The original documents are located in Box C27, folder "Presidential Handwriting 9/2/1975 (2)" of the Presidential Handwriting File at the Gerald R. Ford Presidential Library.

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

September 2, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: L. WILLIAM SEIDMAN

SUBJECT: New York City Situation

This memorandum reports on the current financial situation in New York City and reviews the impact of the possible default by New York City and the appropriate actions by the Administration at this time.

Current Status

Last night, at the request of New York State and New York City officials, a group of Administration officials met with Messrs. Rohatyn, Burke, Goldmark, Hyman and Haynes of New York at the Department of the Treasury. Representing the Administration were William Seidman, Alan Greenspan, Ed Yeo, Rod Hills, Richard Dunham, Gerald Parsky, Robert Gerard, and Roger Porter.

It was agreed at the outset that the meeting was informal and off-the-record.

Mr. Burke stated that default would take place about September 11 unless further financing was made available. He reported that Governor Carey has called a special session of the New York State Legislature for this Thursday, September 4. In expectation of the special session, Felix Rohatyn, for MAC, has put together a Financial Borrowing Package for about $2 billion that would provide funds to the city through the end of November. MAC has also proposed a three-year plan to bring the New York City budget into balance. A description of the elements of the financial borrowing package and the MAC statement is attached at Tab A.

However, Burke indicated that it was doubtful if the package could be accomplished since it involves many uncertain pieces including use of both city and state pension funds. Governor Carey must decide whether to propose the financial package and/or an orderly default plan. Burke indicated that he considered the proposal of an orderly default plan the most likely because the financial package does not seem practical nor does it provide a long-term solution.

Mr. Rohatyn, for MAC, intends to send a letter to Governor Carey indicating that the financial package entails a high risk position for the State, that no one is confident that the market will be reopened in December, and that the package could put the State's credit in jeopardy. Absent federal assistance, either direct or in guarantees, he does not believe that there is any way to avoid the pending default.

Mr. Yeo asked whether New York State and MAC were and had been operating under the assumption that there would be no direct federal assistance. All present agreed that this was the assumption under which they had operated.

Mr. Burke also indicated that Governor Carey intends to meet with Chairman Burns at 4:00 p.m. today and that Governor Carey has requested a meeting with you.

Action Required in the Event of a Default

Our overall objective is to minimize the adverse impact of a default. Specifically we will be prepared:

(1) To provide a workable mechanism to deal with the City's financial affairs;

(2) To insure public order and provide essential services;

(3) To provide for the continuing flow of federal payments;

(4) To protect the banking system;

(5) To provide for the continued operation of essential financial institutions;

(6) To insure order in the capital markets, including access to credit for issuers which may be tainted by a default with particular regard to New York State.

Actions underway to implement these objectives are reviewed at Tab B.

New York City Actions: Promises and Performance

A summary of the actions taken by New York City, those actions promised but not yet performed, and those proposed actions on

which we have not been able to obtain information is attached at Tab C.

Effect of a New York City Default on Specific Banks

A compilation prepared by the Treasury of survey data obtained from the FDIC, the Federal Reserve, and the Comptroller General on the effect of a New York City default on specific banks is attached at Tab D. In summary, a substantial number of banks will suffer critical capital impairment. None of these are major banks.

An additional analysis is being prepared on the impact on savings and loan institutions which is expected to reveal some erosion of capital in these institutions.

Effects of a New York City Default on New York State's Financial Position

A preliminary analysis of the effect of a New York City default on New York State and New York State agencies credit, prepared by the Treasury, is attached at Tab E. A detailed report will be available tonight.

In summary, it appears that the State's financial position is below average -- vulnerable but defendable. However, it appears likely that certain components of the New York State Housing Finance Authority will default.

Legal Procedures to Regulate the Payment of New York City's Debts in the Event of Default

A memorandum from Rod Hills outlining legal procedures to regulate the payment of New York City's debts in the event of default is attached at Tab F.

Draft Presidential Statement

A draft Presidential statement, prepared by the Treasury, is attached at Tab G.

Requested Meeting with Governor Carey

Governor Carey intends to meet with Chairman Burns at 4:00 p.m. today and has requested a meeting with you subsequent to his meeting with the Federal Reserve. There are both advantages and disadvantages to meeting with Governor Carey.

Advantages:

1. Meeting with Governor Carey evidences your sympathy with the people of New York and a desire to discuss a major financial difficulty.

2. The meeting could result in new information or options.

Disadvantages:

1. It is likely that the meeting will be used as a platform to indicate that the Federal Government's lack of responsiveness is causing New York City to default.

2. A Presidential meeting with Governor Carey involves you in a matter that could be handled by the Secretary of the Treasury and the Federal Reserve in accordance with your previous directive.

It is recommended that if you decide to meet with Governor Carey that the meeting occur after you have had an opportunity to fully review the results of the meeting between Governor Carey and Chairman Burns.

It is also recommended that you meet with your advisers today to discuss the New York City situation.

_____ Agree to meet with Governor Carey

_____ Do not agree to meet with Governor Carey

TAB A

MAC PROPOSED FINANCIAL PACKAGE

The MAC financial package includes the following elements:

New York State commitment conditioned on securing $1.25 billion from other sources	$750 million

The $750 million would include three parts:
(a) $250 million in long term, open MAC bonds
(b) $250 million in short term subordinated MAC bonds
(c) $250 million in State loans using Mitchell-Lama housing project properties as collateral

Mandated purchase of City paper by New York City Pension Fund	$500 million
Mandated purchase of City paper by New York State Pension Fund	$250 million
Real Estate Tax Advance	$150 million
State Insurance Fund Investment	$100 million
Use of New York City Sinking Funds (requires legislation)	$180 million
Bank roll over of existing notes	$120 million
New investment by commercial banks	$250 million
Total	$2.3 billion

The financial package would carry the city until the early part of December. However, the City would need an additional $3.7 billion of short term financing to complete the present fiscal year ending June 30, 1976.

It is acknowledged that there would be great difficulty in mandating the state and city pension funds in view of the likely opposition of the State Comptroller and the trustees of the city pension fund.

M.A.C. Statement on City's Finances

Following is the text of the document released yesterday by the Municipal Assistance Corporation summarizing past and present deficits of New York City and containing current projections of city revenues and expenses through the fiscal year 1977-78.

An introduction to the document said it represented "the combined judgment of the offices of the Governor, the Controller of New York State, the Mayor and the Controller of the City of New York." It added that "it was presented to the Municipal Assistance Corporation today by these officials as a realistic statement of the city's fiscal situation for use in its financing efforts."

Analytical Framework

PAST DEFICIT: The listing of past deficits through fiscal year 1974-75 relies on judgments based on audits presently in progress by the State Controller, on findings of the City Controller and on estimates by the city and state budget offices. This cumulative past deficit must be amortized by present and future M.A.C. financing. Other audits and further examination of city records may require modification of these figures.

DEFICIT FOR 1975-76: The deficit for 1975-76 is based on similar judgments and estimates. It does not reflect expense items in the capital budget, which will be reduced according to the schedule provided in the M.A.C. legislation. Any balance of proceeds from M.A.C. borrowing not dedicated to past deficits will be applied toward the 1975-76 deficit.

REVENUE ESTIMATES: The revenue estimates represent the best combined evaluation and modifications of city estimates of revenue growth by major category through fiscal year 1977-78. All estimates assume no tax increases during this period other than real-estate taxes necessary to pay debt service.

EXPENDITURES FOR 1976-77 AND 1977-78: Welfare expenditures are assumed to remain at projected fiscal year 1975-76 levels. City expenditure estimates assume various growth rates for different components of the budget, and were used as working figures for this document.

3-Year Projection of Income and Expenses

New York City Tax Levy

1975-76 Through 1977-78

(Millions of Dollars)

INCOME	1975-76	1976-77	1977-78
Executive budget—real-estate taxes	$3,246	$	$
Less: Provision for uncollected taxes	—260		
Estimated real-estate tax collections	2,986	3,190	3,300
Executive budget—general-fund income	4,170		
Less: Provision for uncollected income	—90		
Estimated general-fund income	4,085	4,298	4,512
Less: M.A.C. debt service, administrative costs and capital reserve fund	—391	—611	—611
Total general-fund income	3,694	3,687	3,901
Total tax-levy income	6,680	6,877	7,201
Less: Provision for estimated uncollectable state/Federal aid, and other revenue shortfall	—197	—197	—167
Total tax levy available to support city expenditures	6,483	6,680	7,034
EXPENSES ANTICIPATED BY CITY	7,209	7,422	7,835
DEFICIT	(726)	(742)	(801)
DETAIL OF BUDGET EXPENSES ANTICIPATED BY CITY			
Welfare and medical assistance (excluding administration)	852	877	877
Pensions	897	956	1,039
Debt service	1,752	1,624	1,699
Miscellaneous mandated	335	345	374
Departments and Agencies (reflects wage freeze in 1975-76)	2,606	2,789	2,963
All other	767	831	883
	$7,209	$7,422	$7,835

1975-76 and Prior-Year Deficits

Millions of Dollars

Real-Estate Taxes		
Reserve for real-estate taxes		$260
Amount of prior year uncollected taxes to be written off that have resulted from court tax cancellations, in-rem foreclosure proceedings, tax exemptions and abatements for government-subsidized privately owned housing	$ 502	
General-Fund June Accrual		
When funds come in, treat as cash for the year collected	358	—
General-Fund Shortfall		
1974-75	99	—
1975-76		60
State Aid, Federal Aid and Other Receivables		
1971-1972	12	—
1972-73	90	—
1973-74	256	—
1974-75	250	—
1975-76		150
New York City Stabilization Reserve Corp.	520	
Deletion of Increment in General-Fund Borrowing for 1975-76		30
M. A. C. Costs and Debt Service for 1975-76		264
Accrual Payroll Conversion (12 days) for 1975-76 (Including Education)	105	10
Police, Fire and Correction Overtime for 1975-76-Cash to Accrual	25	—
*Various O.T.P.S. Items for 1974-75 and 1975-76 Cash to Accrual	95	10
June 30, 1975, Tax Deficiency Deficit (net)	100	—
Shortfall in Limited Profit Housing and Parking Revenues		47
State Education Aid—To eliminate the need of the city to borrow against state aid received after the close of the fiscal year	170	—
Total:	$2,582	$831
Less: Savings from pay freeze		105
	$2,582	$726

*In addition, $15 million of savings will be used for this purpose in 1975-76.

