-  
37 vision fifteen of section thirty-eight hundred fifty-one of this title;
- 38 10. to accept gifts, grants, loans or contributions of funds or finan-  
39 cial or other aid in any form from the city, county, state or federal  
40 government or any agency or instrumentality thereof, or from any other  
41 source and to expend the proceeds for any of its corporate purposes in  
42 accordance with the provisions of this title;
- 43 11. subject to the provisions of any contract with bondholders, to  
44 invest any funds held in reserves or sinking funds, or any funds not  
45 required for immediate use or disbursement, at the discretion of the  
46 authority, in (a) obligations of the state or the United States govern-  
47 ment, (b) obligations the principal and interest of which are guaranteed  
48 by the state or the United States government, (c) certificates of depos-  
49 it, whether negotiable or non-negotiable, and banker's acceptances of  
50 any of the fifty largest banks in the United States which bank, at the  
51 time of investment, has an outstanding unsecured, uninsured and unguar-  
52 anteed debt issue ranked by two nationally recognized independent rating  
53 agencies at a rating category that is no lower than the then current  
54 rating of the authority's bonds, notes or other obligations, (d) commer-  
55 cial paper of any bank or corporation created under the laws of either  
56 the United States or any state of the United States which commercial

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1 paper, at the time of the investment, has received the highest rating of  
2 two nationally recognized independent rating agencies, (e) bonds, debentures,  
3 or other evidences of indebtedness, issued or guaranteed at the  
4 time of the investment by the federal national mortgage association,  
5 federal home loan mortgage corporation, student loan marketing association,  
6 federal farm credit system, or any other United States government  
7 sponsored agency, provided that at the time of the investment such agency  
8 receives, or its obligations receive, any of the three highest rating  
9 categories of two nationally recognized independent rating agencies, (f)  
10 any bonds or other obligations of any state or the United States of  
11 America or of any political subdivision thereof or any agency, instrumentality  
12 or local governmental unit of any such state or political  
13 subdivision which bonds or other obligations, at the time of the investment  
14 have received any of the three highest ratings of two nationally  
15 recognized independent rating agencies, (g) any repurchase agreement  
16 with any bank or trust company organized under the laws of any state of  
17 the United States of America or any national banking association or  
18 government bond dealer reporting to, trading with, and recognized as a  
19 primary dealer by the Federal Reserve Bank of New York, which agreement  
20 is secured by any one or more of the securities described in paragraph  
21 (a), (b) or (e) of this subdivision, which securities shall at all times  
22 have a market value of not less than the full amount of the repurchase  
23 agreement and be delivered to another bank or trust company organized  
24 under the laws of the state or any national banking association domiciled  
25 in the state, as custodian, and (h) reverse repurchase agreements  
26 with any bank or trust company organized under the laws of any state of  
27 the United States of America or any national banking association or  
28 government bond dealer reporting to, trading with, and recognized as a  
29 primary dealer by the Federal Reserve Bank of New York, which agreement  
30 is secured by any one or more of the securities described in paragraph  
31 (a), (b) or (e) of this subdivision which securities shall at all times  
32 have a market value of not less than the full amount of the repurchase  
33 agreement and be delivered to another bank or trust company organized  
34 under the laws of the state or any national banking association domiciled  
35 in the state, as custodian.

36 12. to appoint such officers and employees as it may require for the  
37 performance of its duties and to fix and determine their qualifications,  
38 duties, and compensation, and to retain or employ counsel, auditors and  
39 private financial consultants and other services on a contract basis or  
40 otherwise for rendering professional, business or technical services and  
41 advice; and, in taking such actions, the authority shall consider the  
42 financial impact on the city; and

43 13. to do any and all things necessary or convenient to carry out its  
44 purposes and exercise the powers expressly given and granted in this  
45 title; provided, however, such authority shall under no circumstances  
46 acquire, hold or transfer title to, lease, own beneficially or otherwise,  
47 manage, operate or otherwise exercise control over any real property,  
48 any improvement to real property or any interest therein other  
49 than a lease or sublease of office space deemed necessary or desirable  
50 by the authority.

51 § 3855. Assistance to the authority; employees of the authority. 1.  
52 With the consent of any public corporation, the authority may use  
53 agents, employees and facilities thereof, paying to such public corporation  
54 its agreed proportion of the compensation or costs.

55 2. Officers and employees of state or city agencies may be transferred  
56 to the authority without examination and without loss of any civil

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1 service or retirement status or rights. Any officer or employee of the  
 2 authority who heretofore acquired or shall hereafter acquire such posi-  
 3 tion status by transfer and who at the time of such transfer was a  
 4 member of the New York state and local employees' retirement system  
 5 shall continue to be a member of such system as long as he or she  
 6 continues in such service, and shall continue to have all the rights,  
 7 privileges and obligations of membership in such system.

8 § 3856. City fiscal year two thousand three--two thousand four budget  
 9 modification and four-year financial plan. 1. Not later than September  
 10 first, two thousand three, the city shall submit to the authority a  
 11 financial plan which may reflect a declaration of need as provided for  
 12 in section thirty-eight hundred sixty-one. The plan shall cover the  
 13 city's two thousand three--two thousand four fiscal year and the three  
 14 subsequent fiscal years.

15 2. Not later than fifteen days after such submission, the authority  
 16 shall approve or disapprove the financial plan.

17 3. In the event the authority shall disapprove such financial plan  
 18 based on disapproval of certain actions or assumptions, the authority  
 19 shall promptly thereafter notify the city of its reasons. Within fifteen  
 20 days from the receipt of such notification the city shall modify the  
 21 financial plan, and unless such financial plan modification is approved  
 22 by the authority, the authority shall impose a financial plan of its own  
 23 formulation as soon as practicable, as provided for in section thirty-  
 24 eight hundred fifty-eight of this title.

25 § 3857. City financial plans. 1. Commencing with the city's two thou-  
 26 sand four--two thousand five fiscal year, the mayor shall prepare and  
 27 submit to the authority a four-year financial plan, and the mayor's  
 28 proposed city budget, not later than the date required for submission of  
 29 such budget to the council pursuant to the city charter. Such financial  
 30 plan shall, in addition to the requirements for financial plans set  
 31 forth in subdivisions two and three of this section, contain actions  
 32 sufficient to ensure with respect to the major operating funds for each  
 33 fiscal year of the plan that annual aggregate operating expenses for  
 34 such fiscal year shall not exceed annual aggregate operating revenues  
 35 for such fiscal year. For purposes of determining operating revenues in  
 36 the fiscal years ending June thirtieth, two thousand four through two  
 37 thousand seven, such plan may assume receipt by the city of BFSAs assist-  
 38 ance in the following collective amounts for each respective fiscal  
 39 year:

	Amount	Fiscal Year Ending
40		
41	<u>2004 amount</u>	<u>2004</u>
42	<u>2005 amount</u>	<u>2005</u>
43	<u>2006 amount</u>	<u>2006</u>
44	<u>2007 amount</u>	<u>2007</u>

45 As used in this subdivision:  
 46 "2004 amount" means that amount expected to be provided by the authority  
 47 to ensure balanced major operating fund operations upon its determi-  
 48 nation that the city has taken recurring actions to close between thir-  
 49 ty-five per centum and forty per centum of the projected gap.

50 "2005 amount" means that amount expected to be provided by the authority  
 51 to ensure balanced major operating fund operations upon its determi-  
 52 nation that the city has taken recurring actions to close between  
 53 forty-five per centum and fifty per centum of the projected gap.

54 "2006 amount" means that amount expected to be provided by the authority  
 55 to ensure balanced major operating fund operations upon its determi-

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1 nation that the city has taken recurring actions to close between sixty  
2 per centum and sixty-five per centum of the projected gap.

3 "2007 amount" means that amount expected to be provided by the authority  
4 to ensure balanced major operating fund operations upon its determi-  
5 nation that the city has taken recurring actions to close between eighty  
6 per centum and eighty-five per centum of the projected gap.

7 2. Each financial plan and financial plan modification shall conform  
8 to the requirements of paragraph (a) of this subdivision and shall  
9 provide that the major operating funds of the city will be balanced in  
10 accordance with generally accepted accounting principles. The financial  
11 plan shall be developed and approved, and may from time to time be modi-  
12 fied, in accordance with the following procedures:

13 (a) The mayor shall submit to the authority a certificate stating that  
14 the budget submitted to the authority is consistent with the financial  
15 plan submitted therewith and that operation within the budget is feasi-  
16 ble.

17 (a-1) Prior to the approval or disapproval of the financial plan of  
18 the city by the authority, the authority shall request community, educa-  
19 tional or other entity or entities to seek public input and comment  
20 relating to the city's and/or any covered organization's financial plan.  
21 Such community, educational or other entity or entities shall report to  
22 the authority on such public input and comment ten days after the city  
23 has submitted the financial plan to the authority.

