



General Assembly

January Session, 2001

Bill No. 6952

LCO No. 4532

Referred to Committee on No Committee

Introduced by:

REP. LYONS, 146th Dist.

SEN. SULLIVAN, 5th Dist.

AN ACT AUTHORIZING THE ISSUANCE OF CERTAIN BONDS BY THE CITY OF WATERBURY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. It is hereby found and declared that a financial emergency
2 exists with regard to the city of Waterbury, that the continued
3 existence of this financial emergency is detrimental to the general
4 welfare of the city and the state, that the city's continued ability to
5 borrow in the public credit markets and the resolution of this financial
6 emergency is a matter of paramount public interest and that to achieve
7 this resolution it is necessary, appropriate and an essential public
8 purpose to provide in this act for the financing of deficits resulting
9 from the city's operations, the imposition of financial management
10 controls and the creation of the Waterbury Financial Planning and
11 Assistance Board to review the financial affairs of the city of
12 Waterbury, all in order to achieve or maintain access to public credit
13 markets, to fund the city's accumulated deficits and to restore financial
14 stability to the city of Waterbury.

15 Sec. 2. As used in this act:

16 (1) "Accrual basis of accounting" means the basis of accounting
17 under which revenues are recorded when earned and expenses are
18 recorded at the time liabilities are incurred.

19 (2) "Annual budget" means the general fund budget, as defined by
20 the city's charter, prepared on the modified accrual basis of
21 accounting, as defined by GAAP.

22 (3) "Annual budgetary deficit" means with respect to the general
23 fund of the city, the excess of expenditures, encumbrances and other
24 financing uses over revenues, other financing sources, and any
25 undesignated fund balance from the prior year used to balance the
26 current budget, as computed utilizing the modified accrual basis of
27 accounting.

28 (4) "Board" means the Waterbury Financial Planning and Assistance
29 Board created by section 10 of this act.

30 (5) "Board of Aldermen" means the Board of Aldermen of the city of
31 Waterbury.

32 (6) "City" means the city of Waterbury.

33 (7) "Contract" means any agreement, contract, lease, obligation,
34 other than a debt obligation, letter of intent or acceptance regarding
35 the provision of goods or services to or for the benefit of the city by
36 and between the city and any other party, including collective
37 bargaining agreements with employees of the city and any agreement,
38 contract, letter of intent or acceptance regarding the sale or lease of any
39 assets of the city having a fair market value greater than fifty thousand
40 dollars.

41 (8) "Deficit funding bond" means any bond with a term of more than
42 one year issued pursuant to this act.

43 (9) "Encumbrance" means commitments related to unperformed or
44 executory contracts for goods or services.

45 (10) "Enterprise funds" means funds that are used to account for city
46 operations which funds are financed and operated in a manner similar
47 to private business enterprises where the intent is that the costs,
48 expenses, including depreciation, of providing services to the public be
49 financed or recovered primarily through user charges; or where a
50 periodic determination of revenues earned, expenses incurred, or net
51 income is appropriate for capital maintenance, public policy,
52 management control, accountability or other purpose. Such funds shall
53 utilize the accrual basis of accounting.

54 (11) "Finance director" means the director of finance of the city of
55 Waterbury.

56 (12) "Fund balance" means the difference between fund assets and
57 fund liabilities of governmental funds, utilizing the modified accrual
58 basis of accounting.

59 (13) "Fund balance deficit" means the excess of fund liabilities over
60 fund assets of governmental funds utilizing the modified accrual basis
61 of accounting, as determined by independent auditors and as rounded
62 to the nearest five thousand dollars.

63 (14) "GASB" means the Government Accounting Standards Board.

64 (15) "General obligation" means an obligation issued by the city and
65 secured by the full faith and credit and taxing power of the city
66 including any contingent obligation which is payable from the general
67 fund and is subject to annual appropriation.

68 (16) "General fund" means the fund established by the city to
69 account for all financial resources except those required to be
70 accounted for in another fund.

71 (17) "Generally accepted accounting principles" or "GAAP" means

72 the uniform minimum standards of, and the guidelines for, financial
73 accounting and reporting as promulgated by GASB.

74 (18) "Governmental funds" means the general fund, special revenue
75 funds, capital projects funds, and debt service funds, as defined by
76 GAAP.

77 (19) "Interim funding obligation" means any note issued in
78 anticipation of the issuance of a deficit funding bond.

79 (20) "Internal service funds" means funds used for the financing of
80 goods or services provided by one department or agency to other
81 departments or agencies of the city unit, or to other governmental
82 units, on a cost-reimbursement basis. Such funds shall utilize the
83 accrual basis of accounting.

84 (21) "Mayor" means the mayor of the city of Waterbury.

85 (22) "Maximum required capital reserve" means the maximum
86 aggregate amount of principal, interest, and other amounts due and
87 owing during any succeeding fiscal year, excluding any sinking fund
88 installments payable in a prior fiscal year on outstanding general
89 obligations of the city supported by a special capital reserve fund
90 established pursuant to this act.

91 (23) "Modified accrual basis of accounting" means the basis of
92 accounting under which revenues are recognized when susceptible to
93 accrual that is, when they become both measurable and available. For
94 purposes of this subdivision "measurable" means when the amount of
95 the transaction can be determined and "available" means collectible
96 within the current period or soon enough thereafter to be used to pay
97 liabilities of the current period. Expenditures are recorded when the
98 related fund liability is incurred. Principal and interest on general
99 long-term debt are recorded as fund liabilities when due.

100 (24) "Obligation" means any bond, bond anticipation note, revenue
101 anticipation note, tax anticipation note or other interim funding

102 obligation, certificate of participation, security, financing lease,
103 installment purchase agreements, capital lease, receivable or other
104 asset sale, refinancing covered by this definition and any other
105 transaction which constitutes debt in accordance with both municipal
106 reporting standards in section 7-394a of the general statutes, and the
107 regulations prescribing municipal financial reporting adopted by the
108 secretary.