Unless other steps are taken by the city or other measures are made available to the city to reduce the deficits, it will be necessary to achieve savings equivalent to a reduction of approximately 46,000 people from the entire city payroll in fiscal 1977-78 in order to balance the budget in that year.

In addition, savings (in other than personal services) to the extent of $200-million annually would have to be achieved by 1977-78. Some of this would occur naturally in association with the work force reductions; other amounts would have to be cut in areas such as contracted services, maintenance and utilities, and vender purchases.

The tables that follow indicate on both a yeary and a cumulative basis the magnitude of dollar restrictions necessary.

Savings by Year

(millions of dollars)

Years	Personal Service	Other than Pers. Serv.	Total
75-76	112	40	152
76-77	224	80	304
77-78	224	80	304

Cumulative Savings

(adjusted for inflation)

	75-76	76-77	77-78
1975-76	152	163	174
1976-77		304	325
1977-78			304
Total	152	467	803
Deficit	(726)	(742)	(801)
Net*	(574)	(275)	2

*The estimates reflect cumulative deficits through 1976-1977 totalling $3,431-million, (2,582-million from 1974-75 and prior years, $574-million from 1975-76 and $275-million from 1976-77) $2,950-million of the tota deficit will be funded through the proceeds of initial M.A.C. issues and amortized over the life of these bonds. The remaining $481-million wil have to be funded and amortized through additional debt issues. Since the relatively short maturity and reserve fund requirements on M.A.C. debt produce a debt-service schedule that declines significantly subsequent to 1977-78, the $481-million in additional debt issues can be service after 1977-78 from that portion of the sales-tax revenues that had previously been used for M.A.C. debt service.

TAB B

POSSIBLE ACTIONS WITH RESPECT TO DEFAULT BY NEW YORK CITY

At the request of the President, Secretary Simon has designated Under Secretary Edwin Yeo as Chairman of the Federal effort. He chairs a steering group consisting of Richard Dunham, Deputy Director, Domestic Council, Roderick Hills, Deputy Counsel to the President, Antonin Scalia, Assistant Attorney General, and Calvin Collier, Associate Director (Economic and Government) of the Office of Management and Budget. Robert Gerard of Treasury is acting as staff coordinator.

I. Financial Mechanism

Insuring a workable mechanism for controlling the financial affairs of the City in the event of default is perhaps the most important priority. An effective mechanism of this nature will in and of itself do much to satisfy the remaining objectives.

The model for such a mechanism is the corporate bankruptcy provisions of existing Federal law. Simply stated, such provisions place in the hands of a Federal judge plenary control over the financial inflows and outflows, as well as the assets, of a debtor.

Existing municipal bankruptcy provisions of Federal law are inadequate in that they require prior written consent of 51 percent in interest of the city's security holders to a reorganization plan before a Federal court can obtain jurisdiction. Although certain constitutional provisions are implicated in any revision of the municipal bankruptcy law, it appears possible to amend the law to eliminate the 51 percent requirement, thus assuring the opportunity for prompt and secure Federal court jurisdiction over the City's financial affairs.

At the same time, there is one loophole in existing law. If default occurs and the City is sued by a security holder, it may seek a Federal stay of such suit by filing, among other things, a reorganization plan and a statement to the effect that there is a "reasonable prospect" that the 51 percent consent requirement can ultimately be met. Such a stay may be granted for 60 days and extended for an additional 60 days. To effect a permanent solution, the requisite consents would still have to be obtained. The stay route, however, would prevent a major potential

source of chaos: a number of legal actions resulting in conflicting injunctions--e.g., one payment to court ordering note holders, not the police; another ordering the reverse, etc.

II. Public Order

In the event of default, the City may be financially unable to meet payrolls. In addition, there is a possibility that the City's mechanism for making payments may cease to function. This poses two threats. First, in the event payrolls are not met (for either reason) or serious uncertainties as to pay develop, a general or partial strike could occur and could involve the police and/or firemen. Second, in the event assistance payments are not made there could be rioting beyond the capacity of local authorities to control.

Legally, the State has primary responsibility to deal with such matters in the first instance. Accordingly, our preparation must be along two lines. First, we must assess the resources (and the mobilization time required) of the state in this regard. Second, we must assess both our legal authority and practical ability to act, both on the assumption that the State will act and on the assumption that it will not.

III. Federal Payments

As suggested above, one potential source of unrest would be an interruption in the flow of Federal payments for welfare, medicaid and other forms of assistance. Two issues are presented. First, what legal impediments exist in the event the City is unable to meet its matching share obligations. Second, how can the USG and/or the State assure continuing flows in the event the City's payment mechanism ceases to operate because of strikes, etc.

OMB has identified three HEW programs which constitute the bulk of Federal payments potentially affected by a default. With respect to these programs, further work is required in determining the legal implications (primarily as a matter of State law) of the City's possible failure to meet matching requirements. In addition, it is necessary to develop a mechanism to administer these programs in the event of the City's failure to do so.

To date, very little is known about the remaining programs. Further information will be developed to permit a determination whether coverage of such programs is essential to the success of the plan.

IV. Banking System

The main threat to the banking system is psychological. A New York City default would not meaningfully impair the capital of any of the major banks. The real risk is that such potential failures, coupled with the other uncertainties attending a default, could cause a worldwide lack of confidence in the major U.S. institutions.

Accordingly, we must act to insure that no liquidity problems arise and that bank failures are averted. The FED has already announced that discount windows will be open. The FDIC will be ready to purchase convertible capital notes of banks threatened with large capital impairments. To avoid "bail out" charges, such purchases would involve severe penalties for bank officials responsible for the imprudent levels of ownership.

V. Operation of Essential Financial Institutions

In the event of civil disorder certain financial institutions--e.g., New York Fed, Stock Exchange--may be unable to open due to inability of employees to travel, security concerns, etc. Such closing could impair essential financial operations of the USG and undermine national and international confidence in our markets.

We are exploring possible contingency action under two assumptions: (1) conditions force a closing of one-two days; (2) a closing of longer duration. We will have to identify the specific functions which cannot be interrupted. Alternative means, if any, for performing such functions must be developed.

VI. Orderly Markets

Overall order (or disorder) in the capital markets will be largely a function of our success in implementing the other elements of the plan. However, there is one area of special concern. In mid September, four housing agencies (New York State Housing Finance Authority, New York State Dormitory Authority, New Jersey Housing Finance Authority, and Massachusetts Housing Finance Authority) will need to fund out or roll over maturing short term securities. These agencies have recently had difficulties in raising funds in the public market for two reasons. First, overall market uncertainty caused by

New York City's problems. Second, lack of understanding of the underlying financial resources of the agencies. Such understanding was less necessary as long as the moral obligation commitment was viewed as a reliable credit basis. In the wake of UDC, this is no longer the case and these securities are generally being looked at as straight revenue bonds.

Our primary concern is with New York State Housing Finance Authority. Most of the Dormitory Authority's September obligation has been prefunded. Massachusetts and New Jersey have experienced substantially less difficulty than the New York agencies and will be less "tainted" by further adverse events.

An indepth review of Housing Finance Authority's underlying financial soundness is being conducted in New York. Although hard, audited, results will not be available in time to meet September's requirements, we do expect to have sufficient information to determine whether notes can be privately placed in September.

In addition, consideration should be given to the possibility of employing Section 802 of the Housing Act of 1974. Section 802 permits Federal guarantees of taxable state housing agencies obligations and provides a one-third interest subsidy.

TAB C

MEMORANDUM

Subject: New York City Actions:
Promises and Deliveries

To restore market access, the City was required to act on two fronts: (1) fiscal actions; and (2) management actions. The following summarizes the City's action (and non-action) along these lines.

I. Fiscal Actions

1. Actions Promised

A. Wage Freeze

After months of pressure, Mayor Beame did announce a "wage freeze" in late July, to become effective September 1. The freeze was deficient in that (1) it was not a true freeze, but a one-year deferral of contracted wage increases; (2) the Mayor agreed with the Unions to restrict lay-offs in return for the freeze; and (3) only the wages of employees earning in excess of $15,000 were frozen at July 1 levels; employees earning less got 1/3 or 2/3 of the contract increases. As a consequence, estimated savings will be $100 million rather than the $200-300 million originally projected.

B. Lay-offs.

Approximately 50,000 lay-offs are required to balance the current budget. At various times, the Mayor has talked of lay-offs ranging from 20,000 to 30,000. In view of the

fact that the City cannot provide hard information as to the number of City employees, it is impossible to calculate the number of personnel laid off, especially since part of the lay-offs were to be accomplished through attrition. We seriously doubt, however, whether the actual number exceeds 8-10 thousand.