24 (b) Not more than twenty days after submission of a financial plan or  
25 more than fifteen days after submission of a financial plan modifica-  
26 tion, the authority shall determine whether the financial plan or finan-  
27 cial plan modification is complete and complies with the provisions of  
28 this section and section thirty-eight hundred fifty-six of this title  
29 and the other requirements of this title, and shall submit its recommen-  
30 dations with respect to the financial plan or financial plan modifica-  
31 tion in accordance with the provisions of this subdivision.

32 (c) Upon the approval by the city of a budget in accordance with the  
33 provisions of the city charter, the mayor shall submit such approved  
34 budget and financial plan to the authority accompanied by expenditure,  
35 revenue and cash flow projections on a quarterly basis and certify to  
36 the authority that such budget is consistent with the financial plan to  
37 be submitted to the authority.

38 (d) If the authority determines that the financial plan or financial  
39 plan modification provided pursuant to paragraph (c) or (f) of this  
40 subdivision or section thirty-eight hundred fifty-six of this title is  
41 complete and complies with the standards set forth in this subdivision,  
42 the authority shall make a certification to the city setting forth  
43 revenue estimates agreed to by the authority in accordance with such  
44 determination.

45 (e) The authority shall, in the event it disagrees with elements of  
46 the financial plan provided pursuant to paragraph (c) or (f) of this  
47 subdivision, or section thirty-eight hundred fifty-six of this title,  
48 provide notice thereof to the city, with copies to the director of the  
49 budget, the state comptroller, the chair of the assembly ways and means  
50 committee and the chair of the senate finance committee, if, in the  
51 judgment of the authority, such plan: (i) is incomplete; (ii) fails to  
52 contain projections of revenues and expenditures that are based on  
53 reasonable and appropriate assumptions and methods of estimations; (iii)  
54 fails to provide that operations of the city and the covered organiza-  
55 tions will be conducted within the cash resources available; or (iv)

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1 fails to comply with the provisions of this title or other requirements  
2 of law.

3 (f) After the initial adoption of an approved financial plan, the  
4 revenue estimates certified by the authority and the financial plan  
5 shall be regularly reexamined by the authority in consultation with the  
6 city and the covered organizations and the mayor shall provide a modi-  
7 fied financial plan in such detail and within such time periods as the  
8 authority may require. In the event of reductions in such revenue esti-  
9 mates, or in the event the city or a covered organization shall expend  
10 funds at a rate that would exceed the aggregate expenditure limitation  
11 for the city or covered organization prior to the expiration of the  
12 fiscal year, the mayor shall submit a financial plan modification to  
13 effect such adjustments in revenue estimates and reductions in total  
14 expenditures as may be necessary to conform to such revised revenue  
15 estimates or aggregate expenditure limitations.

16 (g) If, within a time period specified by the authority, the city  
17 fails to make such modifications after reductions in revenue estimates,  
18 or to provide a modified plan in detail and within such time period  
19 required by the authority, the authority shall adopt a resolution so  
20 finding and shall, as soon as practicable thereafter, formulate and  
21 adopt a financial plan to be effective until the authority approves a  
22 financial plan submitted by the city. All budgets and operations of the  
23 city or a covered organization shall be in conformance and compliance  
24 with the financial plan then in effect.

25 (h) The city shall amend its budget or shall submit a financial plan  
26 modification for the approval of the authority such that the city's  
27 budget and the approved financial plan shall be consistent. In no event  
28 shall the city operate under a budget that is inconsistent with an  
29 approved financial plan.

30 3. The financial plan shall be in such form and shall contain such  
31 information for each year during which the financial plan is in effect  
32 as the authority may specify, and shall include the city and all the  
33 covered organizations, and shall, in such detail as the authority from  
34 time to time may prescribe, include statements of all estimated revenues  
35 and of all expenditures and cash flow projections of the city and each  
36 covered organization.

37 4. The financial plan shall include any information which the authori-  
38 ty may request to satisfy itself that (a) projected employment levels,  
39 collective bargaining agreements and other actions relating to employee  
40 costs, capital construction and such other matters as the authority may  
41 specify are consistent with the provisions made for such obligations in  
42 the financial plan, (b) the city and the covered organizations are  
43 taking whatever action is necessary with respect to programs mandated by  
44 state and federal law to ensure that expenditures for such programs are  
45 limited to and covered by the expenditures stated in the financial plan,  
46 (c) adequate reserves are provided to maintain essential programs in the  
47 event revenues have been overestimated or expenditures underestimated  
48 for any period, and (d) the city has adequate cash resources to meet its  
49 obligations. In addition, except to the extent such reporting require-  
50 ments may be modified pursuant to agreement between the authority and  
51 the city, for each fiscal year occurring during a control period, or  
52 while bonds, notes or other obligations issued pursuant to this title  
53 are outstanding, the mayor shall prepare a quarterly report of summa-  
54 rized budget data depicting overall trends, by major category within  
55 funds, of actual revenues and budget expenditures for the entire budget  
56 rather than individual line items, as well as updated quarterly cash

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1 flow projections of receipts and disbursements. Such reports shall  
2 compare revenue estimates and appropriations as set forth in such budget  
3 and in the quarterly revenue and expenditure projections submitted therewith,  
4 with the actual revenues and expenditures made to date. Such  
5 reports shall also compare actual receipts and disbursements with the  
6 estimates contained in the cash flow projections, together with variances  
7 and their explanation. All quarterly reports shall be accompanied  
8 by recommendations from the mayor to the council setting forth any remedial  
9 action necessary to resolve any unfavorable budget variance including  
10 the overestimation of revenues and the underestimation of appropriations.  
11 These reports shall be completed within thirty days after the  
12 end of each quarter and shall be submitted to the council, the authority,  
13 the director of the budget and the state comptroller. For each  
14 fiscal year occurring during a control or advisory period or while  
15 bonds, notes or other obligations issued pursuant to this title are  
16 outstanding, the mayor shall submit a proposed budget or revision there-  
17 to to the authority concurrent with submission to the council, and shall  
18 submit the adopted budget to the authority immediately upon its  
19 adoption.

20 5. For each financial plan and financial plan modification to be  
21 prepared and submitted by the mayor to the authority pursuant to the  
22 provisions of this section, the covered organizations shall submit to  
23 the city such information with respect to their projected expenditures,  
24 revenues and cash flows for each of the years covered by such financial  
25 plan or modification as the mayor shall determine.

26 § 3858. Control period. 1. A control period shall begin as of the  
27 effective date of this title and may be reimposed during an advisory  
28 period if the authority determines at any time that a fiscal crisis is  
29 imminent or that any of the following events has occurred or that there  
30 is a substantial likelihood and imminence of such occurrence: (a) the  
31 city shall have failed to adopt a balanced budget, financial plan or  
32 budget modification as required by sections thirty-eight hundred fifty-  
33 six and thirty-eight hundred fifty-seven of this title, (b) the city  
34 shall have failed to pay the principal of or interest on any of its  
35 bonds or notes when due, (c) the city shall have incurred an operating  
36 deficit of one percent or more in the aggregate results of operations of  
37 any major fund of the city or a covered organization during its fiscal  
38 year assuming all revenues and expenditures are reported in accordance  
39 with generally accepted accounting principles, subject to the provisions  
40 of this title, (d) the chief fiscal officer's certification at any time,  
41 at the request of the authority or on the chief fiscal officer's initiative,  
42 which certification shall be made from time to time as promptly  
43 as circumstances warrant and reported to the authority, that on the  
44 basis of facts existing at such time such officer could not make the  
45 certification described in subdivision one of section thirty-eight  
46 hundred fifty-one of this title, or (e) the city shall have violated any  
47 provision of this title. A control period shall terminate when the  
48 authority has determined that the city qualifies for the onset of an  
49 advisory period as provided under subdivision one of section thirty-  
50 eight hundred fifty-one of this title. After onset of an advisory period,  
51 the authority shall annually consider paragraphs (a) through (e) of  
52 this subdivision and determine whether, in its judgment, any of the  
53 events described in such paragraphs have occurred and the authority  
54 shall publish each such determination. Any certification made by the  
55 chief fiscal officer hereunder shall be based on such officer's written  
56 determination which shall take into account a report and opinion of an

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1 independent expert in the marketing of municipal securities selected by  
2 the authority, and the opinion of such expert and any other information  
3 taken into account shall be made public when delivered to the authority.  
4 Notwithstanding any part of the foregoing to the contrary, in no event  
5 shall any control period continue beyond June thirtieth, two thousand  
6 thirty-seven.