109 (25) "Outstanding obligation" means any obligation with respect to
110 which a principal or interest payment, sinking fund installment or
111 other payment or deposit is or will be due in the future and for which
112 moneys or defeasance securities have not been deposited in escrow.

113 (26) "Projected annual budgetary deficit" means, with respect to the
114 general fund of the city during any fiscal year, the estimated "annual
115 budgetary deficit".

116 (27) "Projected retained earnings deficit" means the estimated
117 enterprise or internal service funds retained earnings deficits.

118 (28) "Projected unreserved fund balance deficit" means the
119 estimated general fund and other governmental funds unreserved
120 fund balance deficit.

121 (29) "Property taxes" means all taxes on real and personal property
122 levied by the city in accordance with the general statutes including any
123 interest, penalties and other related charges, and shall not mean any
124 rent, rate, fee, special assessment or other charge based on benefit or
125 use.

126 (30) "Required minimum capital reserve" means the lesser of the
127 maximum amount of principal and interest becoming due by reasons
128 of maturity or a required sinking fund installment in the then current
129 or any succeeding calendar year on bonds of the city then outstanding
130 and supported by a special capital reserve fund or the maximum
131 amount then permitted to be deposited in such fund by the Internal

132 Revenue Code of 1986, or any subsequent corresponding internal
133 revenue code of the United States, as from time to time amended, to
134 permit the interest on such bonds to be excluded from gross income for
135 federal tax purposes.

136 (31) "Reserved fund balance" means those portions of fund balance
137 that are not appropriable for expenditure or that are legally segregated
138 for a specific future use.

139 (32) "Retained earnings" means an equity account reflecting the
140 accumulated earnings of an enterprise fund or internal service fund.

141 (33) "Retained earnings deficit" means the audited enterprise or
142 internal service funds retained earnings deficits of accumulated losses
143 that exceed earnings.

144 (34) "Review period" means the period of time during which the city
145 is subject to the powers of the board.

146 (35) "Secretary" means the Secretary of the Office of Policy and
147 Management.

148 (36) "Special capital reserve fund" means the fund established
149 pursuant to the provisions of this act to secure the timely payment of
150 deficit funding bonds.

151 (37) "Special revenue funds" means funds established to account for
152 the proceeds of specific revenue sources that are legally restricted to
153 expenditure for specific purposes.

154 (38) "Trustee" means any trust company or bank having the powers
155 of a trust company within or without the state, appointed by the board
156 as trustee for the special capital reserve fund, as well as any successor
157 trust company or bank having the powers of a trust company within or
158 without the state succeeding a prior trust company or bank as trustee,
159 so appointed and approved.

160 (39) "Undesignated fund balance" means the unreserved portion of
161 fund balance that has not been designated for specific purposes and is
162 available for appropriation, as reflected in the audited financial
163 statements of the city.

164 (40) "Unreserved fund balance" means that portion of fund balance
165 that is not a portion of reserved fund balance.

166 (41) "Unreserved fund balance deficit" means the audited general
167 fund and other governmental funds unreserved fund balance deficit.

168 Sec. 3. (a) The Board of Aldermen may by resolution, approved by a
169 majority of its members and subject to the approval of the board,
170 authorize the issuance and sale of deficit funding bonds and interim
171 funding obligations subject only to the provisions of this act. Any such
172 resolution approved by the Board of Alderman shall acknowledge the
173 establishment of the Waterbury Financial Planning and Assistance
174 Board pursuant to this act. Notwithstanding any provision of the city's
175 charter, such resolution may delegate to the mayor and the finance
176 director the authority to determine the terms and conditions of any
177 deficit funding bonds and interim funding obligations issued pursuant
178 to this act, including, without limitation, the date, interest rate or rates,
179 prices, maturities, form and manner of sale, which may be by public or
180 private sale, provided any deficit funding bond issued pursuant to this
181 act may not mature later than twenty years from the date of issuance.
182 No interim funding obligations shall be issued unless the board of
183 aldermen has adopted a bond resolution authorizing the issuance of an
184 equal or greater amount of deficit funding bonds and providing that
185 the deficit funding bonds, together with any other outstanding general
186 obligation bonds of the city theretofor and thereafter issued, shall be
187 secured by any revenue intercept established pursuant to special act
188 93-25 it being hereby determined that it is important to the security of
189 all such bonds to have the benefit of the revenue intercept apply to all
190 general obligation bonds of the city. After issuance of interim funding
191 obligations or deficit funding bonds, all securities issued pursuant to

192 this act shall be conclusively presumed to be fully and duly authorized
193 and issued under the laws of the state. Any person or governmental
194 entity shall be estopped from questioning their authorization, sale,
195 issuance, execution or delivery. All such terms and conditions shall be
196 subject to the prior approval of the secretary and the State Treasurer.

197 (b) The city may issue its deficit funding bonds and interim funding
198 obligations issued in anticipation of deficit funding bonds for the
199 aggregate accumulated deficit for the fiscal period ending not later
200 than June 30, 2001, as determined in accordance with this section. The
201 aggregate principal amount of deficit funding bonds or interim
202 funding obligations authorized to fund the budget deficits pursuant to
203 this act shall be limited to: (1) Any unreserved fund balance deficit,
204 retained earnings deficit, projected fund balance deficit, projected
205 retained earnings deficit, any other unfunded accrued liability to the
206 city, or to extinguish any receivable that the board has determined will
207 contribute to the elimination of the chronic cash flow problems of the
208 city, all to the extent determined by the board, and (2) such additional
209 amounts as the Board of Aldermen and the board shall approve to
210 provide for the establishment and maintenance of reserves or similar
211 funds, including amounts that may be required to fund a special
212 capital reserve fund in accordance with section 6 of this act, and to pay
213 all fees, costs and expenses in connection with the authorization,
214 issuance and sale of such bonds or interim funding obligations,
215 including, but not limited to, legal, advisory, printing and
216 administrative expenses, any underwriters' discount, expenses in
217 connection with any credit enhancement and expenses of the board
218 under section 11 of this act. The net proceeds of such bonds shall be
219 applied first to repay the principal of and interest, to the extent not
220 otherwise provided, on outstanding interim funding obligations, and
221 thereafter as the authorizing resolution provides. The terms and
222 conditions of any obligations issued by the city, including any
223 renewals or refundings thereof, other than deficit funding bonds shall
224 be subject to the prior approval of the board pursuant to section 11 of
225 this act, except that after the effective date of this act and before the