Perhaps more damaging was the Mayor's announcement in connection with State Legislative action on the City's budget in late June, concerning substantial lay-offs of police, fire and sanitation workers. After disruptive actions by the police, and the garbage strike, the Mayor rescinded virtually all the lay-offs, further damaging his credibility.

C. Transit Fare

Effective September 1, the City did increase the transit fare from 35 to 50 cents.

D. City University

In July, the Mayor promised to cut expenditures for the City University by $32 million. We do not know of any action to accomplish this objective.

E. New Taxes

The City has authority to impose an additional $124 million in so-called "nuisance" taxes. In addition, it was granted an additional $175 million taxing authority on July 1. The City did impose a 400% increase in the tax on stock and bond

transactions (a counterproductive move which has dramatically lowered the volume of bond trading in NY), and extended the sales tax to barbers and other establishments.

F. Fire House and Hospital Closings

In connection with the late June maneuvering over legislative approval of the City's budget, the Mayor promised to close a substantial number of fire houses and hospitals. Shortly after the budget was approved, the closing orders were rescinded.

2. Possible Actions not Mentioned by City or State.

A. User charges for public facilities

B. Increasing penalties for delinquent taxes, other obligations

C. Moratorium on capital expenditures

D. Require employee contributions to pension plans

II. Management Actions

A. Sound Financial Data

Since March 20, City officials have promised on various occasions to provide an accurate picture of the City's finances. Not until August 30 -- too late, among other things, to make MAC viable -- was such a statement provided. Moreover, the plan to eliminate the City's deficit included in the statement is deficient on its face in not providing for the elimination of expense items from the capital budget.

B. Outside Participation in City's Financial Affairs

Since at least June 11 (when MAC was formed) the importance of outside participation has been recognized. MAC itself did not become involved directly for six weeks. One element of MAC's initial involvement was the suggestion that a joint City/State (or MAC) financial review board be established. This proposal was vehemently attacked by Mayor Beame for approximately one week. The Mayor then announced his own review board and the parties comprised on a joint City/State Board. We are unaware of any activity by that Board.

C. Three Year Expenditure Freeze

In late July, MAC proposed that the Mayor agree to freeze expenditures for three years. The Mayor also attacked this proposal as another incursion on his authority. Later, the Mayor agreed to a "freeze", involving a ceiling on expenditure increases (2%) and further inflation adjustments.

D. Three Year Budget Plan

A budget plan of this nature has been discussed since March. The August 30 financial statement purports to include the broad outlines of such a plan. However, few specifics are given.

E. Eliminating Expense Items from the Capital Budget

This has been recognized as critical all along. The MAC legislation requires it. No plan, however, has been presented.

TAB D

EFFECT OF A NEW YORK CITY DEFAULT ON SPECIFIC BANKS

The attached table is based on a survey of holdings by the Comptroller of the Currency (national banks), the Federal Reserve (state chartered banks which are members of the Federal Reserve) and a sample of 10% of the 8,000 state chartered non-member banks.

Banks with significant holdings of NYC obligations have been divided for the purposes of that survey into three categories, banks holding NYC obligations equal to (1) 50-75% of capital; (2) 75-124% of capital; and (3) over 125% of capital.

Banks in the last category will be severely impacted by default; banks in the second category will be vulnerable as a result of default.

The Regulatory authorities will approach each bank on a case by case basis. In the case of some banks, the principal owners may be able to provide additional equity capital. For example, the Comptroller of the Currency feels that Mr. Safra, who is the principal shareholder in the Republic National Bank, has access to additional capital.

Banks in the final category, the severely impacted group, would be contacted immediately following a default by NYC. A meeting would be arranged at which the bank's condition would be reviewed with management. If additional capital is needed, as perceived by the regulatory authorities, the possibility of the Board of the bank raising capital, the merger of the impacted bank with another bank, and the purchase by FDIC of subordinated notes or convertible subordinated notes will be explored. The end result should be a plan of action to deal with each individual impacted bank.

The three regulatory authorities agreed some weeks ago that they would not require an immediate write-off of the difference between the book value (purchase price by the banks) and the market value of defaulted NYC obligations. Their plans are to have a six month grace period. This delays the technical impact of default on the solvency of impacted banks until the expiration of the grace period and would give the regulatory authorities time to arrive at solutions for each impacted bank.

While very real in terms of each bank, the grace period will probably not delay the public's awareness regarding holdings of NYC obligations by specific banks. The securities laws will probably require that banks disclose to the investing public their holdings of NYC debt.

We have two principal weapons to deal with the financial impact on the banking system of a default by NYC.

1. The Federal Reserve will be in a position to fulfill its role as a "lender of last resort." In this role they insure that liquidity needs are met much as they did following the collapse of Penn Central.

2. The Federal Reserve's ability to help in cases involving insolvency is limited. Where a bank must charge off losses against capital and the result is a sharp reduction or elimination of capital, only the FDIC can help. Chairman Frank Wille has assured me that:

> "The Board of the FDIC is determined that no insured bank should fail as a result of NYC's default. To this end, it is prepared to receive sympathetically, in necessitous cases certified by the appropriate bank agency, requests for short-term FDIC capital assistance, on a subordinated basis, with the terms of such assistance to be negotiated on an individual basis in order to protect the public interest and to assume repayment to the FDIC in a timely fashion. The FDIC Board is prepared to receive such requests for capital assistance from banks both within and without the New York metropolitan area."

This means that the FDIC would purchase convertible capital notes of severely impacted banks. This would save many banks. In the most extreme cases, however, this technique would not work because a bank must have some equity left in order to function. In cases where equity was totally wiped out, a likely alternative to liquidation would be an assisted sale by FDIC of the destroyed bank to another bank.

Banks with NYC Holdings Totalling 125% or More of Capital

	Capital	NYC Holdings	%
Deak N/B Fleischmanns, N.Y.	382,223	756,802	198
Flushing N/B Flushing, N.Y.	2,397,880	4,978,000	207.6
Gulley National Bank Gulley Bridge, W. Va.	1,264,407	2,402,374	190
First National Bank of South Charleston, W. Va.	2,784,026	3,480,033	125
First N/B Cape Canaveral, Fla.	2,849,386	4,217,092	148
First National Bank of Princeton-Naranja, Fla.	522,339	1,206,603	231

Banks with NYC Holdings Totalling 75-124% of Capital

	Capital	NYC Holdings	%
Harbor N/B Boston, Mass.	3,017,833	3,603,293	119.4
Columbus N/B Providence, R. I.	6,758,958	8,300,000	122.8
Citibank (Suffolk), N.A. Bay Shore, N. Y.	3,163,180	3,780,000	119.5
Century N/B New York City, N.Y.	6,672,842	6,072,286	91
Sterling N/B New York City, N.Y.	49,755,220	49,257,668	99
First N/B of Norfolk Norfolk, N. Y.	642,166	687,018	107
N/B of Roxbury Roxbury, N. Y.	455,403	455,403	100
American Bk. & Tr. Co., New York City, N. Y.	25,353,000	28,970,000	114.3
First National Bank of St. Mary's, W. Va.	729,180	554,177	76
Boca Raton N/B Boca Raton, Fla.	7,693,530	7,078,048	92
Flagship N/B of Westland Hialeah, Fla.	1,272,661	1,043,582	82
American N/B Champaign, Ill.	1,208,511	1,136,000	94
Roodhouse N/B Roodhouse, Ill.	520,619	505,000	97
Warren Bank Warren, Mich.	5,985,000	4,600,000	76.9
First N/B Mountain Home, Ark.	631,522	581,000	92

Banks with NYC Holdings Totalling 75-124% of Capital

	Capital	NYC Holdings	%
First National Bank Fairfax, Minn.	452,041	443,000	98
Central N/B & Trust Co. Des Moines, Iowa	14,598,958	14,015,000	96
National Bank of Caruthersville, Missouri	844,578	701,000	83
Farmers & Merchants N/B Hennessee, Okla.	754,118	641,000	85
San Luis Obispo N/B	1,909,821	2,139,000	112

Banks with NYC Holdings Totalling 50-75% of Capital

	Capital	NYC Holdings	%
National Bank of Fairhaven Fairhaven, Mass.	1,919,532	1,076,858	56.1
Republic N/B Brooklyn, N. Y.	95,000,000	51,300,000	54
First N/B of Dryden Dryden, N. Y.	1,982,193	1,129,850	57
Community N/B Staten Island, N. Y.	7,886,797	4,653,210	59
Freedom N/B New York City, N. Y.	3,102,113	1,706,162	55
Citibank (Mid-Hudson) N. A. Woodbury, N. Y.	3,816,981	2,023,000	53
Industrial N/B of Washington, D.C.	2,675,202	1,417,857	53
The Bank of St. Albans, St. Albans, W. Va.	2,228,000	1,200,000	53.9
Citizens Bank Smithville, Tenn.	785,000	495,000	63.1
First N/B of Crestview, Fla.	1,879,377	1,165,214	62
First N/B Hialeah, Fla.	9,197,958	6,070,652	66
First N/B of Merritt Island, Fla.	2,747,378	1,648,427	60
Pan American Bk of Ormond Beach, N.A. Ormond Beach, Fla.	850,248	425,124	50
First N/B of the Upper Keys Tavernier, Fla.	2,397,944	1,702,540	71
Metropolitan Bank Tampa, Fla.	1,833,000	1,000,000	54.5

Banks with NYC Holdings Totalling 50-75% of Capital

	Capital	NYC Holdings	%
Columbia N/B of Chicago Chicago, Ill.	2,929,851	1,963,000	67
Elliott St. Bk. Jacksonville, Ill.	4,098,000	2,060,000	50.3
Peoples Bank & Tr. Co. of Sylacauga, Ala.	662,000	430,000	65.0
Hiawatha National Bank Hager City, Wis.	536,842	306,000	57
American N/B Eau Claire, Wisconsin	6,759,459	5,002,000	74
First N/B of Nevada, Missouri	993,333	596,000	60
Kansas State Bank Kansas, Ill.	389,000	260,000	66.8
Barclays Bank of New York New York Ciry, New York	31,519,000	17,215,000	54.6
State Bank of Niantic Niantic, Ill.	857,000	435,000	50.8
Endicott Trust Co. Endicott, New York	9,457,000	5,230,000	55.3

MEMORANDUM (Preliminary)

Subject: Effect of NYC Default on New York State and New York State Agencies Credit

This memorandum sets forth our preliminary views concerning the above question. It is based in part on information and analysis supplied by Morgan Guaranty Trust Co. of New York. It will be expanded to reflect an in-depth review of the factual data which has been initiated.