7 2. In carrying out the purposes of this title during any control peri-  
8 od, the authority:

9 (a) shall approve or disapprove the financial plan and the financial  
10 plan modifications of the city, as provided in sections thirty-eight  
11 hundred fifty-six and thirty-eight hundred fifty-seven of this title,  
12 and shall formulate and adopt its own modifications to the financial  
13 plan, as necessary; such modifications shall become effective upon their  
14 adoption by the authority;

15 (b) may set a maximum level of spending for any proposed budget of any  
16 covered organization;

17 (c) may impose a wage and/or hiring freeze: (i) During a control peri-  
18 od, upon a finding by the authority that a wage and/or hiring freeze is  
19 essential to the adoption or maintenance of a city budget or a financial  
20 plan that is in compliance with this title, the authority shall be  
21 empowered to order that all increases in salary or wages of employees of  
22 the city and employees of covered organizations which will take effect  
23 after the date of the order pursuant to collective bargaining agree-  
24 ments, other analogous contracts or interest arbitration awards, now in  
25 existence or hereafter entered into, requiring such salary or wage  
26 increases as of any date thereafter are suspended. Such order may also  
27 provide that all increased payments for holiday and vacation differen-  
28 tials, shift differentials, salary adjustments according to plan and  
29 step-ups or increments for employees of the city and employees of  
30 covered organizations which will take effect after the date of the order  
31 pursuant to collective bargaining agreements, other analogous contracts  
32 or interest arbitration awards requiring such increased payments as of  
33 any date thereafter are, in the same manner, suspended. For the  
34 purposes of computing the pension base of retirement allowances, any  
35 suspended salary or wage increases and any other suspended payments  
36 shall not be considered as part of compensation or final compensation or  
37 of annual salary earned or earnable.

38 (ii) Notwithstanding the provisions of subparagraph (i) of this para-  
39 graph, this subdivision shall not be applicable to employees of the city  
40 or employees of a covered organization subject to a collective bargain-  
41 ing agreement or an employee of the city or a covered organization not  
42 subject to a collective bargaining agreement where the collective  
43 bargaining representative or such unrepresented employee has agreed to a  
44 deferment of salary or wage increase, by an instrument in writing which  
45 has been certified by the authority as being an acceptable and appropri-  
46 ate contribution toward alleviating the fiscal crisis of the city. Any  
47 such agreement to a deferral of salary or wage increase may provide that  
48 for the purposes of computing the pension base of retirement allowances,  
49 any deferred salary or wage increase may be considered as part of  
50 compensation or final compensation or of annual salary earned or earn-  
51 able;

52 (iii) Notwithstanding the provisions of subparagraphs (i) and (ii) of  
53 this paragraph, no retroactive pay adjustments of any kind shall accrue  
54 or be deemed to accrue during the period of wage freeze, and no such  
55 additional amounts shall be paid at the time a wage freeze is lifted, or  
56 at any time thereafter.

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1 (d) shall periodically evaluate the suspension of salary or wage  
2 increases or suspensions of other increased payments or benefits, and  
3 may, if it finds that the fiscal crisis, in the sole judgment of the  
4 authority has abated, terminate such suspensions;

5 (e) shall review and approve or disapprove any collective bargaining  
6 agreement to be entered into by the city or any covered organization, or  
7 purporting to bind, the city or any covered organization. Prior to  
8 entering into any collective bargaining agreement, the city or any  
9 covered organization shall submit a copy of such collective bargaining  
10 agreement to the authority, accompanied by an analysis of the projected  
11 costs of such agreement and a certification that execution of the agree-  
12 ment will be in accordance with the financial plan. Such submission  
13 shall be in such form and include such additional information as the  
14 authority may prescribe. The authority shall promptly review the terms  
15 of such collective bargaining agreement and the supporting information  
16 in order to determine compliance with the financial plan, and shall  
17 disapprove any collective bargaining agreement which, in its judgment,  
18 would be inconsistent with the financial plan. No collective bargaining  
19 agreement binding, or purporting to bind, the city or any covered organ-  
20 ization after the effective date of this title shall be valid and bind-  
21 ing upon the city or any covered organization unless first approved by  
22 resolution of the authority.

23 (f) shall act jointly with the city in selecting members of any inter-  
24 est arbitration panel. Notwithstanding any other evidence presented by  
25 the city, the covered organization or any recognized employee organiza-  
26 tion, the arbitration panel must, prior to issuing any final decision,  
27 provide the authority with the opportunity to present evidence regarding  
28 the fiscal condition of the city;

29 (g) shall take any action necessary in order to implement the finan-  
30 cial plan should the city or any covered organization have failed to  
31 comply with any material action necessary to fulfill the plan, provided,  
32 however, the authority shall provide seven (7) days notice of its deter-  
33 mination that the city or any covered organization has not complied  
34 prior to taking any such action.

35 (h) may review and approve or disapprove contracts or other obli-  
36 gations binding or purporting to bind the city or any covered organiza-  
37 tion;

38 (i) shall, with respect to any proposed borrowing by or on behalf of  
39 the city or any covered organization on or after July first, two thou-  
40 sand three, review the terms of and comment, within thirty days after  
41 notification by the city or covered organization of a proposed borrow-  
42 ing, on the prudence of each proposed issuance of bonds or notes to be  
43 issued by the city or covered organization and no such borrowing shall  
44 be made unless first reviewed, commented upon and approved by the  
45 authority. The authority shall comment within thirty days after notifi-  
46 cation by the city or covered organization of a proposed borrowing to  
47 the mayor, the comptroller, the council, the director of the budget and  
48 the state comptroller and indicate approval or disapproval of the  
49 proposed borrowing. Notwithstanding the foregoing, neither the city nor  
50 any covered organization shall be prohibited from issuing bonds or notes  
51 to pay outstanding bonds or notes; and, provided further, the first  
52 issuance of debt pursuant to chapter six hundred five of the laws of two  
53 thousand, as amended, shall be excluded from this requirement;

54 (j) may review the operation, management, efficiency and productivity  
55 of the city and any covered organizations as the authority may deter-  
56 mine, and make reports thereon; examine the potential to enhance the

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1 revenue of the city or any covered organization; audit compliance with  
2 the financial plan in such areas as the authority may determine; recom-  
3 mend to the city and the covered organizations such measures relating to  
4 their operations, management, efficiency and productivity as the author-  
5 ity deems appropriate to reduce costs, enhance revenue, and improve  
6 services so as to advance the purposes of this title;

7 (k) may require the city to undertake certain actions to advance seri-  
8 ous and in-depth exploration of a merger of services with the county,  
9 including identification and analysis of options; development of a  
10 detailed fiscal and programmatic plan; identification of city, county,  
11 and state impediments; and fostering of informed public debate;

12 (l) may review and approve or disapprove the terms of any proposed  
13 settlement of claims against the city or any covered organization in  
14 excess of fifty thousand dollars;

15 (m) may obtain from the city, the covered organizations, comptroller,  
16 and the state comptroller, as appropriate, all information required  
17 pursuant to this section, and such other financial statements and  
18 projections, budgetary data and information, and management reports and  
19 materials as the authority deems necessary or desirable to accomplish  
20 the purposes of this title; and inspect, copy and audit such books and  
21 records of the city and the covered organizations as the authority deems  
22 necessary or desirable to accomplish the purposes of this title;

23 (n) may perform such audits and reviews of the city and any agency  
24 thereof and any covered organizations as it deems necessary; and

25 (o) may issue, from time to time and to the extent it deems necessary  
26 or desirable in order to accomplish the purposes of this title, to the  
27 appropriate official of the city and each covered organization, such  
28 orders necessary to accomplish the purposes of this title, including,  
29 but not limited to, timely and satisfactory implementation of an  
30 approved financial plan. Any order so issued shall be binding upon the  
31 official to whom it was issued and failure to comply with such order  
32 shall subject the official to the penalties described in subdivision  
33 three of this section.

34 3. (a) During any control period (i) no officer or employee of the  
35 city or of any of the covered organizations shall make or authorize an  
36 obligation or other liability in excess of the amount available therefor  
37 under the financial plan as then in effect; (ii) no officer or employee  
38 of the city or of any of the covered organizations shall involve the  
39 city or any of the covered organizations in any contract or other obli-  
40 gation or liability for the payment of money for any purpose required to  
41 be approved by the authority unless such contract has been so approved  
42 and unless such contract or obligation or liability is in compliance  
43 with the approved financial plan as then in effect.

44 (b) No officer or employee of the city or any of the covered organiza-  
45 tions shall take any action in violation of any valid order of the  
46 authority or shall fail or refuse to take any action required by any  
47 such order or shall prepare, present or certify any information (includ-  
48 ing any projections or estimates) or report to the authority or any of  
49 its agents that is false or misleading, or, upon learning that any such  
50 information is false or misleading, shall fail promptly to advise the  
51 authority or its agents thereof.

52 (c) In addition to any penalty or liability under any other law, any  
53 officer or employee of the city or any of the covered organizations who  
54 shall violate paragraph (a) or (b) of this subdivision shall be subject  
55 to appropriate administrative discipline, including, when circumstances  
56 warrant, suspension from duty without pay or removal from office by

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1 order of either the governor or the mayor; and any officer or employees  
2 of the city or any of the covered organizations who shall knowingly and  
3 willfully violate paragraph (a) or (b) of this subdivision shall, upon  
4 conviction, be guilty of a misdemeanor.

5 (d) In the case of a violation of paragraph (a) or (b) of this subdivi-  
6 sion by an officer or employee of the city or of a covered organiza-  
7 tion, the mayor or the chief executive officer of such covered organiza-  
8 tion shall immediately report to the authority all pertinent facts  
9 together with a statement of the action taken thereon.

