NEW YORK CITY LOAN GUARANTEE ACT
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be amended to read "An Act to authorize appropriations under the
Arms Control and Disarmament Act for the fiscal year 1979, and for
other purposes."

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House Report (Banking, Finance and Urban Affairs Committee)
No. 95-1129(I), May 16, 1978 [To accompany H.R. 12426]

House Report (Ways and Means Committee) No. 95-1129(II),
May 22, 1978 [To accompany H.R. 12426]

Senate Report (Banking, Housing, and Urban Affairs Committee)
No. 95-952, June 23, 1978 [To accompany H.R. 12426]

House Conference Report No. 95-1369,
July 18, 1978 [To accompany H.R. 12426]

Cong. Record Vol. 124 (1978)

DATES OF CONSIDERATION AND PASSAGE
House June 8, July 25, 1978
Senate June 29, July 27, 1978

The Senate Report (this page) and the House Conference Report
(p. 1249) are set out.

SENATE REPORT NO. 95-952

The Committee on Banking, Housing and Urban Affairs, to whom
was referred the bill (H.R. 12426) to authorize the Secretary of the
Treasury to provide loan guarantees for the assistance of the city of
New York, having considered the same, reports favorably thereon
with an amendment and recommends that the bill as amended do pass.

SUMMARY

This legislation, which provides additional financial assistance to
New York City over the next 4 years in the form of long-term Federal
guarantees, is intended to do more than simply maintain New York
City’s solvency and prevent it from defaulting on its obligations. It is
designed to provide a basis for New York City to work out all of its
remaining financial problems over the 4-year period: to bring its
budget into balance in accordance with generally accepted account-
ing principles, to restructure its debt and lengthen maturities, to
reenter the credit markets in order to meet all of its financing needs
through sales of its own notes and bonds, and to end its dependence on
Federal financial assistance. There are strict limitations and conditions
attached to this legislation, for the purpose of insuring that these goals

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are met, that the Federal Government's interest is protected, and that the city gets out from under the Federal guarantees as rapidly as possible.

H.R. 14246, as amended by the committee, would provide Federal guarantees of New York City indebtedness in an aggregate amount of up to $1.5 billion through June 30, 1982: $500 million in city fiscal year 1979, $500 million in fiscal year 1980, $250 million in fiscal year 1981, and an additional $250 million for any fiscal year prior to July 1, 1982 only if the city has a budget which is balanced in accordance with generally accepted accounting principles. The guarantees can be provided only for long-term obligations, not for seasonal financing; and the maximum length of the guarantee is to be 15 years in the case of the first $1 billion of obligations guaranteed and 10 years for the remainder. The guarantee authority for fiscal years 1980 and 1981 is subject to veto through passage of a resolution of disapproval by either the Senate or the House of Representatives. Guaranteed obligations may be sold only to the city and State pension funds, and the guarantee lapses if the obligation is resold.

There are a number of conditions which must be met before the guarantees can be provided. The Secretary must determine that there is a reasonable prospect of repayment of the guaranteed obligations and that credit is not otherwise available on reasonable terms. Interest rates established shall take into consideration current average market yields on other federally guaranteed obligations of comparable maturities, and there shall also be an annual guarantee fee of not less than one-half of 1 percent. The city must demonstrate that it has in place a plan for bringing its budget into balance according to generally accepted accounting principles by fiscal year 1982 and for making substantial progress toward this in the intervening years. There must be an independent fiscal monitor established under State law which is requiring the city to adopt and adhere to such a plan. There must be independent audits of the city's financial statements conducted in accordance with generally accepted accounting principles at the end of each of the city's fiscal years, and an audit committee must be established to review the progress and evaluate the results of such audits. The Secretary must determine that the city's remaining long-term borrowing needs and all of its seasonal borrowing needs will be met through commitments from the State, an agency of the State, or private sources (including financial institutions and pension funds), or through public credit markets in amounts sufficient to enable the city to meet all of its financing needs, both long term and short term, the public credit markets after the guarantee authority expires on June 30, 1982.