226 board is appointed, the secretary and the State Treasurer shall approve
227 the terms and conditions of any obligations, as defined by the act,
228 issued by the city other than deficit funding bonds. Nothing in this act
229 shall limit the right of the city to comply with the provisions of any
230 existing contract with or for the benefit of the owners or holders of any
231 bonds, notes or other obligations of the city and nothing in this act
232 shall be construed to alter, impair, diminish or otherwise affect the
233 rights of such owners or holders. Any deficit funding bonds issued
234 under this act may be defeased through the issuance of refunding
235 bonds which may be authorized in the same manner as the bonds
236 being refunded, or, in the event the board shall no longer exist
237 pursuant to section 14 of this act, in such manner as set forth in the
238 general statutes provided the final maturity of any refunding bonds
239 shall not be later than the final maturity of the deficit funding bonds
240 being refunded and that the city will achieve, as result of the sale of
241 such refunding bonds and the investment and application of the
242 proceeds of such sale, net debt service savings. Bonds issued to refund
243 deficit funding bonds may be secured by the special capital reserve
244 fund created pursuant to section 6 of this act only with the approval of
245 the State Treasurer.

246 (c) Deficit funding bonds and interim funding obligations issued in
247 anticipation of deficit funding bonds issued pursuant to this act shall
248 constitute the legal, valid and binding obligations of the city for which
249 the full faith and credit of the city shall be pledged to the payment of
250 the principal thereof and the interest thereon.

251 (d) Pending the completion of the audit for the fiscal year ending
252 June 30, 2001, the city may, pursuant to the authority in this act and
253 subject to the approval of the secretary and the State Treasurer, issue
254 interim funding obligations or renewals thereof in an amount not to
255 exceed fifty million dollars outstanding at any time. Upon the sale of
256 any deficit funding bonds, the proceeds thereof, to the extent required,
257 shall be applied forthwith to the payment of the principal of and
258 interest on any interim funding obligations issued pursuant to this act

259 or shall be deposited in trust for such purpose. Notwithstanding any
260 provision of the city's charter, the date or dates of such interim funding
261 obligations, the maturities, denominations, form, details and other
262 particulars of such bond anticipation notes, including the method,
263 terms and conditions for the issue and sale thereof, by public or private
264 sale, shall be determined by the Board of Aldermen or the Board of
265 Aldermen may delegate to the mayor and finance director the
266 authority to make such determinations in the best interests of the city,
267 and be subject to the approval of the secretary and the State Treasurer,
268 provided the term of all such interim funding obligations, including
269 any renewals thereof, shall not exceed eighteen months. Such interim
270 funding obligations shall constitute the legal, valid and binding
271 general obligations of the city, for which the full faith and credit of the
272 city shall be pledged to the payment of the principal thereof and the
273 interest thereon.

274 (e) Notwithstanding any other provision of law, the borrowing
275 power of the city with respect to interim funding obligations and
276 deficit funding bonds shall be under the authority of this act.
277 Notwithstanding the provisions of this section, in the event the city
278 through its Board of Aldermen does not elect to issue deficit funding
279 bonds and interim funding obligations to provide for the timely
280 payment of its outstanding short term borrowings, then the board may
281 authorize and issue such deficit funding bonds and at its discretion
282 authorize and issue the interim funding obligations necessary to
283 preclude default on any short-term borrowings. Notwithstanding the
284 provisions of this section, in the event the city through its Board of
285 Aldermen does not elect to issue deficit funding bonds or renewals of
286 interim funding obligations to provide for the timely payment of
287 principal and interest on any interim funding obligations, the board
288 may authorize and issue such deficit funding bonds or renewal of
289 interim funding obligations. Each such authorization shall be in lieu of
290 and with or without approval of the Board of Aldermen to the extent
291 the board determines it is necessary and required in order to achieve
292 the purposes of this act. Any determination of the board made

293 pursuant to this section may include the delegation by the board of its
294 powers hereunder to determine the particulars of such issuance of the
295 interim funding obligations or deficit funding bonds to one or more of
296 its members. Any such interim funding obligations or deficit funding
297 bonds so authorized by the board shall be subject to the approval of
298 the Secretary and the State Treasurer and subject to the other
299 limitations set forth in this act.

300 Sec. 4. In order to secure bonds and notes issued pursuant to this act
301 and any other bonds or notes issued by the city while any bonds or
302 notes issued pursuant to this act remain outstanding, the city shall
303 enter into an indenture of trust with a trustee, which may or may not
304 include one or more amendments to an existing indenture of trust.

305 Sec. 5. The city shall make representations, agreements and
306 covenants, including a covenant not to impair, limit, modify, rescind,
307 repeal or otherwise alter the rights, exemptions or remedies of any
308 bondowner or noteholder, bond insurer or other providers of credit or
309 liquidity enhancement, by and for the benefit of any bondowner or
310 noteholder, bond insurer or other provider of credit or liquidity
311 enhancement, which representations, agreements and covenants are
312 necessary or appropriate: (1) To ensure the exemption of interest on
313 the bonds or notes issued pursuant to this act from taxation under the
314 Internal Revenue Code of 1986, or any subsequent corresponding
315 internal revenue code of the United States, as from time to time
316 amended, including agreements to pay rebates to the federal
317 government of investment earnings derived from the investment of the
318 proceeds of the bonds or notes, or (2) to strengthen the credit of bonds
319 or notes issued pursuant to this act in the financial markets, or both.