10 § 3859. Advisory period. 1. During any advisory period the authority  
11 shall:

12 (a) obtain from the city, the covered organizations and the state  
13 comptroller, all information, financial statements and projections,  
14 budgetary data and information, and management reports and materials as  
15 the authority deems necessary or desirable to accomplish the purposes of  
16 this title; and inspect, copy and audit such books and records of the  
17 city and the covered organizations as the authority deems necessary or  
18 desirable to accomplish the purposes of this title;

19 (b) review the operation, management, efficiency and productivity of  
20 city operations and of any covered organization's operations as the  
21 authority may determine, and make reports and recommendations thereon;  
22 examine the potential to enhance the revenue of the city or any covered  
23 organization; audit compliance with the financial plan in such areas as  
24 the authority may determine; recommend to the city and the covered  
25 organizations such measures relating to their operations, management,  
26 efficiency and productivity as the authority deems appropriate to reduce  
27 costs, enhance revenue and improve services so as to advance the  
28 purposes of this title;

29 (c) comment on the provisions of the budget, the financial plan and  
30 the financial plan modifications of the city as the authority deems  
31 necessary or appropriate;

32 (d) review and comment on the terms of any proposed borrowing, includ-  
33 ing the prudence of each proposed issuance of bonds or notes to be  
34 issued by the city; and

35 (e) assess the impact of any collective bargaining agreement to be  
36 entered into by the city and such contracts, that, in the judgment of  
37 the authority, may have a significant impact on the city's long-term  
38 fiscal condition.

39 2. During any advisory period, the city shall promptly provide all  
40 information requested by the authority, review the comments, assess-  
41 ments, reports and recommendations of the authority and publicly respond  
42 thereto, addressing such matters as have been raised by the authority.

43 § 3860. Additional provisions. 1. Notwithstanding any provision to the  
44 contrary in title six-A of article two of the local finance law, neither  
45 the city nor any covered organization shall file any petition authorized  
46 by such title six-A without the approval of the authority and the state  
47 comptroller. No such petition shall be filed as long as any bonds, notes  
48 or other obligations issued by the authority remain outstanding. Failure  
49 of the authority or the state comptroller to notify the city or a  
50 covered organization within thirty days (or such additional time, not  
51 exceeding thirty days, as the authority or state comptroller shall have  
52 notified the city or covered organization that it requires to complete  
53 its review) after submission to it of a petition shall be deemed to  
54 constitute authority or state comptroller approval thereof.

55 2. Nothing contained in this title shall limit the right of the city  
56 or any covered organization to comply with the provisions of any exist-

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1 ing contract within or for the benefit of the holders of any bonds or  
2 notes of the city or such covered organization.

3 3. Nothing contained in this title shall be construed to limit the  
4 power of the city or a covered organization to determine, from time to  
5 time, within available funds for the city or for such covered organiza-  
6 tion, the purposes for which expenditures are to be made by the city or  
7 such covered organization and the amounts of such expenditures, consist-  
8 ent with the aggregate expenditures then permitted under the financial  
9 plan for the city or such covered organization.

10 4. The authority's fiscal year shall be July first through June thir-  
11 tieth.

12 5. The authority shall adopt guidelines for procurement contracts in  
13 accordance with section twenty-eight hundred seventy-nine of this chap-  
14 ter.

15 § 3861. Declaration of need for financing assistance to the city. 1.  
16 The city shall determine and declare whether it requests the authority  
17 to undertake a financing of costs. Any such request shall be made by and  
18 through the mayor after approval by the council. Any such financing  
19 shall be consistent with the adopted budget and financial plan of the  
20 city required under sections thirty-eight hundred fifty-six and thirty-  
21 eight hundred fifty-seven of this title, as applicable.

22 2. Upon declaration by the city of such need, the mayor shall request  
23 that the authority provide financing in accordance with the provisions  
24 of this title.

25 3. Upon approval by the authority, in its discretion in accordance  
26 with the provisions of this title, of such financing request, the  
27 authority may enter into agreements with the city, and the city, acting  
28 by the mayor, approved by the council, may enter into agreements with  
29 the authority in accordance with the provisions of this title as to the  
30 financing of costs by the authority, the application of revenues to the  
31 authority to secure its bonds, notes or other obligations, and further  
32 assurances in respect of the authority's receipt of such revenues and  
33 the fiscal affairs of the city, including but not limited to the manner  
34 of preparation of budget reports and financial plans as provided for in  
35 sections thirty-eight hundred fifty-six and thirty-eight hundred fifty-  
36 seven of this title, as applicable. The authority's revenues shall not  
37 be deemed funds of the city. Any such agreements with the city may be  
38 pledged by the authority to secure its bonds, notes or other obligations  
39 and may not be modified thereafter except as provided by the terms of  
40 the pledge.

41 4. Such agreements with the city shall (a) describe the particular  
42 financeable costs to be financed in whole or in part by the authority,  
43 (b) describe the plan for the financing of the costs, (c) set forth the  
44 method by which and by whom and the terms and conditions upon which  
45 money provided by the authority shall be disbursed to the city, (d)  
46 where appropriate, provide for the payment of such costs by the city  
47 under such contracts as shall be awarded by the city or for the city to  
48 make a capital contribution of such proceeds as city funds to another  
49 entity for the payment or reimbursement of such costs, and (e) require  
50 every contract entered into by the city, or another entity receiving  
51 funds from the city, for costs to be financed in whole or in part by the  
52 authority to be subject to the provisions of the city charter and other  
53 applicable laws governing contracts of the city or such entity, as the  
54 case may be.

55 5. At least annually, commencing no more than one year after the date  
56 on which authority bonds, notes or other obligations are first issued,

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1 the mayor shall report to the authority, the comptroller, the council,  
2 the state comptroller, the chairs of the senate finance committee and  
3 the assembly ways and means committee, and the director of the budget on  
4 the costs financed by the authority and the amount of such financing  
5 over the past year, which report shall describe, by reference to the  
6 specific items in the city's budget or financial plan, its compliance  
7 therewith.

8 § 3862. Bonds, notes or other obligations of the authority. 1. The  
9 authority shall have the power and is hereby authorized from time to  
10 time to issue bonds, notes or other obligations in such principal  
11 amounts as it may determine to be necessary pursuant to section thirty-  
12 eight hundred sixty-one of this title to pay any financeable costs and  
13 to fund reserves to secure such bonds, notes or other obligations,  
14 including incidental expenses in connection therewith; provided, howev-  
15 er, the aggregate principal amounts of such bonds, notes or other obli-  
16 gations outstanding at any one time shall not exceed one hundred seven-  
17 ty-five million dollars, and such bonds shall be tax exempt to the  
18 maximum extent practicable, as provided by section thirty-eight hundred  
19 sixty-nine of this title. Bonds, notes or other obligations issued by  
20 the authority to (a) pay reasonable costs of issuance, as determined by  
21 the authority, (b) establish debt service reserve funds, or (c) refund  
22 or advance refund any outstanding bonds or notes of the city or the  
23 authority shall not count against the above limit on outstanding bonds,  
24 notes or other obligations of the authority, nor shall any accretion of  
25 principal of bonds that would constitute interest under the Internal  
26 Revenue Code of 1986, as amended, count against such limit.

27 2. The authority may issue bonds, notes or other obligations to refund  
28 bonds, notes or other obligations previously issued, but in no event  
29 shall the final maturity of any bonds, notes or other obligations of the  
30 authority be later than June thirtieth, two thousand thirty-seven. No  
31 bond of the authority shall mature more than thirty years from the date  
32 of its issue, or after June thirtieth, two thousand thirty-seven, which-  
33 ever date is earlier.

34 3. Bonds, notes or other obligations of the authority may be issued,  
35 amortized, redeemed and refunded without regard to the provisions of the  
36 local finance law.

37 4. The directors may delegate to the chairperson or other director or  
38 officer of the authority the power to set the financial terms of bonds,  
39 notes or other obligations.

40 5. The authority in its sole discretion shall determine that the issu-  
41 ance of its bonds, notes or other obligations is appropriate. Bonds,  
42 notes or other obligations shall be authorized by resolution of the  
43 authority. Bonds shall bear interest at such fixed or variable rates and  
44 shall be in such denominations, be in such form, either coupon or regis-  
45 tered, be sold at such public or private sale, be executed in such  
46 manner, be denominated in United States currency, be payable in such  
47 medium of payment, at such place and be subject to such terms of redemp-  
48 tion as the authority may provide in such resolution. No bonds, notes or  
49 other obligations of the authority may be sold at private sale unless  
50 such sale and the terms thereof have been approved in writing by (a) the  
51 state comptroller where such sale is not to the state comptroller, or  
52 (b) the director of the budget, where such sale is to the state comp-  
53 troller.