The legislation as reported contains a number of incentives intended to encourage the city to get back in the credit markets and to repay or refund the guaranteed obligations as rapidly as possible. First, the city is required to attempt some seasonal borrowing in fiscal years 1980, 1981, and 1982, and to try to sell long-term bonds in fiscal years 1981 and 1982. Second, following the termination of the guarantee authority on June 30, 1982, the city is directed to devote at least 15 percent of its new long-term borrowing in each fiscal year to the repayment or refunding of the guaranteed obligations, unless the Secretary finds that doing this would impair the city's ability to meet its essential capital needs. Third, the Secretary is directed to
require the city to implement a program of refunding the guaranteed obligations outstanding for the purpose of achieving complete repayment at the earliest practicable date, to the extent that this

does not impair the city's continued access to the credit markets.

Finally, the Secretary is authorized to escalate the guarantee fee periodically in order to induce the city to enter the credit markets.

Other provisions reflect the committee's view that New York State bears the major responsibility for restoring the city to financial soundness and securing the Federal guarantees. These include requirements that the amount of State aid provided to the city remain at least at the level provided in city fiscal year 1979 until the budget is fully balanced; that the State establish a reserve fund with an amount sufficient to cover 5 percent of the outstanding principal and one year's interest on the guaranteed obligation, to be used to pay principal and interest in the event of default; and that Federal payments to the State or the city or both be withheld to cover any losses to the Federal Government under the guarantees.

There are authorized to be appropriated and to remain available until expended, such sums as may be necessary to carry out the provisions of this legislation, and the authority of the Secretary to make any guarantee under the act shall be limited to such extent or amounts as are provided in advance in appropriation acts.

History of the Legislation

The New York City Seasonal Financing Act was signed into law on December 9, 1975. This legislation was intended to prevent a New York City bankruptcy and restore the city to financial health, by providing loans of up to $2.3 billion a year to cover seasonal shortfalls in revenues. The act is due to expire on June 30, 1978.

The Subcommittee on Economic Stabilization of the House Committee on Banking, Finance and Urban Affairs held 6 days of hearings on New York City's financial situation on February 21 and 22 and March 2, 7, 8, and 15, 1978. Following upon these hearings, the subcommittee met in executive session on April 26, 1978, and ordered reported to the full committee H.R. 12426, a bill to authorize the Secretary of the Treasury to provide financial assistance for the city of New York. On May 3, 1978, the full committee met and ordered H.R. 12426 reported, without amendment. The bill passed the House of Representatives on June 8, 1978.

S. 2892, a bill proposed by the administration to authorize the Secretary of the Treasury to provide loan guarantees for the assistance of the city of New York, was introduced on April 12, 1978, by Senators Moynihan and Javits.

The Committee on Banking, Housing and Urban Affairs held hearings on S. 2892 and H.R. 12426 on June 6, 7, 12, and 13, 1978. Witnesses at the hearings included the Secretary of Treasury, New York City and State officials, representatives of New York City financial institutions and labor unions, and experts in the field of municipal finance.

The committee met in executive session on June 15, 1978, and agreed to mark up S. 2892. After adopting a number of amendments, the committee approved a motion to substitute the House bill number and then ordered H.R. 12426 reported with an amendment by a vote of 12 to 3.
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The Senators voting in the affirmative on the New York loan legislation were: Sparkman, Williams, McIntyre, Cranston, Stevenson, Morgan, Riegle, Sarbanes, Brooke, Heinz, Lugar and Schmitty.

The Senators voting in the negative were: Proxmire, Tower and Garn.

BACKGROUND AND NEED FOR THE LEGISLATION

SEASONAL LOAN PROGRAM

In late 1975, Congress took the unprecedented step of approving a limited program of direct financial assistance to New York City, in the form of short-term loans of up to $2.3 billion annually to cover seasonal shortfalls in revenues and maintain the city’s cash flow throughout the fiscal year.