320 Sec. 6. In connection with the issuance of deficit funding bonds
321 under the provisions of this act, the city may, subject to the approval of
322 the board, create and establish one or more reserve funds to be known
323 as special capital reserve funds and shall pay into such special capital
324 reserve funds (1) any moneys appropriated and made available by the

325 state for the purposes of such funds, (2) any proceeds of sale of deficit
326 funding bonds, to the extent provided in the resolution authorizing the
327 issuance thereof, and (3) any other moneys which may be made
328 available to the city for the purpose of such funds from any other
329 source or sources. The moneys held in or credited to any special capital
330 reserve fund established under this section, except as hereinafter
331 provided, shall be used solely for the payment of the principal of
332 deficit funding bonds secured by such capital reserve funds as the
333 same become due, the payment of interest on such bonds of the city or
334 the payment of any redemption premium required to be paid when
335 such bonds are redeemed prior to maturity; provided the city may
336 provide that moneys in any such fund shall not be withdrawn
337 therefrom at any time in such amount as would reduce the amount of
338 such funds to less than the required minimum capital reserve, except
339 for the purpose of paying such principal of, redemption premium and
340 interest on such bonds of the city secured by such special capital
341 reserve becoming due and for the payment of which other moneys of
342 the city are not available. The city may provide that it shall not issue
343 bonds to be secured by a special capital reserve fund created under
344 this section at any time if the required minimum capital reserve on the
345 bonds outstanding and the bonds then to be issued and secured by a
346 special capital reserve fund will exceed the amount of such special
347 capital reserve fund at the time of issuance, unless the city, at the time
348 of the issuance of such bonds, shall deposit in such special capital
349 reserve fund from the proceeds of the bonds so to be issued, or
350 otherwise, an amount which, together with the amount then in such
351 special capital reserve fund, will be not less than the required
352 minimum capital reserve. On or before December first, annually, there
353 is deemed to be appropriated from the state General Fund such sums,
354 if any, as shall be certified by the finance director to the secretary and
355 the State Treasurer, as necessary to restore each such special capital
356 reserve fund to the amount equal to the required minimum capital
357 reserve of such fund, and such amounts shall be allotted and paid to
358 the trustee on behalf of the city for deposit therein. For the purpose of

359 evaluation of any such special capital reserve fund, obligations
360 acquired as an investment for any such fund shall be valued at fair
361 value, as defined by GAAP, or amortized cost as the board shall
362 determine. Nothing in this section shall preclude the city from
363 establishing and creating other debt service reserve funds in
364 connection with the issuance of bonds of the city under this section.
365 Subject to any agreement or agreements with holders of outstanding
366 bonds of the city, any amount or amounts allotted and paid to the city
367 by the state pursuant to this section shall be repaid to the state from
368 moneys of the city at such time as such moneys are not required for
369 any other of its city purposes and in any event shall be repaid to the
370 state from the first amounts thereafter payable by the state to the city,
371 whether in the form of a grant, grant-in-aid, payment in lieu of taxes or
372 any form whatsoever, pursuant to any provisions of the general
373 statutes or state regulations, which amounts are hereby deemed
374 appropriated from the city to the state as and for such repayment.
375 Notwithstanding any other provisions of this act, the aggregate
376 amount of bonds to be secured by a special capital reserve fund or
377 funds created and established pursuant to this section shall not exceed
378 seventy-five million dollars.

379 Sec. 7. No obligations other than deficit funding bonds shall be
380 secured by a special capital reserve fund and no deficit funding bonds
381 shall be issued under this act unless the issuance thereof is approved by
382 the State Treasurer. Such approval shall be based upon a certificate of
383 the board filed with the State Treasurer and the secretary finding that:
384 (1) The annual budget and financial plan have been completed and
385 approved by the board, contain projections of revenue and
386 expenditures that are based on reasonable and appropriate
387 assumptions and methods of estimation, provide that operations of the
388 city will be conducted within cash resources available according to the
389 board's revenue estimates, and comply with the provisions of section
390 12 of this act; (2) pension funds are accounted for on a GAAP basis and
391 funded in accordance with actuarial recommended levels for the
392 subject fiscal year; (3) the city is not in default in any of its general

393 obligations unless issuance will cure the default; (4) there is sufficient
394 taxing authority implemented and approved to produce sufficient
395 revenues to pay all debt service on all bonds heretofore and hereunder
396 issued by the city and to establish, increase and maintain any reserves,
397 including the special capital reserve fund, deemed by the board to be
398 necessary and advisable to secure payment of the principal of and
399 interest on all such bonds; and (5) the financing is in the public interest.
400 Notwithstanding the provisions of this section, the State Treasurer
401 may approve the issuance of bonds secured by a special capital reserve
402 fund for the purpose of paying principal and interest on interim
403 funding obligations due for which there are no other funds available.

404 Sec. 8. The state of Connecticut does hereby pledge to and agree
405 with the holders of any deficit funding bonds or interim funding
406 obligations issued under this act that the state will not limit or alter the
407 rights hereby vested in the city until such obligations, together with
408 the interest thereon, are fully met and discharged, provided nothing in
409 this act shall preclude such limitation or alteration if and when
410 adequate provision shall be made by law for the protection of the
411 holders of such deficit funding bonds or interim funding obligations.
412 The city is authorized to include this pledge and undertaking for the
413 state in such deficit funding bonds or interim funding obligations
414 issued in anticipation of deficit funding bonds.

415 Sec. 9. Notwithstanding the provisions of the general statutes, any
416 special act, the charter of the city or any ordinance or resolution of the
417 city, no proceedings, notice or approval shall be required for the
418 issuance of deficit funding bonds or interim funding obligations
419 authorized under this act or any instrument authorized as security
420 therefor, except as provided in this act. Bonds and obligations issued
421 pursuant to this act shall be included in the calculation of aggregate
422 indebtedness under section 7-374 of the general statutes.