54 6. Any resolution or resolutions authorizing bonds, notes or other  
55 obligations or any issue of bonds, notes or other obligations may  
56 contain provisions which may be a part of the contract with the holders

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1 of the bonds, notes or other obligations thereby authorized as to: (a)  
2 pledging all or part of the authority's revenues, together with any  
3 other moneys, securities or contracts, to secure the payment of the  
4 bonds, notes or other obligations, subject to such agreements with bond-  
5 holders as may then exist; (b) the setting aside of reserves and the  
6 creation of sinking funds and the regulation and disposition thereof;  
7 (c) limitations on the purposes to which the proceeds from the sale of  
8 bonds, notes or other obligations may be applied; (d) limitations on the  
9 issuance of additional bonds, notes or other obligations, the terms upon  
10 which additional bonds, notes or other obligations may be issued and  
11 secured and the refunding of bonds, notes or other obligations; (e) the  
12 procedure, if any, by which the terms of any contract with bondholders  
13 may be amended or abrogated, including the proportion of bondholders  
14 which must consent thereto and the manner in which such consent may be  
15 given; (f) vesting in a trustee or trustees such properties, rights,  
16 powers and duties in trust as the authority may determine, which may  
17 include any or all of the rights, powers and duties of the trustee  
18 appointed by the bondholders pursuant to section thirty-eight hundred  
19 sixty-three of this title and limiting or abrogating the rights of the  
20 bondholders to appoint a trustee under such section or limiting the  
21 rights, duties and powers of such trustee; and (g) defining the acts or  
22 omissions of the authority to act which may constitute a default in the  
23 obligations and duties of the authority to the bondholders and providing  
24 for the rights and remedies of the bondholders in the event of such  
25 default, including as a matter of right the appointment of a receiver;  
26 provided, however, that such acts or omissions of the authority to act  
27 which may constitute a default and such rights and remedies shall not be  
28 inconsistent with the general laws of the state and other provisions of  
29 this title.

30 7. In addition to the powers conferred upon the authority in this  
31 section to secure its bonds, notes or other obligations, the authority  
32 shall have power in connection with the issuance of bonds, notes or  
33 other obligations to enter into such agreements for the benefit of the  
34 bondholders as the authority may deem necessary, convenient or desirable  
35 concerning the use or disposition of its revenues or other moneys,  
36 including the entrusting, pledging or creation of any other security  
37 interest in any such revenues, moneys and the doing of any act, includ-  
38 ing refraining from doing any act, which the authority would have the  
39 right to do in the absence of such agreements. The authority shall have  
40 power to enter into amendments of any such agreements within the powers  
41 granted to the authority by this title and to perform such agreements.  
42 The provisions of any such agreements may be made a part of the contract  
43 with the holders of bonds, notes or other obligations of the authority.

44 8. Notwithstanding any provision of the uniform commercial code to the  
45 contrary, any pledge of or other security interest in revenues, moneys,  
46 accounts, contract rights, general intangibles or other personal proper-  
47 ty made or created by the authority shall be valid, binding and  
48 perfected from the time when such pledge is made or other security  
49 interest attaches without any physical delivery of the collateral or  
50 further act, and the lien of any such pledge or other security interest  
51 shall be valid, binding and perfected against all parties having claims  
52 of any kind in tort, contract or otherwise against the authority irre-  
53 spective of whether such parties have notice thereof. No instrument by  
54 which such a pledge or security interest is created nor any financing  
55 statement need be recorded or filed to be valid and binding.

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1 9. Whether or not the bonds, notes or other obligations of the author-  
2 ity are of such form and character as to be negotiable instruments under  
3 the terms of the uniform commercial code, the bonds, notes or other  
4 obligations are hereby made negotiable instruments within the meaning of  
5 and for all the purposes of the uniform commercial code, subject only to  
6 the provisions of the bonds for registration.

7 10. Neither the directors of the authority nor any person executing  
8 bonds, notes or other obligations shall be liable personally thereon or  
9 be subject to any personal liability or accountability solely by reason  
10 of the issuance thereof. The bonds, notes or other obligations of the  
11 authority shall not be a debt of either the state or the city, and  
12 neither the state nor the city shall be liable thereon, nor shall they  
13 be payable out of any funds other than those of the authority; and such  
14 bonds, notes or other obligations shall contain on the face thereof a  
15 statement to such effect.

16 11. The authority, subject to such agreements with bondholders as then  
17 may exist, shall have power to purchase bonds, notes or other obli-  
18 gations of the authority out of any moneys available therefor, which  
19 shall thereupon be canceled.

20 § 3863. Remedies of bondholders. Subject to any resolution or resol-  
21 utions adopted pursuant to paragraph (f) of subdivision six of section  
22 thirty-eight hundred sixty-two of this title:

23 1. In the event that the authority shall default in the payment of  
24 principal of or interest on any issue of bonds, notes or other obli-  
25 gations after the same shall become due, whether at maturity or upon  
26 call for redemption, and such default shall continue for a period of  
27 thirty days, or shall default in any agreement made with the holders of  
28 any issue of bonds, notes, or other obligations, the holders of at least  
29 twenty-five per centum in aggregate principal amount of the bonds, notes  
30 or other obligations of such issue then outstanding, by instrument or  
31 instruments filed in the office of the clerk of the county and proved or  
32 acknowledged in the same manner as a deed to be recorded, may appoint a  
33 trustee to represent the holders of such bonds for the purpose provided  
34 in this section.

35 2. Such trustee may, and upon written request of the holders of at  
36 least twenty-five per centum in principal amount of such bonds, notes or  
37 other obligations outstanding shall, in his or her or its own name: (a)  
38 by action or proceeding in accordance with the civil practice law and  
39 rules, enforce all rights of the bondholders and require the authority  
40 to carry out any other agreements with the holders of such bonds, notes  
41 or other obligations and to perform its duties under this title; (b)  
42 bring an action or proceeding upon such bonds, notes or other obli-  
43 gations; (c) by action or proceeding, require the authority to account  
44 as if it were the trustee of an express trust for the holder of such  
45 bonds, notes or other obligations; and (d) by action or proceeding,  
46 enjoin any acts or things which may be unlawful or in violation of the  
47 rights of the holders of such bonds, notes or other obligations.

48 3. Such trustee shall, in addition to the provisions of subdivisions  
49 one and two of this section, have and possess all of the powers neces-  
50 sary or appropriate for the exercise of any functions specifically set  
51 forth in this section or incident to the general representation of bond-  
52 holders in the enforcement and protection of their rights.

53 4. The supreme court of the county shall have jurisdiction of any  
54 action or proceeding by the trustee on behalf of such bondholders.

55 § 3864. Intercept of city tax revenues and state aid revenues. 1. The  
56 state comptroller, in accordance with section twelve hundred sixty-one

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1 of the tax law, shall pay at least monthly to the authority, for the  
2 period beginning upon the effective date of this title through June  
3 thirtieth, two thousand thirty-seven, the city tax revenues from the  
4 county's taxes imposed pursuant to the authority of section twelve  
5 hundred ten of the tax law. During such period, the county shall impose  
6 such taxes at a rate of no less than three percent. In addition, during  
7 such period, the state comptroller shall make such payments of city tax  
8 revenues to the authority pursuant to the then current agreement under  
9 subdivision (c) of section twelve hundred sixty-two of the tax law among  
10 the county and the cities in the county; provided however, in the event  
11 that such agreement shall have expired or been terminated during such  
12 period, notwithstanding any other provision of general, special or local  
13 law to the contrary, the state comptroller shall make such payments  
14 pursuant to the provisions of paragraph two of subdivision (d) of  
15 section twelve hundred sixty-two of the tax law.

16 2. Commencing on the effective date of this title, and until June  
17 thirtieth, two thousand thirty-seven, the state comptroller shall pay  
18 state aid revenues to the authority.

19 3. The city shall have no right, title, or interest in the city tax  
20 revenues or state aid revenues paid to the authority pursuant to this  
21 section.

22 § 3865. Resources of the authority. 1. Subject to the provisions of  
23 this title, the directors of the authority shall receive, accept,  
24 invest, administer, expend and disburse for its corporate purposes all  
25 money of the authority from whatever sources derived including (a) city  
26 tax revenues; (b) state aid revenues; (c) the proceeds of bonds, notes  
27 or other obligations; and (d) any other payments, gifts or appropri-  
28 ations to the authority from any other source.

29 2. Subject to the provisions of any contract with bondholders, (a) the  
30 money of the authority shall be paid to the authority and shall not be  
31 commingled with any other money, and (b) all money received by the  
32 authority which, together with other money of the authority available  
33 for the expenses of the authority, the payment of debt service and  
34 payments to reserve funds, exceeds the amount required for such  
35 purposes, as determined by the authority, shall be transferred to the  
36 city as frequently as practicable.

37 3. The money in any of the authority's accounts shall be paid out on  
38 checks signed by the treasurer of the authority, or by other lawful and  
39 appropriate means such as wire or electronic transfer, on requisitions  
40 of the chairperson of the authority or of such other officer as the  
41 directors shall authorize to make such requisition, or pursuant to a  
42 bond resolution or trust indenture.