The seasonal loan program was part of a financial package put together in late 1975 to avoid a New York City bankruptcy and restore the city’s financial condition. Other parts of the package included a pledge by the city employee pension funds to extend $2.5 billion in loans through June 30, 1978 to meet the city’s long-term financing needs; an $800 million advance in State aid payments to the city to be provided in each fiscal year; and a State law instituting a 3-year moratorium on repayment of $2.4 billion in short-term city notes outstanding and a reduction in the interest rate. (The moratorium law was overturned by the New York State Court of Appeals in late 1976, and various means were used to repay or refinance the city notes outstanding at that time.)

Supporting this financial package was a State law passed in September 1975 requiring New York City to develop a 3-year financial plan for achieving a balanced budget in its 1978 fiscal year (running from July 1, 1977, through June 30, 1978). The law also established the Emergency Financial Control Board, a State agency controlled by the Governor with broad powers over the city’s fiscal and financial affairs, including the authority to approve or reject contracts and to approve and require changes in the city’s financial plan.

Previously, in June 1975, after the public credit market had closed to city borrowings, a State law was passed establishing the Municipal Assistance Corporation, a State agency with the authority to borrow on behalf of New York City for the purpose of continuing essential services and creating investor confidence in the soundness of the city’s obligations. MAC obligations were given the backing of certain city-related State tax collections, including the sales tax, stock transfer tax, and per capita aid payments due the city. The MAC law set the requirement that the city have a balanced budget in 3 years (by fiscal year 1978), with the exception that it permitted the operating expenses funded out of the capital budget (then estimated at $550 to $600 million) to be phased out more gradually over a 10-year period.

Congress approved the seasonal loan program in 1975 because New York City was unable to borrow in the credit markets, its finances were in a state of confusion, and it appeared that the city would go bankrupt if it did not receive financial assistance from the Federal Government. A New York City bankruptcy could have had a severe impact on New York State, on the banking system, on the municipal bond market and the ability of other cities to borrow, and on the national...
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Economy, which was then just beginning to recover from the recession following upon the Arab oil embargo. The seasonal loan program was passed with the understanding that it was to be a one-time commitment, never to be repeated. At the end of the 3-year period, by June 30, 1978, New York City was supposed to have a balanced budget and be able to meet all of its financing needs once again through borrowing in the public credit markets.

COMMITTEE OVERSIGHT AND DEVELOPMENTS SINCE 1975

In view of the controversial nature of the seasonal loan program, the committee undertook an obligation to conduct regular and thorough oversight of the city's progress under that program, to make sure that all requirements and commitments were met. The committee has held four sets of oversight hearings at roughly 6-month intervals since the act was passed in December 1975.

In the course of those hearings, the committee has found that New York City has made definite progress toward balancing its budget and restoring fiscal responsibility. The Secretary of the Treasury summarized the major improvements in his testimony at the committee's recent hearings:

Taking into account all expense items still included in the capital budget, and the accrued pension liability, the city has reduced its deficit from approximately $2 billion in fiscal year 1975 to approximately $750 million estimated for fiscal year 1978.

The city has achieved this improvement by reducing the city-funded workforce by 60,000; by charging tuition for all students at City University for the first time; by sharply limiting wage increases for municipal employees through June 1978 and reducing employee fringe benefits; by withdrawing from mortgage financing of low- and middle-income housing projects; by reducing the number of beds in city-operated hospitals; by raising the transit fare from 35 to 50 cents; and by reducing social services through closing 77 day-care centers and limiting reimbursement rates at other centers. The city also reduced its share of contributions to municipal union pension funds by requiring greater employee contributions, while the city increased the absolute amount of its contributions to increase the actuarial soundness of the funds.

At the same time as it took these budgetary actions, the city also moved to reform its accounting and internal financial control systems. The city has begun phasing current expense items out of its capital budget and is now accelerating that phaseout for completion by the end of 1981. It has installed an integrated financial management system at a cost of $16 million. Furthermore, a consortium of independent certified public accountants is conducting an independent audit of the results of the city's current fiscal year and will do so in the future years.