423 Sec. 10. (a) There is hereby created the Waterbury Financial
424 Planning and Assistance Board which shall be in the Office of Policy

425 and Management for administrative purposes only, which board shall
426 be comprised of the following members: The Secretary of the Office of
427 Policy and Management or the secretary's designee, who shall serve as
428 the chairman of the board and shall preside over all meetings of the
429 board; the State Treasurer or the treasurer's designee; the mayor; four
430 members appointed by the Governor, one of whom shall be a resident
431 of the city of Waterbury, one of whom shall be affiliated with a
432 business located in the city, one of whom shall have an expertise in
433 finance and one of whom shall be the chief executive officer of a
434 bargaining unit representing employees of the city who is jointly
435 recommended by a majority of the chief executive officers of such units
436 provided such recommendation shall be made not later than seven
437 days after the effective date of this act.

438 (b) A majority of the voting membership of the board shall
439 constitute a quorum for the conduct of business. The board shall act by
440 majority vote of the voting membership of the board. The board shall
441 maintain a record of its proceedings in such form as it may determine;
442 but such record shall indicate attendance and all votes cast by each
443 member. The board shall adopt its own procedures for the conduct of
444 its meetings and exercise of the powers, duties and functions conferred
445 upon it by this act and shall not be subject to the provisions of chapter
446 54 of the general statutes.

447 (c) The members of the board shall serve without compensation, but
448 shall be reimbursed for expenses incurred in performance of their
449 duties. All expenses of the board, including any staff, consultants, and
450 implementation costs of any consultant studies adopted by the board
451 in accordance with this act, shall be paid by the city and may be paid
452 from the proceeds of any deficit funding bonds or interim funding
453 obligations issued pursuant to this act.

454 (d) The board is hereby deemed to be the successor to the Budget
455 Advisory Council established pursuant to section 3 of special act 96-3
456 and upon passage of this act such Budget Advisory Council shall cease

457 to exist.

458 Sec. 11. (a) In carrying out the purposes of this act, the board shall
459 have the following powers, duties and functions:

460 (1) Review and approve or disapprove the city's annual budget,
461 including, but not limited to, the governmental funds, enterprise
462 funds, and internal service funds, in accordance with the provisions of
463 section 12 of this act;

464 (2) Review and approve or disapprove an initial financial plan of the
465 city, in accordance with the provisions of section 12 of this act;

466 (3) Review and approve or disapprove the proposed terms of any
467 deficit funding bonds or interim funding obligations pursuant to this
468 act or any other bonds, notes or other obligations of the city;

469 (4) (A) Approve or reject all collective bargaining agreements for a
470 new term, other than modifications, amendments or reopeners to an
471 agreement, to be entered into by the city or any of its agencies or
472 administrative units, including the board of education. If the board
473 rejects a proposed collective bargaining agreement, the parties to the
474 agreement will have ten days from the date of the board's rejection to
475 consider the board's concerns. In rejecting an agreement, the board
476 shall indicate the specific provisions of the proposed agreement which
477 caused the rejection, as well as its rationale for the rejection. The board
478 may, at its option, indicate the total cost impact or savings it would
479 find acceptable in a new agreement. After the expiration of such ten-
480 day period, the board shall approve or reject any such existing
481 agreement. If the parties have been unable to reach an agreement or
482 the board rejects such agreement, the board shall set forth the terms of
483 the agreement, which shall be binding upon the parties. In establishing
484 the terms of the agreement, as well as in making a determination to
485 reject a proposed agreement, the parties shall have an opportunity to
486 make a presentation to the board. The board shall not be limited to
487 consideration and inclusion in the collective bargaining agreement of

488 matters raised or negotiated by the parties;

489 (B) Approve or reject all modifications, amendments or reopeners to
490 collective bargaining agreements entered into by the city or any of its
491 agencies or administrative units, including the board of education. If
492 the board rejects a proposed amendment to a collective bargaining
493 agreement, the parties to the agreement will have ten days from the
494 date of the board's rejection to consider the board's concerns. In
495 rejecting an amendment to an agreement, the board shall indicate the
496 specific provisions of the proposed amendment which caused the
497 rejection, as well as its rationale for the rejection. The board may, at its
498 option, indicate the total cost impact or savings it would find
499 acceptable in a new amendment. After the expiration of such ten-day
500 period, the board shall approve or reject any revised amendment. If
501 the parties have been unable to reach a revised amendment or the
502 board rejects such revised amendment, the board shall set forth the
503 terms of the new amendment, which shall be binding upon the parties.
504 In establishing the terms of the new agreement, as well as in making a
505 determination to reject a proposed amendment, the parties shall have
506 an opportunity to make a presentation to the board;

507 (5) With respect to labor contracts in or subject to binding
508 arbitration, serve as the binding arbitration panel. The board shall have
509 the power to impose binding arbitration upon the parties any time
510 after the seventy-fifth day following the commencement of
511 negotiations. If, upon the effective date of this act, the parties are in
512 binding arbitration, the board shall immediately replace any
513 established binding arbitration panel. The time limits in the applicable
514 provisions of the general statutes or any public or special acts
515 governing binding arbitration shall be reduced by one-half. The board
516 shall not be limited to consideration and inclusion in the collective
517 bargaining agreement of the last best offers or the matters raised by or
518 negotiated by the parties;

519 (6) Review and approve or disapprove any contract and any

520 renewal, extension or modification thereof not covered by collective
521 bargaining contemplating the expenditure in either the current or any
522 future fiscal year of more than fifty thousand dollars and shall have the
523 power to set aside any contracts which have not been authorized in
524 accordance with the requirements of any state or local law;

525 (7) Review and approve all bond ordinances and bond resolutions
526 of the city;

527 (8) Approve transfers of appropriations made by the Board of
528 Aldermen;

529 (9) Appoint one or more independent auditors as such term is
530 defined in section 7-391 of the general statutes for the purpose of
531 meeting the requirements of chapter 111 of the general statutes;

532 (10) Audit compliance with the financial plan and the annual
533 budget in such areas as the board shall determine;

534 (11) Require the city to implement such measures relating to the
535 efficiency and productivity of the city's operations and management as
536 the board deems appropriate to reduce costs and improve services so
537 as to advance the purposes of this act;

538 (12) Obtain information on the financial condition and needs of the
539 city, provided nothing in this subdivision shall diminish the powers of
540 the mayor, the finance director, the Board of Aldermen or any other
541 board, agency or authority of the city otherwise provided by law;