43 4. All deposits of authority money shall be secured by obligations of  
44 the United States or of the state or of the city at a market value at  
45 least equal at all times to the amount of the deposit, and all banks and  
46 trust companies are authorized to give such security for such deposits.  
47 The authority shall have the power, notwithstanding the provisions of  
48 this section, to contract with the holders of any of its bonds, notes or  
49 other obligations as to the custody, collection, securing, investment  
50 and payment of any money of the authority or any money held in trust or  
51 otherwise for the payment of bonds, notes or other obligations or in any  
52 way to secure bonds, notes or other obligations, and to carry out any  
53 such contract notwithstanding that such contract may be inconsistent  
54 with the other provisions of this title. Money held in trust or other-  
55 wise for the payment of bonds, notes or other obligations or in any way  
56 to secure bonds, notes or other obligations, and deposits of such money,

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1 may be secured in the same manner as money of the authority, and all  
2 banks and trust companies are authorized to give such security for such  
3 deposits.

4 5. Revenues of the authority shall be applied in the following order  
5 of priority: first to pay debt service on the authority's bonds, notes,  
6 or other obligations; then to pay the authority's operating expenses not  
7 otherwise provided for; and then, subject to the authority's agreements  
8 with the city, to transfer the balance of revenues not required to meet  
9 contractual or other obligations of the authority to the city as  
10 frequently as practicable.

11 6. (a) Any such payment of state aid revenues to the authority shall  
12 not obligate the state to make available, nor entitle the city to  
13 receive, any additional state aid.

14 (b) Nothing contained in this title shall be construed to create a  
15 debt of the state within the meaning of any constitutional or statutory  
16 provisions. Any provision with respect to state aid or state aid reven-  
17 ues shall be deemed executory only to the extent of moneys available,  
18 and no liability shall be incurred by the state beyond the moneys avail-  
19 able for that purpose, and any such payment by the comptroller of state  
20 aid revenues is subject to annual appropriation of state aid by the  
21 state legislature.

22 (c) Nothing contained in this title shall be deemed to restrict the  
23 right of the state to amend, repeal, modify, or otherwise alter section  
24 fifty-four of the state finance law or any provision relating to state  
25 aid to municipalities. The authority shall include within any resol-  
26 ution, contract, or agreement with holders of its bonds, notes or other  
27 obligations a provision which states that no default occurs as a result  
28 of the state's exercising its right to amend, repeal, modify, or other-  
29 wise alter section fifty-four of the state finance law or any other  
30 provision relating to state aid to municipalities.

31 § 3866. Agreement with the state. 1. The state does hereby pledge to  
32 and agree with the holders of any issue of bonds, notes or other obli-  
33 gations issued by the authority pursuant to this title and secured by  
34 such a pledge that the state will not limit, alter or impair the rights  
35 hereby vested in the authority to fulfill the terms of any agreements  
36 made with such holders pursuant to this title, or in any way impair the  
37 rights and remedies of such holders or the security for such bonds,  
38 notes or other obligations for so long as such bonds, notes or other  
39 obligations are outstanding and until all costs and expenses in  
40 connection with any action or proceeding by or on behalf of such hold-  
41 ers, are fully paid and discharged. The authority is authorized to  
42 include this pledge and agreement of the state in any agreement with the  
43 holders of such bonds, notes or other obligations. Nothing contained in  
44 this title shall be deemed to restrict the right of the state to amend,  
45 modify, repeal or otherwise alter: (a) section fifty-four of the state  
46 finance law or any other provision relating to state aid, or (b) stat-  
47 utes imposing or relating to taxes or fees, or appropriations relating  
48 thereto.

49 2. The authority shall not include within any resolution, contract or  
50 agreement with holders of the bonds, notes or other obligations issued  
51 under this title any provision which provides that a default occurs as  
52 a result of the state exercising its right to amend, repeal, modify or  
53 otherwise alter: (a) section fifty-four of the state finance law or any  
54 other provision relating to state aid or (b) such taxes, fees, or appro-  
55 priations. Nothing in this title shall be deemed to obligate the state

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1 to make any payments or impose any taxes to satisfy the debt service  
2 obligations of the authority.

3 § 3867. Agreement with the city. The city hereby covenants and agrees  
4 with the holders of bonds, notes or other obligations issued by the  
5 authority pursuant to this title, that the city will not take actions  
6 which limit, or in any way impair the rights and remedies of such hold-  
7 ers or the security for such bonds, notes or other obligations while  
8 such bonds, notes or other obligations are outstanding.

9 § 3868. Bonds, notes or other obligations legal for investment and  
10 deposit. The bonds, notes or other obligations of the authority are  
11 hereby made securities in which all public officers and bodies of the  
12 state and all public corporations, municipalities and municipal subdivi-  
13 sions, all insurance companies and associations and other persons carry-  
14 ing on an insurance business, all banks, bankers, trust companies,  
15 savings banks and savings associations including savings and loan asso-  
16 ciations, building and loan associations, investment companies and other  
17 persons carrying on a banking business, all administrators, conserva-  
18 tors, guardians, executors, trustees and other fiduciaries, and all  
19 other persons whatsoever who are now or may hereafter be authorized to  
20 invest in bonds, notes or other obligations of the state, may properly  
21 and legally invest funds, including capital, in their control or belong-  
22 ing to them. The bonds, notes or other obligations are also hereby made  
23 securities which may be deposited with and may be received by all public  
24 officers and bodies of the state and all municipalities and public  
25 corporations for any purpose for which the deposit of bonds, notes or  
26 other obligations of the state is now or may hereafter be authorized.

27 § 3869. Tax exemption. 1. It is hereby determined that the creation of  
28 the authority and the carrying out of its corporate purposes are in all  
29 respects for the benefit of the people of the state of New York and are  
30 public purposes. Accordingly, the authority shall be regarded as  
31 performing an essential governmental function in the exercise of the  
32 powers conferred upon it by this title. The authority shall not be  
33 required to pay any fees, taxes, special ad valorem levies or assess-  
34 ments of any kind, whether state or local, including, but not limited  
35 to, fees, taxes, special ad valorem levies or assessments on real prop-  
36 erty, franchise taxes, sales taxes or other taxes, upon income or with  
37 respect to any property owned by it or under its jurisdiction, control  
38 or supervision, or upon the uses thereof, or upon or with respect to its  
39 activities or operations in furtherance of the powers conferred upon it  
40 by this title, or upon or with respect to any fares, tolls, rentals,  
41 rates, charges, fees, revenues or other income received by the authori-  
42 ty.

43 2. Any bonds, notes or other obligations issued pursuant to this  
44 title, and the income therefrom shall, to the maximum extent practica-  
45 ble, be exempt from taxation.

46 § 3870. Actions against the authority. 1. Except in an action for  
47 wrongful death, no action or proceeding shall be prosecuted or main-  
48 tained against the authority for personal injury or damage to real or  
49 personal property alleged to have been sustained by reason of the negli-  
50 gence or wrongful act of the authority or of any director, officer,  
51 agent or employe thereof, unless (a) it shall appear by and as an alle-  
52 gation in the complaint or moving papers that a notice of claim shall  
53 have been made and served upon the authority, within the time limit  
54 prescribed by and in compliance with section fifty-e of the general  
55 municipal law, (b) it shall appear by and as an allegation in the  
56 complaint or moving papers that at least thirty days have elapsed since

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1 the service of such notice and that adjustment or payment thereof has  
2 been neglected or refused, and (c) the action or proceeding shall be  
3 commenced within one year after the happening of the event upon which  
4 the claim is based. An action against the authority for wrongful death  
5 shall be commenced in accordance with the notice of claim and time limi-  
6 tation provisions of title eleven of article nine of this chapter.

7 2. Wherever a notice of claim is served upon the authority, it shall  
8 have the right to demand an examination of the claimant relative to the  
9 occurrence and extent of the injuries or damages for which claim is  
10 made, in accordance with the provisions of section fifty-h of the gener-  
11 al municipal law.

12 3. The authority may require any person presenting for settlement an  
13 account or claim for any cause whatever against the authority to be  
14 sworn before a director, counsel or an attorney, officer or employee  
15 thereof designated for such purpose, concerning such account or claim  
16 and when so sworn, to answer orally as to any facts relative to such  
17 account or claim. The authority shall have power to settle or adjust any  
18 claims in favor of or against the authority.

19 4. The rate of interest to be paid by the authority upon any judgment  
20 for which it is liable, other than a judgment on bonds, notes or other  
21 obligations, shall not exceed the maximum rate of interest on judgments  
22 and accrued claims against municipal authorities as provided in the  
23 general municipal law. Interest on payments of principal or interest on  
24 any bonds, notes or other obligations in default shall accrue at the  
25 rate specified in the general municipal law until paid or otherwise  
26 satisfied.

27 5. The venue of every action, suit or special proceeding brought  
28 against the authority shall be the supreme court in the county.

29 6. Neither any director of the authority nor any officer, employee, or  
30 agent of the authority, while acting within the scope of his or her  
31 authority, shall be subject to any liability resulting from exercising  
32 or carrying out any of the powers given in this title.