We have limited our analysis to evaluating the consequences of impaired ability to do necessary, as opposed to discretionary, funding. All New York State issuers are paying more for money as a result of NYC's problems and will pay even more if NYC defaults. The question addressed here is whether issuers will be unable to borrow and be forced to default as a consequence.

New York State

New York State is a fundamentally sound credit. Its outstanding debt is $6.9 billion ($3.3 billion long term, $3.6 billion short). Although the State's own direct debt load (4.6% of estimated property values) is above the state median (1.5%), it is adequately secured by sufficiently diversified revenue sources, including personal income taxes (39.4%), business taxes (16%), consumption and use taxes (37.3%) and other miscellaneous receipts. The State's

credit position has been eroded through the increased issuance of indirect obligations, or "moral obligation" debt, currently estimated to be in excess of $6.5 billion, including both long-term and short-term obligations.

Unlike NYC, NYS does not and has never borrowed to finance deficits. It does use the short term credit market to smooth out seasonal variations in cash flow. Most of NYS' short term borrowing for its 1975-1976 fiscal year (April 1 - March 31) has been done. It does have an $800 million note maturity on September 15 and, largely as a result of having advanced substantial cash to NYC, must roll over $500 million of the maturity.

We are concerned that inadequate attention has been paid to the structure of this $500 million borrowing. In an unsettled market -- especially if NYC defaults -- a business as usual approach just won't work. We will be working with the banking community to provide for the orderly handling of this borrowing. Although there is basis for doubt, we think in the final analysis that the money will get raised and the State will not default.

NYS Agencies

Two important state agencies -- NYS Housing Finance Agency (HFA) and NYS Dormitory Authority (DA) -- have note maturities on September 15. We understand that DA will have sufficient cash to pay off the maturing notes.

The HFA situation is more complex. There are 11 programs under HFA and each can be looked at as a separate REIT, the borrowing of which is secured only by revenues from that program (as well as the State "moral obligation" which is now ignored in the market). Of the 11 programs, 5 are dormant, 2 are financially sound, but need to refund short term debt, and 4 need to borrow but are fundamentally unsound financially.

Of the $50+ million September 15 maturity, all but $3 million is for one of the 2 sound programs. The bankers are hopeful that they can finance the sound portion this week, thus avoiding a potential collision between default and this sound program's current needs.

Looking at October and beyond, the picture is far more cloudy. However, our principal basis of concern is the weakness of the programs. A default by NYC in September would impede a solution to this problem, but would not, in our view, be the determining factor.

TAB F

THE WHITE HOUSE

WASHINGTON

September 2, 1975

RE: Legal Procedures to Regulate the Payment of New York City's Debts in the Event of Default

TO: WILLIAM SEIDMAN

FROM: RODERICK HILLS R.H.

1. A stay of all legal procedures is needed while a "plan" is worked out: Once a default occurs, each bond holder subject to the default could sue to collect money owed him. This multiplicity of actions could be further complicated if some Judge issued a lien against the expenditure of any city funds. Whatever judicial action may be taken, the mere act of default will enormously complicate the financial affairs of New York. Suppliers will be reluctant to provide goods, federal agencies will be reluctant to continue funding and employees will be extremely apprehensive as to their job security. Accordingly, it is absolutely necessary that the City of New York, with the assistance of the State, move forthwith to secure a judicial stay of all legal actions against the city as soon as the default is noted. The failure to secure such a stay could obviously cause considerable problems that would not necessarily be contained. In our discussion with the New York representatives at the Labor Day meeting at Treasury, we were told that they have three plans for securing such a stay.

   (a) To create a state bankruptcy type law to "handle" the city's debts and give a state court the "right" to stay all such action. Such legislation is in the package given Ed Yeo last night (See §85.30, p. 95). This proposal may well be unconstitutional and will not work for very long, if at all.

   (b) To file a voluntary petition in bankruptcy under Chapter 9 of the Federal Bankruptcy laws and seek a stay of all legal actions pending the formulation of a "plan." There is some question as to whether such a "stay" can be issued under the existing law (See memo

at Tab A discussing the existing federal law at p. 6). To file this petition the state must grant permission to New York City to file the petition. The New York group states that such consent will be sought by the Governor.

(c) To seek amendments to Chapter 9 of the Federal Bankruptcy laws to simplify the procedural aspects of a large municipal bankruptcy proceeding. The needed changes are well defined and have been much discussed. See Tab B for a proposed new law particularly designed for large cities.

2. Once a stay is granted a plan of composition must be worked out over a reasonable period of time: Assuming that the city proceeds under Chapter 9 in its present or amended form, a "plan of composition" must be presented to the court within a reasonable period of time. Under existing law it must be filed within 120 days after the grant of a stay and must at that time be agreed to by 51 percent of the creditors affected by the plan. Because of the immense size of the New York debt, it is probably impracticable to meet these terms. The proposed amendments to Chapter 9 (see Tabs A and B) are designed to eliminate them and to require only that a plan be proposed within a reasonable period of time and that it be agreed to by 51 percent of the creditors affected before it is put into effect. The present law requires that 66 2/3 percent of the creditors approve the plan before it is put into effect. Assuming that a "plan" can be formulated, it is not possible to even guess as to how long the proceeding will take. Two major obstacles must be surmounted to secure court approval:

(a) 51 to 66 2/3 percent of creditors (depending on whether Chapter 9 is amended) affected by the plan must agree to a payoff plan.

(b) The city must show it can make the "plan" work: i.e., that it has enough revenue to pay off the restructured debt and also to pay its other expenses.

In order to show that the city can pay its other expenses, the court will undoubtedly require a period of time with the city operating

under the fiscal restraints which the state would impose upon it under the law that Governor Carey will propose to the legislature this Thursday. Only with some trial period will the city be able to show that its operations are economically and politically sound.

3. Several legal and political problems remain even if a stay is granted: By far the most important of these is the determination of what obligations of the city will be placed into the "plan of composition": e.g.,

(a) All of the bonded indebtedness of the city or just that debt coming due in 1975 or some amount of the debt in between these two extremes?

(b) What obligations of the city other than its bonded indebtedness will be changed by the "plan of composition." For example, will pension plan obligations or will union contracts be restructured by the plan?

(c) What other sub-entities of the city or the state will also be placed in the bankruptcy procedure?

4. Summary. The changes in the Federal Bankruptcy laws necessary to smooth out the procedural problems that will be faced by a New York City bankruptcy are not difficult to articulate and are not controversial. Indeed, most of the changes that we believe the City of New York will seek in Chapter 9 have already been proposed to the Congress.

The political problem is whether New York will seek to restructure any obligations other than its debt.

COPY NO. 4A

ADMINISTRATIVELY CONFIDENTIAL-EYES ONLY

MUNICIPAL FINANCIAL ADJUSTMENT PROCEEDINGS AND SUGGESTED REVISIONS

I. Type and Scope of the Proceeding

A. The present provisions of the Bankruptcy Act dealing with municipal debt adjustment are found at 11 U.S.C. §§ 401-403, Bankruptcy Act Sections 81-83 (Chapter IX).

1. Chapter IX allows the voluntary filing of a petition by a city, town, county, water district, school district, port authority, or similar municipal bodies.

2. Chapter IX has been found to be constitutional in that it permits only voluntary filings where not prohibited by the State. See United States v. Bekins, 304 U.S. 27 (1938).

B. Chapter IX should be left intact in order to minimize the effect of a new chapter on the finances of small municipalities or their sub-entities; a new chapter modeled on Chapter IX should be proposed.

1. The new chapter should be made applicable only to cities with a population of over 1,000,000 residents. (This figure could be adjusted upward to minimize the effect of the proposed legislation on certain cities.)

2. There is no constitutional impediment to so streamlining the class of debtors affected by the proposed legislation so as to affect only a very small percentage of large cities. Hanover National Bank v. Moyes, 186 U.S. 181 at 188 (1902).

3. Subentities of a municipality that qualifies as one of the class of debtors benefited by the statute should be permitted to file a petition in order to maximize the effectiveness of a plan of composition; however, such a filing should not be mandatory so as to avoid the complication of including independently solvent districts, authorities, etc.

II. Jurisdictional Aspects of the Proceeding

A. The present Act allows no interference with the sovereignty of the States or their political subdivisions; a provision to this effect should be included in any proposed revision of municipal financial adjustment proceedings. See 11 U.S.C. § 403(c)(i).