542 (13) Monitor compliance with, require implementation or
543 implement the provisions governing revaluation set forth in section 12-
544 62 of the general statutes;

545 (14) Monitor the funding of pension contributions in accordance
546 with actuarial recommendations;

547 (15) Approve or disapprove the chief negotiator for the city for the

548 purposes of collective bargaining and, in the case of disapproval, the
549 board may appoint such negotiator;

550 (16) Study the city's unfunded pension liability and, not later than
551 two years from the effective date of this act, report to the Governor and
552 the General Assembly recommendations on addressing the unfunded
553 liability which report shall be in accordance with section 11-4a of the
554 general statutes; and

555 (17) Report to the Governor and the General Assembly on or before
556 July 1, 2001, and every six months thereafter, regarding the fiscal
557 condition of the city and compliance with this act, which report shall
558 be in accordance with section 11-4a of the general statutes.

559 (b) The board may:

560 (1) Review and approve or disapprove the budget of the city's board
561 of education on a line item basis and may require the board of
562 education to submit to it any budget transfers;

563 (2) Appoint an emergency financial and administrative manager
564 and delegate to such manager, in writing, such powers as the board
565 deems necessary or appropriate for the purpose of managing the
566 financial and administrative affairs of the city for the period of time
567 during which the city is subject to the powers of the board provided
568 the board may not delegate the powers enumerated under
569 subdivisions (1) to (5), inclusive, (7), (15) and (17) of subsection (a) of
570 this section and subdivisions (1), (4), and (6) to (8), inclusive, of this
571 subsection and further provided the board may override any actions
572 taken by such manager at any time;

573 (3) Retain such consultants experienced in the field of municipal
574 finance, municipal law, governmental operations and administration
575 or governmental accounting as it shall deem necessary or desirable for
576 accomplishing its purposes;

577 (4) Make a request to the exclusive representative of an employee

578 bargaining unit to reopen the negotiation process and present a
579 proposed revision to a contract. Such exclusive representative shall
580 have five days to respond to such request and, if the exclusive
581 representative fails to so respond, it shall be deemed to have denied
582 such request.

583 (A) If the exclusive representative denies such request, the state
584 board of labor relations, through its agent, shall convene, no later than
585 ten days from the date of such denial, a meeting of the membership of
586 the bargaining unit. At such meeting the board shall present its
587 proposed revision. A vote of such membership shall be held on such
588 proposed revision no later than five days after the date of the meeting.
589 The agent of the state board of labor relations shall schedule such vote
590 and shall post a notice of the appropriate date, time and location.

591 (B) If the exclusive representative agrees to negotiate with the board
592 on the proposed revision, the parties shall have fourteen days to so
593 negotiate, provided such period may be extended an additional
594 fourteen days by mutual agreement of the parties. If the parties reach
595 an agreement, the agreement shall be subject to the ratification
596 procedure established by the bargaining unit. If the parties fail to
597 agree, the last best offer of the board on such proposed revision shall
598 be submitted to the membership of the bargaining unit for a vote to be
599 held no later than five days from the date negotiations ceased pursuant
600 to this subparagraph. The exclusive representative shall schedule such
601 vote. The board shall have an opportunity to present its revisions to
602 the membership prior to such vote.

603 (C) The vote pursuant to subparagraphs (A) and (B) of this
604 subdivision shall constitute final action on the proposed revision. An
605 affirmative vote by a majority of the membership of the bargaining
606 unit shall constitute approval of the subject of such vote. A failure to
607 achieve such affirmative vote shall constitute a final rejection of the
608 proposed revision and such proposed revision shall not be subject to
609 further dispute resolution, in which case the existing contract shall

610 remain in effect. The requirements of this subsection shall not be
611 considered a prohibited practice under subsection (a) of section 7-470
612 of the general statutes or subsection (b) of section 10-153e of the
613 general statutes;

614 (5) Order any official or employee of the city or any agency or
615 administrative unit thereof, including any member or employee of the
616 board of education, to implement any decisions of the board;

617 (6) Override any action or decision of the mayor, Board of Aldermen
618 or other city employee which action or decision affects the economic
619 viability of the city, including, but not limited to, decisions with
620 respect to personnel and other administrative hires;

621 (7) Review any existing contract of the city, not covered by collective
622 bargaining, to determine if such contract is in the best interest of the
623 city and shall have the power to set aside such contract provided there
624 is no significant penalty to the city as a result of such action; and

625 (8) Issue deficit funding bonds and interim funding obligations in
626 the name and on behalf of the city as provided in section 3 of this act
627 and in doing so, require the city to comply with the provisions of
628 section 7 of this act.

629 Sec. 12. (a) The city shall submit its annual budget to the board
630 commencing with the annual budget for the first full fiscal year next
631 succeeding the establishment of the board, regardless of whether any
632 such budget has previously been approved in accordance with the
633 charter of the city. No annual budget, annual tax levy or user fee for
634 the city shall become operative until it has been approved by the
635 board. If the board disapproves any annual budget, it shall adopt an
636 interim budget and establish a tax rate and user fees in accordance
637 with this section. Such interim budget shall take effect at the
638 commencement of the fiscal year and shall remain in effect until the
639 city submits and the board approves a modified budget.

640 (b) The city shall submit a financial plan annually commencing with
641 the financial plan for the first full fiscal year next succeeding the
642 establishment of the board, which shall include the current fiscal year
643 plus three succeeding fiscal years, prepared by the city in connection
644 with the proposed issuance of deficit funding bonds pursuant to this
645 act.

646 (c) After the initial approval of a financial plan and an annual
647 budget, the board shall regularly reexamine such plan and budget in
648 consultation with the city and may require the city to provide a
649 modified financial plan or modified annual budget, or both, within
650 such time period as the board may require. If the city fails to make any
651 modifications to the financial plan or annual budget within such time
652 period, the board shall make the modifications.