33 7. Indemnification. (a) The state shall hold harmless and indemnify  
34 directors, officers and employees of the authority, all of whom shall be  
35 deemed officers and employees of the state for purposes of section  
36 seventeen of the public officers law, against any claim, demand, suit,  
37 or judgment arising by reason of any act or omission to act by such  
38 director, officer, or employee occurring in the discharge of his or her  
39 duties and within the scope of his or her service on behalf of the  
40 authority including any claim, demand, suit or judgment based on allega-  
41 tions that financial loss was sustained by any person in connection with  
42 the acquisition, disposition or holding of securities or other obli-  
43 gations. In the event of any such claim, demand, suit or judgment, a  
44 director, officer or employee of the authority shall be held harmless  
45 and indemnified, notwithstanding the limitations of subdivision one of  
46 section seventeen of the public officers law, unless such individual is  
47 found by a final judicial determination not to have acted, in good  
48 faith, for a purpose which he or she reasonably believed to be in the  
49 best interest of the authority or not to have had reasonable cause to  
50 believe that his or her conduct was lawful.

51 (b) In connection with any such claim, demand, suit, or judgment, any  
52 director, officer or employee of the authority shall be entitled to  
53 representation by private counsel of his or her choice in any civil  
54 judicial proceeding whenever the attorney general determines based upon  
55 his or her investigation and review of the facts and circumstances of  
56 the case that representation by the attorney general would be inappro-

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1 priate. The attorney general shall notify the individual in writing of  
2 such determination that the individual is entitled to be represented by  
3 private counsel. The attorney general may require, as a condition to  
4 payment of the fees and expenses of such representative, that appropri-  
5 ate groups of such individuals be represented by the same counsel. If  
6 the individual or groups of individuals is entitled to representation by  
7 private counsel under the provisions of this section, the attorney  
8 general shall so certify to the state comptroller. Reasonable attor-  
9 neys' fees and litigation expenses shall be paid by the state to such  
10 private counsel from time to time during the pendency of the civil  
11 action or proceeding, subject to certification that the individual is  
12 entitled to representation under the terms and conditions of this  
13 section by the authority, upon the audit and warrant of the state comp-  
14 troller. The provisions of this subdivision shall be in addition to and  
15 shall not supplant any indemnification or other benefits heretofore or  
16 hereafter conferred upon directors, officers, or employees of and repre-  
17 sentatives to the authority by section seventeen of the public officers  
18 law, by action of the authority or otherwise. The provisions of this  
19 subdivision shall inure only to directors, officers and employees of the  
20 authority, shall not enlarge or diminish the rights of any other party,  
21 and shall not impair, limit or modify the rights and obligations of any  
22 insurer under any policy of insurance.

23 § 3871. Audits. 1. The accounts of the authority shall be subject to  
24 the audit of the comptroller and the state comptroller. In addition, the  
25 authority shall be subject to an annual financial audit performed by an  
26 independent certified accountant selected by the authority. Such audit  
27 report shall be submitted to the city, the presiding officer, the comp-  
28 troller, the governor, the state comptroller, the chair and ranking  
29 minority member of the senate finance committee and the chair and rank-  
30 ing minority member of the assembly ways and means committee.

31 2. For each fiscal year during the existence of the authority, and  
32 within one hundred twenty days after the close of the city's fiscal  
33 year, the city shall submit its audited financial statements to the  
34 authority.

35 § 3872. Effect of inconsistent provisions. Insofar as the provisions  
36 of this title are inconsistent with the provisions of any other act,  
37 general or special, or of any charter, local law, ordinance or resol-  
38 ution of any municipality, the provisions of this title shall be  
39 controlling. Nothing contained in this section shall be held to supple-  
40 ment or otherwise expand the powers or duties of the authority otherwise  
41 set forth in this title.

42 § 3873. Separability; construction. If any clause, sentence, para-  
43 graph, section, or part of this title shall be adjudged by any court of  
44 competent jurisdiction to be invalid, such judgment shall not affect,  
45 impair or invalidate the remainder thereof, but shall be confined in its  
46 operation to the clause, sentence, paragraph, section, or part thereof  
47 involved in the controversy in which such judgment shall have been  
48 rendered. The provisions of this title shall be liberally construed to  
49 assist the effectuation of the public purposes furthered hereby.

50 § 3. Subdivision (a) of section 1261 of the tax law, as separately  
51 amended by chapter 84 and section 2 of part A of chapter 88 of the laws  
52 of 2000, is amended to read as follows:

53 (a) All taxes, penalties and interest imposed by cities, counties or  
54 school districts under the authority of section twelve hundred ten,  
55 twelve hundred eleven, twelve hundred twelve or twelve hundred twelve-A  
56 of this article, which are collected by the commissioner, shall be

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1 deposited daily with such responsible banks, banking houses or trust  
2 companies, as may be designated by the state comptroller, to the credit  
3 of the comptroller, in trust for the cities, counties or school  
4 districts imposing the tax or for the Nassau county interim finance  
5 authority or the Buffalo fiscal stability authority created by the  
6 public authorities law, to the extent that net collections from taxes  
7 imposed by Nassau county are payable to ~~[such]~~ the Nassau county interim  
8 finance authority or to the extent that net collections from taxes  
9 imposed by Erie county are payable to the Buffalo fiscal stability  
10 authority, or for any public benefit corporation to which the tax may be  
11 payable pursuant to law. Such deposits and deposits received pursuant to  
12 subdivision (b) of section twelve hundred fifty-two of this article  
13 shall be kept in trust and separate and apart from all other monies in  
14 the possession of the comptroller. The comptroller shall require  
15 adequate security from all such depositories of such revenue collected  
16 by the commissioner, including the deposits received pursuant to subdi-  
17 vision (b) of section twelve hundred fifty-two of this article. Any  
18 amount payable to such ~~[authority]~~ authorities pursuant to the public  
19 authorities law shall, at the time it is otherwise payable to Nassau  
20 county or Erie county, respectively, as specified in this section, be  
21 paid instead to such respective authority. Any amount payable to a  
22 public benefit corporation pursuant to law shall, at the time it is  
23 otherwise payable to the taxing jurisdiction as specified in this  
24 section, be paid instead to such public benefit corporation.

25 § 4. Subdivision (c) of section 1261 of the tax law, as amended by  
26 chapter 84 of the laws of 2000, is amended to read as follows:

27 (c) The comptroller, after reserving such refund fund and such costs  
28 shall, on or before the twelfth day of each month pay to the appropriate  
29 fiscal officers of the foregoing taxing jurisdictions the taxes, penal-  
30 ties and interest imposed by such jurisdictions under the authority of  
31 sections twelve hundred ten through twelve hundred twelve-A, collected  
32 by the commissioner pursuant to this article during the next preceding  
33 calendar month, provided, however, that the comptroller shall on or  
34 before the last day of June and December make a partial payment consist-  
35 ing of the collections made during and including the first twenty-five  
36 days of said months to said fiscal officers of the foregoing taxing  
37 jurisdictions. However, the taxes, penalties and interest from the addi-  
38 tional one percent rate which the city of Yonkers is authorized to  
39 impose pursuant to section twelve hundred ten, after the comptroller has  
40 reserved such refund fund and such cost shall be paid to the special  
41 sales and compensating use tax fund for the city of Yonkers established  
42 by section ninety-two-f of the state finance law at the times set forth  
43 in the preceding sentence. However, the taxes, penalties and interest  
44 which the county of Nassau or the county of Erie is authorized to impose  
45 pursuant to section twelve hundred ten of this article, other than such  
46 taxes in the amounts described, respectively, in subdivisions one and  
47 two of section one thousand two hundred sixty-two-e of this article,  
48 during the period that such section authorizes Nassau county to estab-  
49 lish special or local assistance programs thereunder, together with any  
50 penalties and interest related thereto, and after the comptroller has  
51 reserved such refund fund and such costs, shall, commencing on the next  
52 payment date after the effective date of this sentence and of each month  
53 thereafter, until such date as the Nassau county interim finance author-  
54 ity shall have no obligations outstanding, or the Buffalo fiscal stabil-  
55 ity authority shall cease to exist, be paid by the comptroller to the  
56 Nassau county interim finance authority to be applied by the Nassau