Based on this record of improvement, and on other information obtained in oversight hearings held in December 1977 and sub-
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sequently, the committee issued a report in February 1978 which concluded that New York City should be able to meet its financing needs and avoid bankruptcy after June 30, 1978, without further financial assistance from the Federal Government. The committee

found that there were several steps which the city should take to improve its condition in advance of the June 30 expiration date—measures to achieve real budget balance and to improve investor confidence. If these steps were successfully completed, then the committee found that New York City should be able to meet its basic financing needs, both seasonal and long-term, from sources available in the city and in New York State, including the financial community and the city and State pension funds. The committee report pointed out, among other things, that the city pension funds could provide $2.25 billion more in long-term financing for the city simply by remaining at their current year level of investment of 35 percent of assets, that the State pension funds had $15 billion in assets and no investments in city or MAC obligations, and that the six largest banks had actually reduced their holdings of city-related securities since 1975 while their assets and capital had increased by over 20 percent.

The measures recommended by the committee in the February report included the following: a phaseout of all of the operating expenses in the capital budget over a period of no more than 3 years; a signed citywide agreement on the economic terms and budget costs of new city labor contracts well in advance of the June 30 expiration date of the existing contracts; a commitment from New York State to provide substantial amounts of additional, recurring financial aid to the city for budget-balancing purposes over the next 4 years; the establishment of a reliable accounting and budgetary control system; annual independent audits of the city's financial statements by a reputable accounting firm; and passage of State legislation to increase the borrowing authority of the Municipal Assistance Corporation by $3 billion and to establish a long-term fiscal monitor along the lines of the Emergency Financial Control Board with authority to require that the budget be balanced and that the city follow reasonable budgeting and borrowing practices.

By the time the committee began its hearings on June 6, these measures had all been accomplished with some degree of success. However, there are still areas of particular concern to the committee.

One is the question of whether the State is providing a sufficient amount of financial assistance to New York City. While the State says it is providing $250 million more in budget-balancing aid to the city in fiscal year 1976, one-third of that amount is either nonrecurring or contingent upon receipt of Federal funds not yet authorized, and only about one-half represents real money presently available to the city. The committee believes that the State could do more, especially in the area of welfare and medical assistance, where New York State imposes a larger local share than any other State in the country. This burden falls particularly heavily on New York City, which accounts for over 70 percent of the cost of these programs in the State and which is forced to contribute local funds in the amount of over $1 billion a year for these programs, an amount equal to more than its current budget deficit. The State should assume a larger share of the funding for these programs.
The major focus of concern in the committee's hearings was the city's labor contract settlement, which was concluded only hours before the committee met. The cost of the settlement is estimated to be $757 million in city funds over the next 2 years, with an ultimate total cost of $1.1 billion. While the terms of the settlement are not lavish by present standards nationwide, there is still reason to question whether a city in New York's financial condition can afford it. It appears that the money to pay for the settlement will be found in the city's budget or the State's, but new questions will arise down the line regarding the city's ability to pay for further increases that will be demanded in contracts covering the latter two years of the city's budget balancing plan, when the city finally has to bring its budget into balance in accordance with generally accepted accounting principles. Still more disturbing than the actual pay raises was the fact that the labor settlement failed to contain any significant "givebacks" of fringe benefits. The Secretary of the Treasury expressed his disappointment about this in his testimony before the committee:

* * * The settlement does not include any provisions to bring about needed modifications in work rules, fringe and pension benefits, and unnecessarily rigid civil service rules. To an outsider, it seems clear that progress in those areas is essential to the ultimate recovery of the city. As I understand it, New York City's present work rules and benefits are considerably more generous than those that exist in typical cities across the country. It is difficult to see how they can be justified when the city faces the kind of financial difficulties that your committee has been reviewing.

The committee shares the Secretary's concern and believes that these matters should receive special attention in the next round of contract negotiations. It is difficult at this point to see how the city could pay for further wage increases in fiscal years 1981 and 1982 and still balance its budget without substantial savings gained from cutbacks in the area of work rules and fringe and pension benefits.

