



## Legislation Text

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**File #:** Res 1311-2008, **Version:** \*

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### Res. No. 1311

Resolution calling upon the New York State Legislature to adopt S.5466 and A.6854, legislation which would amend the Financial Emergency Act (“FEA” or the “Act”) to allow the City of New York to establish a “rainy day” fund, and ensure that any extension of the Act includes provisions for such fund, as well as provisions requiring regular financial reporting by all covered organizations to the Mayor and City Council, making the Act a “Financial Emergency Act for the 21<sup>st</sup> Century”.

By Council Members Weprin, The Speaker (Council Member Quinn), Brewer, Fidler, Gentile and Mark-Viverito

Whereas, Following the City’s fiscal crisis in 1975, the State enacted the New York State Financial Emergency Act for The City of New York (“FEA” or the “Act”) to address some of the City’s financial management shortcomings which led to or exacerbated the crisis; and

Whereas, The Act contains a number of requirements to enforce fiscal discipline, transparency and accountability in the City including the establishment of the Financial Control Board (FCB or the “Board”) and a requirement that the City balance its budget in accordance with generally accepted accounting principles (GAAP); and

Whereas, The Act gives the FCB full authority to obtain any information as the Board “deems necessary or desirable to accomplish the purposes of [the Act]” from City agencies and “covered organizations” which include “any governmental agency, public authority or public benefit corporation which receives or may receive monies directly, indirectly or contingently .... from the City and, in any event includes, without limitation”, the Department of Education, the New York City Housing Authority and the Health and Hospitals Corporation; and

Whereas, Some of the provisions of the Act - including funding for the FCB and its ability to impose a “control period” - are set to expire on July 1, 2008; and

Whereas, Balancing the City's budget according to GAAP is generally interpreted to mean that current-fiscal year revenues must meet current-fiscal year expenses and thus, the FEA specifically precludes the City from creating a "rainy day" fund or more formally, a revenue stabilization account; and

Whereas, Although GAAP compliance has been an important tool in responsible budgeting, a "rainy day" fund would allow the City to set aside a certain amount of revenues during periods of strong growth in a separate account to finance future expenditures during times of recessions; and

Whereas, The City's current budget practice utilizes a similar mechanism by using the "surplus roll" to prepay certain expenses coming due in the following year so as to move surplus funds from one fiscal year to the next without violating the GAAP requirements; and

Whereas, However, in contrast to a true "rainy day" fund, the City's use of the "surplus roll" is neither transparent nor provides an accurate measure of the surplus; and

Whereas, For example, to balance the Fiscal 2006 Budget, the City relied on the Fiscal 2005 surplus to prepay Fiscal 2006 expenses; and

Whereas, This surplus was the result of personal income tax revenues and real estate transaction taxes exceeding projections for Fiscal 2005 by \$2.1 billion; and

Whereas, Thus, allowing the City to prepay certain expenses for the following fiscal year obscures the real difference between revenues during any single fiscal year; and according to a December 2007 Report (the "Report"), issued by Office of the State Deputy Comptroller for the City of New York, using the "surplus roll" actually "masks the relationship between recurring revenues and expenditures" and in order to obtain an accurate picture of the City's fiscal condition one must "examin[e] the results of current-year operations ... [t]his entails adjusting for surplus transfers and other factors that impede transparency"; and

Whereas, By eliminating resources rolled from one year to the next, the Report determined that in four of the last eight budget years, although the City's budget was balanced and met the FEA GAAP requirements, revenues actually exceeded expenses-- peaking at \$3.9 billion in Fiscal 2007; and

Whereas, To address issues of transparency and accountability, the City Council introduced legislation in Albany, S.5466, sponsored by Senator Velmanette Montgomery, and A.6854, sponsored by Assemblyman Herman Farrell, which would authorize the City to establish a true “rainy day” fund by allowing the City to set aside excess revenues in years when they are available as part of the budget, or budget modification, process to be held in separate unit of appropriation to be used in times of fiscal stress or when the Mayor and the Council deem it necessary to do so; and

Whereas, In addition, the Council has requested that any legislation providing for a “rainy day” fund or extending any provisions of the Act also include an extension of the Board’s regular financial reporting requirements (annual, monthly, and audit reports) for “covered organizations” to the Mayor and City Council because of the substantial financial effects these covered organizations could have on the City’s budget; and

Whereas, Allowing the City to create a “rainy day” fund and extending certain FEA-mandated reporting requirements to the City Council and Mayor would lead to a more transparent budget process as well as modernize the Act to make it viable in the 21<sup>st</sup> century; now therefore be it resolved

Resolved, That the Council of the City of New York calls upon the New York State Legislature to adopt S.5466 and A.6854, legislation which would amend the Financial Emergency Act (“FEA” or the “Act”) to allow the City of New York to establish a “rainy day” fund, and ensure that any extension of the Act includes provisions for such fund, as well as provisions requiring regular financial reporting by all covered organizations to the Mayor and City Council, making the Act a “Financial Emergency Act for the 21<sup>st</sup> Century”.

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LS # 5037  
March 11, 2008