1. Constitutional considerations: Congressional authority to legislate under Article I, Section 8, cl. 4 is restricted by the provisions of the Tenth Amendment. A constitutional barrier is presented should any proposed statutory provision so interfere with State sovereignty as to deny the State's right preserved under the Tenth Amendment to control its own fiscal affairs.

a. See Ashton v. Cameron County Irrigation District, 298 U.S. 513 (1936) and United States v. Bekins, 304 U.S. 27 (1938).

b. Since involuntary proceedings against a municipal corporation without State consent are not contemplated, we foresee no impediment to the proposed statutory provision presented by the Tenth Amendment.

2. State consent to proceedings undertaken pursuant to the proposed statutory provisions should be explicitly provided for in the statute.

a. Although commentators in discussing the present provisions of Chapter IX have stated that where a State is silent regarding the availability of Chapter IX to its municipalities, such silence implies the State's consent to the availability of Chapter IX, any proposed legislation should state that if no State prohibition exists the municipal instrumentality may file a petition under its provisions.

b. It should be noted that proposed bills now under consideration by the Congress take this approach which dispenses with express State permission whenever a municipality desires to avail itself of the relevant bankruptcy remedies available to it. (House Document 93-137, Part II, Sept. 6, 1973 (containing the bill later proposed by the Commission on Bankruptcy Laws) and S. 235, 94th Cong., 1st Sess. 1974 (proposed by a committee of Bankruptcy Referees)).

c. Cf. Municipal Assistance Corporation Act, 5 McK. N.Y. Sess. Laws 237, Chapter 168, June 10, 1975, 198th Sess. This Act represents the State of New York's attempt to aid municipalities, who are unable to sell sufficient securities to permit them to refund their outstanding obligations or to meet their cash requirements, through a State corporation's issuance of bonds. We have found no provision therein nor in any other law of New York prohibiting the proceeding.

3. There is no trustee in a Chapter IX proceeding and the municipality remains in control of its property, revenues and expenditures. The new chapter should propose to continue this scheme as do the above mentioned proposed bills before Congress regarding Chapter IX.

B. A provision specifically stating that the chapter does not impair or limit laws governing the use of Federal funds should be added.

1. The present Chapter provides that the plan itself cannot require actions by the debtor which are unlawful. 11 U.S.C. § 403(e)(6).

2. The present Chapter does not specifically deal with the treatment of Federal funds during the proceedings and this silence should be clarified. (Note Art. 5 General Municipal Law § 99-h (McKinney 1974 supp.)).

C. There should be no provision for trustees' avoidance powers.

1. All other bankruptcy proceedings provide for the avoidance of: (1) prefential transfers within four months of bankruptcy, (2) fraudulent conveyances in certain circumstances, and (3) liens obtained within certain periods. See 11 U.S.C. §§ 96, 107 and 110 designed to enhance equitable distribution of the debtor's assets.

2. Bankruptcy authorities favor the exclusion of such remedies in municipal debt adjustment proceedings. See the proposed bills cited supra; 5 Collier or Bankruptcy ¶ 81.27

a. Such avoidance powers may constitute interference with the governmental and fiscal affairs of the debtor in contravention of the Tenth Amendment, discussed supra.

b. Such powers would complicate the proceedings.

c. Since there are usually provisions preventing a judgment creditor from obtaining a judgment lien against a municipality, some of the avoidance powers are unnecessary. Cf. 7B McKinney's Consolidated Laws of New York Ann. CPLR 5203(a)5.

D. The duration of the bankruptcy court's jurisdiction should be clarified.

1. The present Act contains no provision on this point.

2. Commentators have suggested retention of jurisdiction until the court is satisfied that the plan is successfully in operation. See e.g., George H. Hempel, "An Evaluation of Municipal Bankruptcy Laws and Procedures", Journal of Finance Vol. XXVIII No. 5 p. 1339, December 1973.

E. The binding effect of the proceedings on creditors should be clarified.

1. The present Act provides that all creditors, whether secured or unsecured, and whether or not their claims are filed or allowed, are bound by the provisions of the confirmed plan (11 U.S.C. 403(f)). Therefore, they cannot challenge the plan outside the proceedings.

2. As in present Chapter X proceedings, this provision should be clarified to apply to unscheduled creditors without notice of the proceedings. See 11 U.S.C. § 624(1).

3. Present Chapter IX provides for a discharge of all debts dealt with in the plan and there is no exception for unscheduled creditors without notice, as is the case in straight bankruptcy and Chapter XI proceedings.

4. Provision for the discharge of unscheduled debts, together with a provision providing for a totally binding plan, has proved constitutional in the Chapter X context. See 6A Collier, supra ¶ 11.18.

F. The new chapter should provide for an automatic stay upon the filing of all suits against the debtor and all proceedings to enforce liens.

1. The present Chapter allows the bankruptcy court discretion in granting such a stay. The Chapter also allows the filing of a petition seeking a stay by a municipality which is attempting to enter Chapter IX but which has not completed all requirements for filing a petition to enter Chapter IX. 11 U.S.C. 403(c).

2. The stay would be granted without hearing and those seeking relief from the stay must proceed affirmatively in the bankruptcy court.

a. Such a provision avoids delay and is necessary where the debtor has no power to avoid liens already obtained.

b. The New Bankruptcy Rules provide for such a stay, as do the above mentioned bills now before Congress.

III. Operation of the Proceeding

A. The requirements of a petition initiating the proceeding should be modified.

1. The present Chapter requires the debtor to file a petition alleging insolvency and the petition must be accompanied by a plan of composition that has been accepted by creditors owning 51 percent of the outstanding debt of the municipality. A list of all known creditors must also be attached.

2. The 51 percent requirement is not constitutionally mandated. See Hanover National Bank v. Moyses, supra; Campbell v. Alleghany Corp. 75 F.2d 947, 954-955 (4th Cir. 1935), cert. denied 296 U.S. 581.

3. Several commentators have suggested reducing the 51 percent requirement and both proposed bills eliminate it entirely. The total elimination of the prior acceptance requirement is desirable.

   a. The petition would merely state that the city is unable to meet its debts as they matured. S. 235 § 9-202.

   b. A list of creditors could be filed with the petition or at a time the court directs. See S. 235 § 9-301.

   c. Rather than requiring creditors to answer the petition, as in 11 U.S.C. 403(b), creditors opposed should affirmatively challenge the petition. See S. 233 § 9-203.

B. The present provisions classifying creditors should be retained.

   1. Chapter IX now provides for the modification or alteration of the rights of creditors generally; secured, unsecured, municipal bondholders, and holders of bonds to be paid out of special assessments, revenues, taxes, etc., 11 U.S.C. § 403.

   2. There is no constitutional impediment to the alteration of the debts of bondholders. 5 Collier, supra, § 81.09, note 9. Furthermore, Chapter X has been consistently upheld even though vested rights are affected and even secured creditors may be subordinated. 6 Collier, supra, ¶ 0.01 and ¶ 3.26; Matter of Prima Co., 88 F.2d 785 (7th Cir. 1937).

C. The requirements for confirmation of the plan should be revised.

   1. Presently, Chapter IX requires that creditors owning two-thirds of the claims in a class whose claims have been filed and allowed and affected by the plan must consent to the plan.

2. There is no constitutional reason for the two-thirds requirement. S. 235, § 9-307(c) suggests majority approval only.

3. A revision requiring only majority approval would contribute to the likelihood of acceptance and eliminate some delay.

4. Chapter IX provides for separate classes of creditors; those entitled to priority (for example, the United States Government), unsecured creditors generally, and secured creditors.

   a. Secured creditors are not in one class but in separate classes, defined according to the property upon which they have liens. 5 Collier, supra, ¶ 81.15. For example, bondholders with liens on specific revenue would constitute separate classes, defined according to the particular bond issue involved. This coincides with general State law. See e.g., N.Y. General Municipal Law Art. 14-C § 407. (McKinneys 1974).

   b. If any class of creditors affected by the plan in a material way did not accept the plan, Chapter IX requires that they be paid in full or that their liens be protected. 11 U.S.C. § 403(d).

   c. In order to accelerate confirmation of the plan, a time limit for acceptance should be established. Hempel, supra, suggests 90 days.

D. Presently, Chapter IX proceedings are handled by the District Court Judge rather than by the bankruptcy judge, as in Chapter X. There appears to be reason to revise this.

IV. Miscellaneous

Any disruptive effects of the proposed chapter might be reduced by the inclusion therein of a specific provision for the limited duration of such proceedings.

This Act is to be designated Chapter XV of Title 11, United States Code.

JURISDICTION. -

§ 1(a) This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition or extension of the debts of certain public agencies or subdivisions, provided however, that if any provision of this chapter, or the application thereof to any such agency, instrumentality, or political subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other or different circumstances, shall not be affected by such holding.

Note -

§ 1(a) This subsection is derived from 11 U.S.C. § 401 and § 9-201 of S. 235, 94th Congress, 1st Session. It eliminates the complicated definition of political subdivision found at 11 U.S.C. § 401. See also House Document No. 93-137, Part II § 8-201 (H.D.). Some of the general provisions of Title 11 will be applicable as in Chapter IX.

RESERVATION OF STATE POWER TO CONTROL GOVERNMENTAL POWERS OF POLITICAL SUBDIVISIONS. -

§ 1(b) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control by legislation or otherwise, any public agency or instrumentality or political subdivision of the State in the exercise of its political or governmental powers, including expenditure therefor.

DEFINITIONS. -

§ 2(a) The words and phrases used in this chapter has the following meanings unless they are inconsistent with the context.

(1) The term "attorney" means an attorney licensed to practice law by any State and includes a law partnership.

(2) The term "claim" means a legally enforceable demand for performance of an obligation to pay money.