Committee Decision to Provide Long-Term Federal Guarantees

There has been no dispute about the committee's figures regarding the resources held by the local parties, the New York City banks, and the pension funds. However, questions have been raised as to whether these resources would be forthcoming in amounts sufficient to meet all of New York City's projected financing needs, both long term and seasonal, over the next 4 years in the absence of further financial assistance from the Federal Government. According to city and State officials, the city needs about $4.5 billion in long-term financing over that period and $1.5 billion or somewhat less in annual seasonal financing.

Witnesses at the committee's hearings, including representatives of the city, the State, the various financial institutions and the city pension funds, suggested that fiduciary considerations could prevent them from making investments at the levels required by the city's financial plan. It was also suggested by the Secretary of the Treasury that a Federal presence on a longer term basis was desired by these and other potential investors as additional security.
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The committee found in the course of the hearings that there were other factors preventing the city from being certain of meeting its financing needs on its own after June 30, 1978. For one thing, the city still does not have a budget which is balanced according to generally accepted accounting principles and does not feel it can achieve this for another 3 years. In addition, investors have long memories of the city's financial woes and continue to be skeptical about making large-scale investments in city and MAC obligations, as was shown by the slow sales of a MAC bond offering last December. Furthermore, the city still suffers from the overhang of past excesses which serve to inflate its present borrowing needs. These include, in particular, the operating expenses in the capital budget, which will require $800 million more in borrowing before they are fully phased out, and the $600 million annual State advance, which is really a rollover of past deficits and which will continue to make up a major part of the city's seasonal borrowing needs until it is bonded out long term.

For all these reasons, the committee found it doubtful whether the city could maintain solvency and do even a minimal amount of capital borrowing in the next few years without additional Federal financial assistance. More importantly, it was unlikely that the city would be able to accomplish all of the components of its financial plan, which is intended to remove the major obstacles and assure full market access in the future, after the budget-balancing fiscal year of 1982. Thus the committee decided to provide New York City with the minimum amount of long-term financing assistance it believed was necessary to enable the city to complete its financial plan and gain access to the credit markets to meet all of its future financial needs.

This assistance is to be provided only if a number of stringent conditions are met. These conditions are intended to ensure that the city balances its budget, returns to the public credit markets, and repays the guaranteed obligations as rapidly as possible, in order to limit the length of Federal involvement and expedite the city's financial recovery.

It should be made clear that the committee believes the primary responsibility for meeting New York City's financing needs over the next four years and restoring the city to fiscal and financial health rests at the local level—with city and State officials and with the various local sources of financing. The Federal Government's role should be limited to assisting those financing needs only to the extent that they cannot be met from local sources and to overseeing the city's progress in order to ensure that commitments are met and that nothing is done to threaten the security of the Federal investment.

The committee has sought to find a way of assisting New York City to resolve its fiscal and financial problems without setting an undesirable precedent that might encourage other cities to engage in the sort of excessive spending and budget gimmickry that brought New York City down, because they would feel safe in the knowledge that they too could get Federal guarantees. While there is no way to guard against this completely, the committee believes that the conditions attached to the guarantees are sufficiently onerous, and the circumstances surrounding their use in New York City sufficiently unique, to render the precedent unattractive to other cities. First, the city has been required to surrender much of its local spending power to the higher authority of a State watchdog agency, the emergency...
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financial control board. The city is also subject to continual monitoring by the Treasury and the General Accounting Office, not to mention the oversight activities of congressional committees. Second, the State has been required to assume certain major responsibilities which
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other States may be even more reluctant to assume, including the responsibility for close to $9 billion of moral obligation debt issued or to be issued on the city’s behalf, the obligation to set up a reserve fund to provide funds to pay 5 percent of the principal and accrued interest on the guaranteed obligations outstanding in the event of a default, and the requirement that it maintain State aid at current levels until the city’s budget is fully balanced. In addition, the guaranteed obligations are required to be sold only to pension funds, and many cities do not have pension funds with sufficient assets to take on this responsibility.