653 (d) The board shall develop procedures for the submission of the
654 annual budget and financial plan of the city to the board. Such
655 procedures shall include, but are not limited to, the form and timeline
656 for the submissions by the city and approval, disapproval or
657 modification of the financial plan and annual budget by the board. The
658 procedures shall also provide for the submission to the board prior to
659 the commencement of each fiscal year during the review period, the
660 general fund, other governmental funds, enterprise funds, and internal
661 service funds budgets of the city as adopted by the Board of Aldermen
662 and approved by the mayor pursuant to the city charter. The
663 procedures may also provide for the submission of any additional
664 information the board may require of the city in order to fulfill its
665 obligations under this act.

666 (e) If the board rejects the general fund, other governmental funds,
667 enterprise funds, or internal service funds budgets, the board shall
668 develop and approve an interim budget for the city in the place of any
669 budget so rejected and set a tax rate and user fees. Such interim
670 budget, tax rate and user fees shall take effect at the commencement of
671 the fiscal year and shall remain in effect until the city submits and the

672 board approves a modified budget or budgets, as the case may be.

673 (f) If the city submits a financial plan modification or a budget
674 modification, the board shall determine whether the financial plan
675 modification or budget modification is complete and complies with the
676 provisions of this section and shall approve or disapprove the financial
677 plan modification or budget modification in accordance with the
678 provisions of this section. If the board determines that the financial
679 plan modification or budget modification is complete and complies
680 with the requirements of the act, the board shall approve the financial
681 plan modification or budget modification. Modifications to the general
682 fund budget and all other budgets shall be made by the Board of
683 Aldermen and approved by the board in accordance with this act.

684 (g) The board shall disapprove, by resolution, the financial plan or
685 the annual budget proposed by the city if, in the judgment of the
686 board, such budget or plan: (1) Is incomplete; (2) fails to contain
687 projections of revenues and expenditures that are based on reasonable
688 and appropriate assumptions and methods of estimation; (3) fails to
689 provide that operations of the city will be conducted within the cash
690 resources available according to the board's revenue estimates; or (4)
691 fails to comply with the provisions of this section.

692 (h) In the event that the city shall, for any reason, fail to submit a
693 financial plan and annual budget as required by this section, or to
694 comply with a financial plan or annual budget approved by the board,
695 or in the event that the board has not, for any reason permitted under
696 this act, approved a financial plan or annual budget submitted by the
697 city, the board, after enactment of a resolution so finding, shall
698 formulate and adopt a financial plan or annual budget or both, as the
699 case may be, to be effective until the board approves a financial plan or
700 annual budget or both, as the case may be, submitted by the city.

701 (i) The city and each of its administrative units shall supply the
702 board with such financial reports, data, audits, statements and any
703 other records or documentation as the board may require to exercise

704 its powers and to perform its duties and functions. Such reports may
705 include, but not be limited to, monthly reports of the financial
706 condition of the city, the status of the current annual budget and
707 progress under the financial plan for the then current fiscal year,
708 estimates of the operating results for all funds or accounts to the end of
709 the then current fiscal year, statements and projections of general fund
710 cash flow reserves, number of city employees on the city payroll and
711 debt service requirements on all bonds and notes of the city for the
712 following month.

713 Sec. 13. The city shall not become a debtor under Chapter 9 of Title
714 11 of the United States Code, as from time to time amended, without
715 the written consent of the Governor so long as any borrowings secured
716 by the special capital reserve fund pursuant to section 6 of this act
717 remain outstanding.

718 Sec. 14. (a) The board shall remain in existence and exercise the
719 powers, duties and functions granted to it by this act until such time as
720 the general fund, special revenue funds, enterprise funds, and internal
721 service funds of the city shall have, for five consecutive fiscal years,
722 maintained a positive unreserved fund balance, retained earnings
723 balance, in accordance with audits required by the general statutes and
724 the board, by resolution, determines that: (1) There have been no
725 annual budgetary deficits for the general fund of the city for five
726 consecutive fiscal years; (2) the city has presented and the board has
727 approved a financial plan that projects positive unreserved fund
728 balances and retained earnings for the general fund, special revenue
729 funds, enterprise funds and internal service funds for the three
730 succeeding consecutive fiscal years covered by such financial plan in
731 accordance with generally accepted accounting principles and this act;
732 and (3) the audits for five consecutive fiscal years have been completed
733 and are unqualified relating to the annual reporting of results of
734 operations for all governmental funds, enterprise funds, and internal
735 service funds.

736 (b) If, during the period during which any borrowings of the city
737 secured by a special capital reserve fund pursuant to section 6 of this
738 act or pursuant to special act 96-3 remain outstanding, the city incurs
739 an audited annual budgetary deficit in its general fund in excess of
740 one-half of one per cent of its most recently completed annual budget,
741 fails to fund pension contributions in accordance with actuarial
742 recommendations, fails to implement revaluation in accordance with
743 section 12-62 of the general statutes or fails to fund its internal service
744 funds at a level necessary to avoid the accumulation of retained
745 earnings deficits, the board may, at the direction of the secretary, be
746 reestablished and may reassume the duties, powers and functions
747 granted to it by this act and shall remain in existence until the
748 provisions of subsection (a) of this section are again satisfied.

749 Sec. 15. If, at any time, the city has failed to lay necessary taxes or to
750 lay a tax which, in addition to the other estimated yearly revenue of
751 the city, is sufficient to pay the general fund current expenditures of
752 such city, the Board of Aldermen, or, if the Board of Aldermen fails to
753 act within thirty days of notice thereof from the board of the board's
754 intention to proceed under this section, the board may make a rate bill
755 upon the city's list applicable to such fiscal year for the amount
756 necessary, or for an amount sufficient, to pay all or a portion of the
757 annual budgetary deficit and cause the same to be collected as due.

758 Sec. 16. Not later than June 30, 2001, the Board of Aldermen shall
759 present for the board's approval a plan for a reduction in force to
760 achieve a reduction of not less than ten per cent of the total annual cost
761 of the filled, unclassified managerial, administrative and contractual
762 employee positions of the city provided the board may modify the
763 provisions of such plan. The Board of Aldermen shall implement such
764 plan or modified plan on or before October 1, 2001.