(3) The term "composition" means a plan for payment of less than the full amount of

---

Notes -

§ 1(b) This subsection is derived from 11 U.S.C. 403(i). See S. 235 § 9-102, and (H.D.) § 8-102.

§ 2 This section is derived from S. 235 § 1-102 and 11 U.S.C. 402.

debts provided for by the plan, with or without the extension of time for payment of such debts.

(4) The term "court" shall mean United States District Court sitting in bankruptcy, and the terms "clerk" and "judge" shall mean the clerk and judge of such court.

(5) The term "indenture trustee" means a trustee under a mortgage deed of trust, or indenture, pursuant to which there are securities outstanding, other than voting trust certificates, constituting claims against a debtor or claims secured by a lien on any of the debtor's property.

(6) The term "lien" means a security interest in property, a lien obtained on property by levy, sequestration or other legal or equitable process, a statutory or common-law lien on property, or any other variety of charge against property to secure performance of an obligation.

PLURALS. -

§ 2(b) For purposes of this chapter the singular number includes the plural and the masculine the feminine.

ELIGIBILITY FOR RELIEF. -

§ 3(a) Any municipality with a total population of over 1,000,000 inhabitants is eligible for relief under this chapter if not prohibited from filing a petition by applicable State law.

ELIGIBILITY OF SUBENTITY. -

§ 3(b) Any public agency or instrumentality or political subdivision of such municipality, including incorporated authorities commissions and districts, for whose debts such municipality is not otherwise liable, is eligible for relief, if such municipality seeks relief under this chapter, and if not prohibited from filing a petition by applicable State law.

---

§ 3 This section is derived from S. 235 § 9-201 and (H.D.) § 8-201.

CONTENTS OF THE PETITION. -

§ 4(a) Any entity eligible for relief under section § 3 may file a voluntary petition under this chapter. The petition shall state that the petitioner is eligible to file a petition, that the petitioner is insolvent or unable to pay its debts as they mature and that it desires to effect a plan of composition or extension of its debts. IF the list of claims required by § 9 is not filed with the petition, the petition shall specify the type of claims proposed to be affected and the claimants shall be identified to the extent possible.

OFFICE OF FILING. -

§ 4(b) The petition shall be filed with the court in whose territorial jurisdiction the municipality or the major part thereof is located.

FEES. -

§ 4(c) The petition shall be accompanied by payment to the clerk

---

§ 4(a) This subsection is derived from 11 U.S.C. 403(a). See S. 235 § 9-202, and (H.D.) § 8-202.

§ 4(b) This subsection is derived from 11 U.S.C. § 403(a).

§ 4(c) This subsection is derived from 11 U.S.C. § 403(a).

of a filing fee of $100, which shall be in lieu of the fee required to be collected by the clerk under other applicable chapters of this title, as amended.

AUTOMATIC STAY. -

§ 5(a) A petition filed under Section 4 shall operate as a stay of the commencement or the continuation of any court or other proceeding against the petitioner or any officer or inhabitant thereof, on account of the claims proposed in the petition or plan to be affected by the plan, or of any act or the commencement or continuation of any court proceeding to enforce any lien on taxes or assessments for the payment of obligations pursuant to such claims or against any property acquired by petitioner through foreclosure of any such tax lien or special assessment lien.

DURATION OF AUTOMATIC STAY. -

§ 5(b) Except as it may be terminated, annulled, modified, or conditioned by the court under subsection (c) of this

---

§ 5 This section is derived from Proposed Chapter IX, Rule 9-4, and 11 U.S.C. 403(c). Note that the stay only applies to claims which are to be affected. The stay could be broader. See Appendix A.

section, the stay provided by subsection (a) of this section shall continue until the case is closed or dismissed or the property subject to the lien is, with the approval of the court abandoned or transferred.

RELIEF FROM AUTOMATIC STAY. -

§ 5(c) On the filing of a motion seeking relief from a stay provided by subdivision (a) of this rule, the court shall set a hearing for the earliest possible date. The court may, for cause shown, terminate, annul, modify or condition such stay. A party seeking continuation of the stay shall show that he is entitled thereto.

OTHER STAYS. -

§ 5(d) The commencement or continuation of any other act or proceeding may be stayed, restrained, or enjoined pursuant to Rule 65 of the Federal Rules of Civil Procedure, except that a temporary restraining order or preliminary injunction may be issued without compliance with subdivision (c) of that rule.

SCOPE OF STAY. -

§ 5(e) No stay, order, or decree of the court may interfere with (a) any of the political or governmental powers of the

petitioner; or (b) any of the property or revenues of the petitioner necessary for essential governmental purposes or (c) any income-producing property, unless the plan of composition so provides.

STANDING TO CONTEST PETITION FOR RELIEF. -

§ 6(a) Any creditor may file a complaint in the bankruptcy court contesting the petition for relief under this chapter or stating any objection he has to the plan. The complaint may be filed at any time up to ten days before the hearing on the confirmation of the plan or within such other time as may be directed by the court.

DISMISSAL. -

§ 6(b) The court may, upon notice to the creditors and a hearing following the filing of such a complaint, dismiss the proceeding if it finds that the petition was not filed in good faith, that it does not meet the provisions or this chapter, that it has not been prosecuted with reasonable diligence, or that it is unlikely that a plan of

---

§ 6 This section is derived from S. 235 § 9-203, (H.D.) § 8-203 and 11 U.S.C. 403(a)(b).

composition will be approved.

NOTICE OF COMMENCEMENT OF PROCEEDINGS. -

§ 7(a) The clerk shall give all creditors prompt notice of the commencement of a case under this chapter and of the relief directed in the case.

NOTICE OF TIME FOR ACCEPTANCE. -

§ 7(b) The clerk shall also give notice to all creditors of the time permitted for accepting or rejecting a plan or any modification thereof, such time shall be 90 days from the filing of the plan unless the court for good cause shall set some other time.

OTHER NOTICES. -

§ 7(c) The clerk shall also give notice to all creditors (1) of the time permitted for filing a complaint objecting to confirmation of a plan, (2) of the date of hearing on such complaint, (3) of the date of hearing of a complaint

---

§ 7(a) This subsection is derived from S. 235 § 4-309.
(b) This subsection is derived from 11 U.S.C. 403(b).
(c) This subsection is derived from S. 235 § 4-309 and 11 U.S.C. 403(a).

seeking dismissal of the petition, and (4) of the date of the hearing on confirmation of the plan.

NOTICE TO PARTIES ADVERSELY AFFECTED. -

§ 7(d) The clerk shall also give notice to any person or claim of person who will be or may be adversely affected by the plan, of the pending of the case, and of any matters in which they have a direct and substantial interest.

MANNER OF NOTICE. -

§ 7(e) All notices given by the clerk shall be given in the manner directed by the court; however, the court may issue an order at any time subsequent to the first notice to creditors directing that those persons desiring written notice file a request with the court. If the court enters such an order any creditor not so requesting will receive no further written notice of proceedings under the chapter.

---

§ 7(d) This subsection is derived from S. 235 § 9-204(b) and (H.D.) 8-204.

§ 7(e) This subsection is derived from Proposed Chapter IX, Rule 9-14(e). No specific requirement of notice by publication has been included as in 11 U.S.C. 403(b), so that notices may be given in the least expensive manner consistent with procedural due process.

COST. -

§ 7(f) Cost of notice shall be borne by the petitioner.

REPRESENTATION OF CREDITORS. -

§8 For all purposes of this chapter any creditor may act in person or by an attorney or a duly authorized agent or committee. Where any committee, organization, group, or individual shall assume to act for or on behalf of creditors, such committee, organization, group, or individual shall first file with the court in which the proceeding is pending a list of the creditors represented by such committee, organization, group, or individual, giving the name and address of each such creditor, together with a statement of the amount, class, and character of the security held by him, and attach thereto copies of the instrument or instruments in writing signed by the owners of the bonds showing their authority, and shall file with the list a copy of the

---

§ 7(f) This subsection is derived from 11 U.S.C. 403(b).

§ 8 This section is derived from 11 U.S.C. 403(e).

contract or agreement entered into between such committee, organization, group, or individual and the creditors represented by it or them, which contract shall disclose all compensation to be received directly or indirectly, by such committee, organization, group, or individual, which agreed compensation shall be subject to modification and approval by the court.

LIST OF CLAIMS. -

§ 9(a) The petitioner shall file with its petition, or within such time as the court shall direct, lists of claims and of persons who may be adversely affected by the proposed plan.

CONTENTS OF LIST. -

§ 9(b) The list of claims shall include the name of each known creditor or indenture trustee to be affected by the plan, his address so far as known to petitioner, and a description of each claim showing its amount and character, whether it

---

§ 9 This section is derived from 11 U.S.C. 403(a) and Proposed Chapter IX, Rule 9-7.

is secured or unsecured, whether it is disputed, contingent or unliquidated as to amount.

ALTERATION OF ASSESSMENTS. -

§ 9(c) If the proposed plan requires revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition is filed, the petitioner shall also file with the court lists showing the names and addresses, so far as known, of the holders of record of title, legal or equitable, to such real property adversely affected.

MODIFICATION OF REQUIREMENTS. -

§ 9(d) The court may for cause modify the requirement of sections 9(a), 9(b), and 9(c) above.

PROOF OF CLAIMS. -

§ 10 in the absence of an objection by any party in interest, or of the filing of a proof of claim, the claim of a creditor that is not disputed, contingent or unliquidated

---

§ 10 This section is derived from S. 235 § 9-301(b), (H.D.) § 8-301 and 11 U.S.C. 403(a)(c). This section is designed to eliminate some paperwork.

is established by the list of claims filed pursuant to section 9. The court may set a date by which proofs of claim of other creditors must be filed. If the court does not set a date, the proofs must be filed before the entry of the order of confirmation. The clerk shall give notice to each person whose claim is listed as disputed contingent or unliquidated, in the manner directed by the court.