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1 county interim finance authority, or to the Buffalo fiscal stability  
2 authority to be applied by the Buffalo fiscal stability authority, as  
3 the case may be, in the following order of priority: first pursuant to  
4 the Nassau county interim finance authority's contracts with bondholders  
5 or the Buffalo fiscal stability authority's contracts with bondholders,  
6 respectively, then to pay the Nassau county interim finance authority's  
7 operating expenses not otherwise provided for or the Buffalo fiscal  
8 stability authority's operating expenses not otherwise provided for,  
9 respectively, and then pursuant to the Nassau county interim finance  
10 authority's agreements with the county of Nassau, which agreements shall  
11 require the Nassau county interim finance authority to transfer such  
12 taxes, penalties and interest remaining after providing for contractual  
13 or other obligations of the Nassau county interim finance authority, and  
14 subject to any agreement between such authority and the county of  
15 Nassau, to the county of Nassau as frequently as practicable or the  
16 Buffalo fiscal stability authority's agreements with the city of  
17 Buffalo, which agreements shall require the Buffalo fiscal stability  
18 authority to transfer such taxes, penalties and interest remaining after  
19 providing for contractual or other obligations of the Buffalo fiscal  
20 stability authority, and subject to any agreement between such authority  
21 and the city of Buffalo, to the city of Buffalo as frequently as practi-  
22 cable. During the period that the comptroller is required to make  
23 payments to the Nassau county interim finance authority described in the  
24 previous sentence, the county of Nassau shall have no right, title or  
25 interest in or to such taxes, penalties and interest required to be paid  
26 to the Nassau county interim finance authority, except as provided in  
27 such authority's agreements with the county of Nassau. During the period  
28 that the comptroller is required to make payments to the Buffalo fiscal  
29 stability authority described in the second previous sentence, the city  
30 of Buffalo shall have no right, title or interest in or to such taxes,  
31 penalties and interest required to be paid to the Buffalo fiscal stabil-  
32 ity authority, except as provided in such authority's agreements with  
33 the city of Buffalo. The amount so payable shall be certified to the  
34 comptroller by the commissioner or the commissioner's delegate, who  
35 shall not be held liable for any inaccuracy in such certificate.  
36 Provided, however, any such certification may be based on such informa-  
37 tion as may be available to the commissioner at the time such certif-  
38 icate must be made under this section and may be estimated on the basis  
39 of percentages or other indices calculated from distributions for prior  
40 periods. Where the amount so paid over to any city, county, school  
41 district or the special sales and compensating use tax fund for the city  
42 of Yonkers in any such distribution or to such authority is more or less  
43 than the amount then due to such city, county, school district or such  
44 fund or to such authority, the amount of the overpayment or underpayment  
45 shall be certified to the comptroller by the commissioner or the commis-  
46 sioner's delegate, who shall not be held liable for any inaccuracy in  
47 such certificate. The amount of the overpayment or underpayment shall be  
48 so certified to the comptroller as soon after the discovery of the over-  
49 payment or underpayment as reasonably possible and subsequent payments  
50 and distributions by the comptroller to such city, county, school  
51 district or the special sales and compensating use tax fund for the city  
52 of Yonkers or to such authority shall be adjusted by subtracting the  
53 amount of any such overpayment from or by adding the amount of any such  
54 underpayment to such number of subsequent payments and distributions as  
55 the comptroller and the commissioner shall consider reasonable in view

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1 of the amount of the overpayment or underpayment and all other facts and  
2 circumstances.

3 § 5. Subdivision (d) of section 1262 of the tax law, as amended by  
4 chapter 1190 of the laws of 1971, the opening paragraph as amended and  
5 the second undesignated paragraph as added by chapter 444 of the laws of  
6 1996, and the closing paragraph as amended by chapter 678 of the laws of  
7 1973, is amended to read as follows:

8 (d) (1) Where a county and a city therein both impose the same taxes  
9 described in sections twelve hundred two, twelve hundred three or twelve  
10 hundred ten, the county shall have power to impose or continue to impose  
11 such taxes on the area of the county outside such city up to the maximum  
12 rate authorized therefor. In such event, the portion of the net  
13 collections received by the county by reason of its additional rate on  
14 such area, shall be allocated quarterly to the several cities and towns  
15 in such area on the basis of the ratio which the full valuation of real  
16 property in each city or town bears to the aggregate full valuation of  
17 real property in all of the cities and towns in such area provided,  
18 however, that, in such event, in Niagara county, such portion of net  
19 collections received by Niagara county shall be allocated quarterly to  
20 the several cities and towns in such area on the basis of the ratio  
21 which the population of each city or town bears to the aggregate popu-  
22 lation of all of the cities and towns in such area, such populations  
23 determined in accordance with the latest decennial federal census or  
24 special population census taken pursuant to section twenty of the gener-  
25 al municipal law completed and published prior to the end of the quarter  
26 for which the allocation is made, which special census must include the  
27 entire area of the county. The amount allocated to each town shall be  
28 applied first to reduce county taxes levied upon real property in such  
29 town and any balance remaining shall be applied to reduce general town  
30 taxes levied upon real estate; provided, however, that any town or  
31 village other than any town or village within a county having a popu-  
32 lation of one million or more and containing not more than three towns,  
33 shall have power, in the manner provided in subdivision (c) of this  
34 section, to elect to receive a direct payment of the amounts which would  
35 be so applied to reduce county taxes and general town taxes levied upon  
36 real property in such town or village. Where any village has elected to  
37 be paid directly as provided in this subdivision, the amount to be paid  
38 to such village shall be determined by the ratio that the full valuation  
39 of real property in the village or portion thereof within the town in  
40 which such village is located bears to the full valuation of real prop-  
41 erty in the entire town. If a village wholly or partially within a town  
42 has so elected to be paid directly, but the town in which such village  
43 is located has not so elected, the amount allocated to the town in which  
44 such village is wholly or partially situated shall be applied to reduce  
45 county taxes and general town taxes in the area of the town outside such  
46 village or villages. If the amount allocated to a town exceeds the  
47 amount of the county taxes and general town taxes levied upon real prop-  
48 erty in the town, the excess shall be apportioned between the town and  
49 each village, if any, wholly or partially situated therein, and paid  
50 over or applied in the manner provided in subdivision (c) of this  
51 section. The amount allocated to each city in such area shall be simi-  
52 larly applied to reduce county taxes levied upon real property in such  
53 city, except that if any such city except any city within a single coun-  
54 ty having a population of one million or more and containing no more  
55 than three towns, shall so provide in the manner provided in subdivision  
56 (c) of this section, the amount which would be so applied to reduce

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1 county taxes levied upon real property in such city shall be paid  
2 directly to the city in lieu of such tax reduction. If the amount allo-  
3 cated to the city exceeds the amount of the county tax levied upon real  
4 property in the city, such excess shall be paid to the city.

5 Notwithstanding any provision of this section to the contrary, where a  
6 municipal assistance corporation has been created under article ten of  
7 the public authorities law for a city located in a county, any amount  
8 which such county allocates to such city under this subdivision shall be  
9 payable directly to such city and shall not be provided by reduction of  
10 the county tax levied upon real property in such city for so long as  
11 such municipal assistance corporation shall exist.

12 Any local law, ordinance or resolution enacted by a city, town or  
13 village pursuant to this subdivision shall only be effective for the  
14 calendar year or years subsequent ~~[to]~~ to its enactment and, further,  
15 shall only be effective if it is mailed by registered or certified mail  
16 to the chief fiscal officer of the county in which the city, ~~[or]~~ town  
17 or village is located before the first day of September preceding the  
18 calendar year for which the election is made by such local law, ordi-  
19 nance or resolution. Such local law, ordinance or resolution shall  
20 remain in effect for subsequent calendar years until rescinded by local  
21 law, ordinance or resolution, but the enactment shall rescind the  
22 election only if it is mailed, in the same manner already provided for  
23 in this subdivision, to the chief fiscal officer of the county in which  
24 the city, town or village is located before the first day of September  
25 preceding the calendar year for which the ~~[rescission]~~ rescission to  
26 apply. The foregoing provisions of this paragraph notwithstanding, where  
27 a county imposes a sales and use tax to be effective on a date after the  
28 adoption of its budget but within the fiscal year for which such budget  
29 has been adopted, and the estimated revenues from such tax include net  
30 collections received by the county by reason of its additional rate on  
31 the area of the county outside a city imposing the same taxes, and such  
32 net collections have not been included in budget revenues for such  
33 fiscal year for allocation in reduction of taxes on real property as  
34 provided in this subdivision, a local law, ordinance or resolution  
35 enacted by a city, town or village pursuant to this subdivision shall be  
36 effective as of the effective date of such tax if mailed by registered  
37 or certified mail to the chief fiscal officer of the county in which the  
38 city, town or village is located within thirty days after the enactment  
39 by the county of the local law, ordinance or resolution imposing such  
40 tax.

41 (2) Notwithstanding any provision of general, special or local law to  
42 the contrary, if at any time from the effective date of the Buffalo  
43 fiscal stability authority act until June thirtieth, two thousand thir-  
44 ty-seven any city in the county of Erie imposes sales and compensating  
45 use taxes described in section twelve hundred ten of this article, then  
46 the county of Erie shall not be required to allocate under paragraph one  
47 of this subdivision, any net collections from its taxes imposed during  
48 such period; instead it shall continue to allocate net collections from  
49 its taxes to any city in the county which does not impose such taxes and  
50 to the area of the county outside the cities, in accordance with the  
51 terms of the most current agreement among such county and the cities in  
52 the county entered into pursuant to subdivision (c) of this section.

53 § 6. Sections 3700, 3701 and 3702 of the public authorities law, as  
54 renumbered by chapter 5 of the laws of 1997, are renumbered sections  
55 3900, 3901 and 3902.

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1 § 7. If any section, part or provision of this act shall be adjudged  
2 unconstitutional or invalid or ineffective by any court of this state,  
3 any party in interest shall have a direct appeal as of right to the  
4 court of appeals of the state of New York, and such appeal shall have  
5 preference over all other causes. Service upon the adverse party of a  
6 notice of appeal shall stay the effect of the judgment or order appealed  
7 from pending the hearing and determination of the appeal.

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

15 § 9. This act shall take effect immediately.

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