765 Sec. 17. (a) The secretary, the State Treasurer, the board and any
766 person authorized to act on behalf of or to assist them, or any staff
767 person for the board, shall not be personally liable or subject to any

768 suit, judgment or claim for damages resulting from the exercise or
769 failure to exercise the powers, duties or functions granted to them
770 under this act other than any such exercise or failure which constitutes
771 wilful, wanton or malicious behavior. The Attorney General shall
772 defend any person identified in this subsection with regard to any
773 such suit, judgment or claim provided such person shall reimburse the
774 state for its expenses in such defense if such person is found to be
775 liable.

776 (b) The Attorney General may apply for a writ of mandamus or seek
777 a temporary or permanent injunction on the behalf of the board
778 requiring any official, employee or agent of the city to carry out and
779 give effect to any order of the board authorized by this act. Each such
780 application shall be filed in superior court for the judicial district of
781 Waterbury.

782 (c) The superior court for the judicial district of Waterbury may, by
783 application of the secretary, the board or the Attorney General,
784 enforce, by appropriate decree or process, any provisions of this act or
785 any act or order of the secretary or the board rendered pursuant to this
786 act.

787 Sec. 18. During the review period: (1) No officer or employee of the
788 city shall make or authorize a contract in excess of the amount
789 available therefor under the financial plan and annual budget as then
790 in effect; and (2) no officer or employee of the city shall involve the city
791 in any contract for the payment of money for any purpose required to
792 be approved by the board unless such contract has been so approved
793 and unless such contract is in compliance with the financial plan and
794 the annual budget as then in effect. No officer or employee of the city
795 shall take any action in violation of any valid order of the board or
796 shall fail or refuse to take any action required by any such order or
797 shall prepare, present or certify any information, including any
798 projections or estimates, or report for the board or any of its agents that
799 is false or misleading. In addition to any penalty or liability under any

800 other law, any officer or employee of the city who shall violate the
801 provisions of this section shall be subject to appropriate administrative
802 discipline, including, when circumstances warrant, suspension from
803 duty without pay or removal from office by order of the mayor.
804 Nothing in this act shall invalidate or supersede any procedural
805 protections provided to such employee under law or contract. In the
806 case of a violation of the provisions of this section by an officer or
807 employee of the city, the mayor shall immediately report to the board
808 all pertinent facts together with a statement of the action taken
809 thereon.

810 Sec. 19. Six months after the end of the review period, the existence
811 of the board and all other provisions of this act shall terminate, except
812 that the provisions of sections 4, 13, 14 and 17 of this act shall remain in
813 full force and effect and a copy of the annual budget and actuarial
814 valuation of the city shall be sent to the Secretary of the Office of Policy
815 and Management for so long as any bonds or notes issued pursuant to
816 this act remain outstanding.

817 Sec. 20. This act is intended to authorize the city to fund its
818 accumulated deficits, to establish a board to review the financial affairs
819 of the city in order to maintain access to the public markets and to
820 restore financial stability to the city, and shall be liberally construed to
821 accomplish its intent. The provisions of this act shall supersede any
822 provisions of the general statutes, any public or special act and the
823 charter of the city enacted prior to or subsequent to this act other than
824 a subsequent act of the General Assembly which specifically states that
825 it supersedes this act except that, unless expressly provided in this act,
826 nothing in this act shall affect the provisions of the Municipal
827 Employees Relations Act, sections 7-467 to 7-477, inclusive, of the
828 general statutes, or the provisions of the Teacher Negotiation Act,
829 sections 10-153a to 10-530o, inclusive, of the general statutes.

830 Sec. 21. If any section, part or provision of this act shall be declared
831 unconstitutional, invalid or ineffective by any court of competent

832 jurisdiction, such declaration shall be limited to the section, part or
833 provision directly involved in the controversy in which such
834 declaration was made and shall not effect any other section, provision
835 or part thereof.

836 Sec. 22. Notwithstanding the provisions of section 12-62 of the
837 general statutes, or any memorandum of understanding entered into
838 under said section 12-62, the state shall impose a fine on the city, in an
839 amount to be determined by the secretary, if the city is unable to
840 implement revaluation for the October 2000 grand list or any
841 subsequent grand list. Such fine shall be deposited in the General Fund
842 and credited to a nonlapsing account in the Office of Policy and
843 Management and shall be available to defray the costs of the board, for
844 the hiring of consultants to assist the board, or to have studies
845 conducted regarding the operations of the city.

846 Sec. 23. On or before July 1, 2001, the joint standing committee of the
847 General Assembly having cognizance of matters relating to finance,
848 revenue and bonding shall commence an investigation into the causes
849 of the financial emergency affecting the city. The Office of Policy and
850 Management, the board and any agency or official of the city shall
851 provide to said committee such information as it may request. Said
852 committee may request the assistance of the Auditors of Public
853 Accounts. Said committee shall conduct at least one public hearing in
854 the city. The committee shall report its interim findings and
855 recommendations to the General Assembly on or before February 1,
856 2002. The committee shall continue to review and assess the execution
857 of the provisions of this act during the review period and may report
858 any findings or recommendations to the General Assembly at any time
859 during such period.

860 Sec. 24. For the fiscal year 2000-2001, notwithstanding subsection (b)
861 of section 10-262i of the general statutes, the Comptroller shall pay to
862 the city an amount determined by the Secretary of the Office of Policy
863 and Management from out of the balance of the grant due to the city of

864 Waterbury under the provisions of subsection (a) of section 10-262i of
865 the general statutes, no later than March 20, 2001. For the fiscal year
866 2000-2001, notwithstanding section 3-55i of the general statutes, the
867 secretary may certify the amount due the city of Waterbury under
868 section 3-55j of the general statutes at any time and, once such
869 certification is made, the Comptroller shall draw an order on the State
870 Treasurer and shall pay the amount thereof to the city no later than
871 thirty days after such certification has been made.

872 Sec. 25. This act shall take effect from its passage.