PERMITTED PROVISIONS OF PLAN. -

§ 11(a) The plan of composition or extension sought under this chapter may include provisions modifying or altering the right of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain other provisions and agreements not inconsistent with this chapter as the parties may desire.

CLASSIFICATION. -

§ 11(b) The holders of all claims regardless of the manner in

---

§ 11(a) This subsection is derived from 11 U.S.C. 403(a).

(b) This subsection is derived from 11 U.S.C. 403(a).

which they are evidenced, which are payable without preference out of funds derived from the same source or sources shall be of one class. The holders of claims for the payment of which specific property or revenues are pledged, or which are otherwise given preference as provided by law, shall accordingly constitute a separate class or classes of creditors.

REQUIRED PROVISIONS OF PLAN. -

§ 11(c) If any class of creditors which is materially and adversely affected by the plan does not accept the plan, the plan shall provide for payment in cash of the value of the claims of such creditors, or for such method as will, consistent with the circumstances of the particular case, equitably and fairly provide for the realization by them of the value of their claims.

ISSUE TO BE DETERMINED BY JUDGE. -

§ 11(d) If any controversy shall arise as to whether any creditor or class of creditors shall or shall not be materially

---

§ 11(c) This subsection is derived from 11 U.S.C. 403(d), S. 235 § 9-302, and (H.D.) § 8-302.

§ 11(d) This subsection is derived from 11 U.S.C. 403(a).

and adversely affected, the issue shall be determined by the judge, after hearing, upon notice to the parties interested.

TIME OF FILING PLAN. -

§ 12(a) The petitioner shall file a plan with its petition or at such later time as the court may direct.

TRANSMISSION OF PLAN. -

§ 12(b) As soon as practicable the clerk shall transmit to the creditors or other interested persons notice of the provisions of the plan and any modification thereof in such manner as the court may direct.

PERSONS WHO MAY VOTE ON PLAN. -

§ 13(a) Unless his claim has been disallowed, any creditor who is included on a list filed pursuant to section 9 or who files a proof of claim pursuant to section 10 may accept or reject a plan or modification thereof within the time set pursuant to Subsection 7(b).

---

§ 12 (a) This subsection is derived from S. 235 § 9-303, and (H.D.) § 8-303.

§ 12 (b) This subsection is derived from S. 235 § 9-304, and (H.D.) § 8-304.

PERSONS WHOSE ACCEPTANCE NOT REQUIRED. -

§ 13(b) Acceptances shall not be required from any creditor or class of creditors whose claims are not affected by the plan or whose claims are provided for pursuant to section 11(c).

REFERENCE TO REFEREE OF SPECIAL MASTER. -

§ 14(a) The judge may refer any special issues of fact to a referee in bankruptcy or a special master for consideration, the taking of testimony, and a report upon such special issues of fact, if the judge finds that the condition of his docket is such that he cannot take such testimony without unduly delaying the dispatch of other business pending in his court, and if it appears that such special issues are necessary to the determination of the case. Only under special circumstances shall references be made to a special master who is not a referee in bankruptcy. A general reference

---

§ 13(b) This section is derived from S. 235 § 9-305, (H.D.) § 8-305 and 11 U.S.C. 403(d).

§ 14 This section is derived from 11 U.S.C. 403(b).

of the case to a master shall not be made, but the reference, if any, shall be only in the form of requests for findings of specific facts.

COMPENSATION. -

§ 14(b) The court may allow reasonable compensation for the services performed by such referee in bankruptcy or special master, and the actual and necessary expenses incurred in connection with the proceeding, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work may have been done by the petitioner or by committees or other representatives of creditors, and may allow reasonable compensation for the attorneys or agents of any of the foregoing: Provided, however, That no fees, compensation reimbursement, or other allowances for attorneys, agents committees, or other representatives of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan of composition. An appeal may be taken from any order making such determination or award

to the United States Court of Appeals for the circuit in which the proceeding under this chapter is pending, independently of other appeals which may be taken in the proceeding, and such appeal shall be heard summarily.

NONAPPLICATION OF § 40. -

§ 14(c) Such compensation of referees in bankruptcy and special masters shall not be governed by section 40 of this Act.

HEARING ON CONFIRMATION. -

§ 15(a) Within a reasonable time after the expiration of the time within which a plan and any modifications thereof may be accepted or rejected, the court shall set a hearing on the confirmation of the plan and modifications, and the clerk shall give notice of the hearing and time allowed for filing objections as provided in subsection 7(c).

OBJECTIONS TO CONFIRMATION. -

§ 15(b) Any creditor, or any other party in interest may file a complaint objecting to the confirmation of the plan.

---

§ 15 (a) These subsections are derived from S. 235 § 9-307, (H.D.) 8-307 and 11 U.S.C. (403)(b).

(b) These subsections are derived from S. 235 § 9-307, (H.D.) 8-307 and 11 U.S.C. (403)(b).

The complaint shall be served on the debtor, and such other persons as may be designated by the court, at any time prior to the date of the hearing on confirmation or such earlier date as the court may set.

DETERMINATION OF GOOD FAITH PETITION. -

§ 15(c) Before concluding the hearing on confirmation of the plan the judge shall carefully examine all of the contracts, proposals, acceptances, deposit agreements, and all other papers relating to the plan, specifically for the purpose of ascertaining if the fiscal agent, attorney, or other person, firm, or corporation promoting the composition, or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and the creditor thereof, or any of such creditors -- either by fee, commission, or other similar payment, or by transfer or exchange of bonds or other similar payment, or by transfer or exchange of bonds or other evidence of indebtedness whereby a profit could accrue -- and shall take evidence

---

§ 15(c) This subsection is derived from S. 235, § 9-307 (H.D.) § 8-306 and 11 U.S.C. 403(e).

under oath to make certain whether or not any such practice obtains or might obtain.

DISMISSAL. -

§ 15(d) After such examination the judge shall make an adjudication of this issue, and if it be found that any such practice exists, he shall forthwith dismiss the proceeding and tax all of the costs against such fiscal agent, attorney, or other person, firm, or corporation promoting the composition, or doing anything of such nature, or against the petitioner, unless such plan be modified within the time to be allowed by the judge so as to eliminate the possibility of any such practice, in which event the judge may proceed to further consideration of the confirmation of the plan. If it be found that no such practice exists, then the judge may proceed to further consideration of the confirmation of the plan.

FINDINGS. -

§ 15(e) At the conclusion of the hearing, the judge shall make

---

§ 15(d) These subsections are derived from S. 235, § 9-307 (H.D.)
§ 15(e) § 8-306 and 11 U.S.C. 403(e).

written findings of fact and his conclusions of law thereon, and shall enter a decree confirming the plan if he finds and is satisfied that (1) it is fair, equitable, and for the best interests of the creditors and does not discriminate unfairly in favor of any creditor or class of creditors; (2) complies with the provisions of this chapter; (3) has been accepted by creditors holding a majority in amount of claims of all classes affected by the plan who have accepted or rejected the plan but exclusive of the claims of creditors provided for pursuant to subsection 11(c); (4) all amounts to be paid by the petitioner for services or expenses incident to the composition have been fully disclosed and are reasonable; (5) the offer of the plan and its acceptance are in good faith; and (6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan. If not so satisfied, the judge shall enter an order dismissing the proceeding. No case shall be reversed or remanded for want of specific or detailed findings unless it is found that the evidence is insufficient to support one or more of the general findings required in this section.

MODIFICATION. -

§ 16 Before a plan is confirmed, changes and modifications may be made therein with the approval of the judge after hearing upon such notice to creditors as the judge may direct, subject to the right of any creditor who shall previously have accepted the plan to withdraw his acceptance, within a period to be fixed by the judge and after such notice as the judge may direct, if, in the opinion of the judge, the change or modification will be materially adverse to the interest of such creditor, and if any creditor having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as changed or modified: Provided, however, That the plan as changed or modified shall comply with all the provisions of this chapter and shall have been accepted in writing by the petitioner.

---

§ 16 This section is derived from 11 U.S.C. 403(e).

PROVISIONS OF PLAN BINDING. -

§ 17(a) The provisions of a confirmed plan shall be binding on the debtor and on all creditors, whether or not they are affected by it, whether or not their claims have been listed, filed, or allowed, and whether or not they have accepted the plan.

DISCHARGE. -

§ 17(b) The confirmation of a plan shall extinguish all claims against the debtor provided for by the plan other than those excepted from discharge by the plan.

TIME ALLOWED FOR DEPOSIT OF SECURITIES. -

§ 18(a) Prior to or promptly after confirmation of the plan, the court shall fix a time within which the debtor shall deposit with the disbursing agent any money or other consideration to be distributed under the plan.

---

§ 17 This section is derived from S. 235 9-308 and (H.D.) § 8-308. See also 11 U.S.C. 403(f).

§ 18 This section is derived from S. 235 § 9-309 and (H.D.) § 8-309.

DUTY OF DEBTOR. -

§ 18(b) The debtor shall comply with the provisions of the plan and the orders of the court relative thereto and shall take all actions necessary to carry out the plan.

DISTRIBUTION. -

§ 18(c) Subject to the provisions of subsection (d), distribution shall be made in accordance with the provisions of the plan to creditors (A) proofs of whose claims have been filed and allowed or (B) whose claims have been listed and are not contingent, disputed, or unliquidated. Distribution may be made to holders of securities of record at the date the order confirming the plan becomes final whose claims have not been disallowed.

COMPLIANCE DATE. -

§ 18(d) When a plan requires presentment or surrender of securities or the performance of any other act as a condition to participation under the plan, such action must be taken not later than five years after the entry of the order of confirmation. Persons who have not

within such time presented or surrendered their securities or taken such other action shall not participate in distribution under the plan.

EXECUTION OF INSTRUMENTS. -

§ 18(e) The court may direct the debtor and other necessary parties to execute and deliver or to join in the execution and delivery of any instruments required to effect a transfer of property pursuant to the confirmed plan and to perform such other acts, including the satisfaction of liens, as the court may determine to be necessary for the consummation of the plan.

EXCHANGE OF DEBT SECURITY BEFORE DATE OF PETITION. -

§ 19 The exchange of new debt securities under the plan for claims covered by the plan, whether the exchange occurred before or after the date of the petition, shall not limit or impair the effectiveness of the plan or of any provision of this chapter. The written consents of the holders of any securities outstanding as the result

---

§ 19 This section is derived from 11 U.S.C. 403(j).

of any such exchange pursuant to the plan shall be included as acceptances of such plan in determining the percentage of the claims that have accepted the plan.

UNCLAIMED SECURITIES. -

§ 20 Any securities, monies, or other property remaining unclaimed at the expiration of the time allowed for the presentation of securities or the performance of any other act as a condition to participation in the distribution under a confirmed plan shall become the property of the debtor.

TERMINATION OF CHAPTER. -

§ 21 This chapter will remain in effect for five years from the date of its enactment.

---

§ 20 This section is derived from S. 235 § 4-317 and (H.D.) § 4-314.

§ 21 See 11 U.S.C. 404 (repealed).

APPENDIX A

GENERAL PROVISION OF S. 235

§ 4-501 AUTOMATIC STAY. -

§ 4-501(a) STAY OF ACTIONS AND LIEN ENFORCEMENT; NOTICE OF STAY. -

(1) SCOPE OF STAY. - A petition filed by or against a debtor under this title shall operate as a stay of (A) the commencement or continuation of any civil action by or against the debtor seeking recovery of money or affecting property of the estate, except an action authorized by title 28, United States Code, section 959; (B) the enforcement of any judgment against him, except for the collection of alimony, maintenance, or support out of property not belonging to the estate; and (C) any act to create or enforce any lien against the property of the estate.

(2) NOTICE. - Notice of the stay shall be given to creditors as provided in section 4-309, to every party to any pending proceeding and to the clerk of the court in which it is pending, and to every

person alleged to be contemplating any act in disregard of the stay.

§ 4-501(b) DURATION OF STAY. - Except as it may be terminated or modified by the bankruptcy court, the stay provided by this section shall continue until the administration of the estate of the debtor is completed and the case is closed or, if the stay bars enforcement of a lien, the property subject to the lien is abandoned or transferred by the trustee.

§ 4-501(c) RELIEF FROM STAY. - Relief from the stay provided by this section may be sought and obtained from the bankruptcy court pursuant to the Rules of Bankruptcy Procedure. The determination of the right to relief from a stay shall be given priority under such rules. Relief shall be granted if --

(1) the court determines that such relief will not prejudice the administration of the estate or the award or enjoyment of any benefit to which the debtor may be entitled under this title;

(2) the court determines that the withholding of such relief will result in irreparable injury, loss, or damage to the complainant; or

(3) the trustee or, if there is no trustee, the debtor consents to the relief.

TAB G

DRAFT

STATEMENT OF PRESIDENT GERALD R. FORD

For the past six months, I have been increasingly concerned about the financial conditions of New York City. At my request, Treasury Secretary William Simon and Chairman Arthur Burns have been closely monitoring the situation. They and their senior advisers have spent, and are continuing to spend, a large portion of every day seeking sound and workable approaches to the problem. Governor Carey met with me today and told me he is not able to come forward with a workable plan for New York City, including providing the necessary funds to insure that default will not occur.

My purpose today is not to attempt to assign responsibility. We have felt, and continue to believe that additional Federal financial assistance would not solve New York City's problem and, in fact, would be irresponsible action for the Federal government to undertake. I have believed throughout that it would fly in the face of our Constitution for a Federal official to participate directly in matters that have been assigned to other levels of government. Under our system of government, it is not, and should not be, the job of the Federal government to manage the finances of State and local government. That function must be handled locally, by the duly elected leaders, and the Federal government must not undermine their efforts. If funds were provided to

New York, equity would require the Federal government to provide assistance to every other city, a process that would destroy the autonomy of the State and inevitably lead to the complete federalization of city affairs. We simply cannot condone such a policy. I continue to believe that the resources exist at the State and local level to deal with the situation successfully.

With the financial situation of New York City worsening [and default becoming inevitable], we must all be concerned about the brave people of our greatest City [,who have been victimized by the mistakes of their leaders]. I know what the people of New York have contributed to this country and to the world over these 200 years of our existence. They have made significant individual contributions to government, to finance, indeed to even field of humor endeavor. But more importantly, through their tolerance, through their dignity, through their unwavering commitment to human freedom, they have provided us all with a model of all that is best in American life. It is to the people of this great city that my heart goes out as they complete their longest summer with no clear solution in sight.

[Our concern, however, for the people of New York and their plight must be shared by State and local government and that concern must be converted into meaningful action.

Bracket sections are optional.

Certainly, both the Mayor and the Governor have taken some steps to improve the situation, notably the creation of the Municipal Assistance Corporation. However, the steps taken have been too late and not enough. What should have been done in April was not enough in June after the situation had deteriorated. And what should have been done in June after that deterioration is now inadequate. What is needed, and what the people of New York deserve, is a broad and courageous commitment of all the resources of the City and the State to meet this crisis.]

As I have indicated, I cannot, consistent with my responsibilities under the Constitution and my responsibilities to the nation as a whole, commit the Federal government to direct intervention at this time. [I simply cannot ask the people of the nation to finance the mistakes of New York's elected leaders.] The plight of the people of New York City depends on whether State and local government will act creatively and courageously in the days ahead. To be sure, dealing with New York's financial crisis requires measures as grand, complex and daring as that great City itself. But the people of New York are clearly deserving of that kind of commitment from their immediate governments.

[Because of our concern for the people of New York and our desire to minimize the effects of default, the Federal government is prepared to act. Specifically, we will take

---

Bracket sections are optional.

the following steps to protect the citizens of New York City and State [from the consequences of the irresponsible conduct of their own leaders]:

1. We will seek the immediate enactment of an amendment to Chapter IX of the Federal Bankruptcy Act, to avoid confusion by insuring that all matters relating to the City's finances are subject to the plenary jurisdiction of a single Federal judge;
2. We will have mechanisms available to insure that all Federal assistance payments continue to flow to the intended beneficiaries;
3. We will have mechanisms available to insure that all essential services continue to be provided to the residents of New York City;
4. In cooperation with the Federal banking agencies, we will take steps to insure the proper functioning of our banking system, including the ability of that system to provide liquidity to all soundly financed issuers which may be temporarily affected.

This program will not prevent default, for that can only be done adequately by State and local government action. However, if the State and City officials also act, it will contain that default, so that it is mild and temporary. In this way, the Federal government is taking the most responsible

---

Bracket sections are optional.

action -- we are responding to our duty to assist in the plight of the people of New York while not abandoning our obligation to the people of every other city in the United States.]

THE WHITE HOUSE
WASHINGTON

Jim -

Here is an original package and copy on the President's meeting on the New York Situation.

I think we should keep the original as we have on the other New York City matters --- ~~I am checking with Seidman's office about the copy~~.

I understand that the statement was not used.

Trudy
I plan to return the copy to Seidman-

THE PRESIDENT HAS SEEN....

STATEMENT OF PRESIDENT GERALD R. FORD

For the past six months, I have been increasingly concerned about the financial conditions of New York City. At my request, Treasury Secretary William Simon and Chairman Arthur Burns have been closely monitoring the situation. They and their senior advisers have spent, and are continuing to spend, a large portion of every day seeking sound and workable approaches to the problem.

Governor Carey informed me today that in his opinion, the City of New York may have no alternative but to default on the payment of its obligations next week, unless the New York State Legislature enacts new legislation at its emergency session called for Thursday, and a proposed financing plan can be subsequently implemented.

Such a default would be a major tragedy not only for the people of the City and State of New York, but also for all of us throughout the Nation. What is even more tragic is that the circumstances which have given rise to the situation could have been anticipated and corrected.

But now is not the time for recrimination. Indeed as the Governor of New York, the State Legislature, and all those involved seek to work out a solution, it is a time for constructive effort.

Governor Carey has asked the Federal Government to assist the City and the State during the difficult period of adjustment that is needed to restore confidence in the City's financial practices and its long term economic well-being. We will do what we can but we continue to believe that Federal financial assistance would not solve New York City's problem. Under our system of Government, it is not, and should not be, the job of the Federal Government to manage the finances of State and local governments. If funds were provided to New York, equity would require the Federal Government to provide assistance to every other city, a process that would inevitably lead to the virtual Federalization of city affairs. I can not recommend such a policy.

In addition, the Executive Branch has no power to provide direct financial assistance without congressional action. This could not be accomplished in the time available even if it were desirable.

I encourage the efforts of the State and city to work out their problems. As their efforts to restore the city's economic health proceed, I have asked all Federal Departments and agencies involved to assist the city and the State in any way which is consistent with existing Federal laws and regulations.