Finally, the committee wishes to make the point as forcefully as possible that this is the last time. Such cries may ring false in light of recent experience, but nonetheless, the committee takes very seriously the claims made this time by the administration and by city and State officials that the long-term Federal guarantees, when combined with sufficient financing commitments from private sources, will be all that is needed to get the city’s budget balanced and get it back in the credit markets for good. Obviously this will also require continued stringency and effort on the part of city officials. These arguments have a sufficient amount of logic to have persuaded the committee to approve long-term guarantees over its initial reluctance. They are not likely to be similarly persuasive another time around. Therefore, the city and State and the various other parties should bend their considerable talents and ingenuity to confronting the tasks outlined in the city’s financial plan over the next 4 years, and not to framing larger and more intricate requests for further financial assistance from the Federal Government.

EXPLANATION OF THE LEGISLATION
LIMITATIONS ON THE GUARANTEE AUTHORITY

1. Amounts

The administration bill, S. 2892, would have authorized the Secretary of the Treasury to guarantee up to $2 billion in aggregate principal amount of city indebtedness, through June 30, 1982, with no annual limitations on the amount of guarantee authority to be available. The House bill, H.R. 12428, also provides up to $2 billion in guarantee authority on a similar basis, except that the $2 billion is intended to cover principal plus accrued interest.

Section 3(a) of the bill as approved by the committee limits the guarantee authority to up to $1.5 billion in aggregate principal amount outstanding over the next 4 years with the following annual limitations: $500 million for the city’s fiscal year 1979, $500 million for fiscal year 1980, $250 million for fiscal year 1981, and an additional $250 million for any fiscal year prior to July 1, 1982, only if the city has a budget for that fiscal year which is balanced in accordance with generally accepted accounting principles. The committee believes that Federal guarantees in these amounts should be sufficient to enable the

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city to carry out its 4-year long-term financing plan with an adequate margin of safety, while placing primary reliance where it ought to be placed, on private placements of unguaranteed bonds with local parties, and on public sales of MAC and city bonds in the credit markets.

According to the testimony of the Secretary of the Treasury and the Chairman of the Municipal Assistance Corporation, guarantees in the amount of $500 million are likely to be required in the first year as part of the total financing package. The Committee understands that the additional $1 billion in guarantee authority is to be held on a stand-by basis, and, in any event, all guarantees are to be provided only at the determination of the Secretary in accordance with the terms and conditions of this Act.

The committee intends that the guarantee authorized be provided on an aggregate basis, and that any guarantee authority not used in one fiscal year be carried over into succeeding fiscal years until the program terminates, on June 30, 1982. Since it is vital to the execution of the plan that the guarantees be used only in conjunction with private placements of unguaranteed bonds agreed to in advance by the various financial institutions and pension funds and with public sales of MAC and eventually city bonds, the committee believes it would be appropriate for the Secretary to require that the issuance of the guarantees be accompanied by the provision of additional long-term financing from the other sources mentioned above.

From testimony given at the committee hearings, it would appear that the Federal guarantees are intended to be applied only to city bonds and not to MAC bonds. The committee believes it is most important that the Secretary specify that the guarantees will indeed only be available for city bonds, under the various conditions prescribed by law and regulation. The new borrowing authority of MAC is limited to the $3 billion increase recently approved by the State legislature, and it is essential that all of that authority be available to carry out the other components of the 4-year schedule of long-term investments, including the backup to the public sales of city bonds proposed for the final 2 years. Furthermore, it would be desirable if there were some MAC borrowing authority remaining after the 4-year plan is completed, in case it may be needed to some extent after the Federal guarantee authority expires on June 30, 1982. There is already an example of a party to the city's present long-term financing arrangements seeking to purchase MAC bonds in lieu of the $650 million in city bonds for which the commitment to purchase was made, and this has caused difficulties which may not be resolved until June 30. The committee believes it would be advisable for the Secretary to make it clear that such a choice would neither be available nor be warranted in the case of obligations guaranteed by the Federal Government pursuant to this legislation.

2. One-House veto

Section 3(a) of the bill includes language not contained in either S. 2892 or H.R. 12426 which provides that the increase in the amount of guarantee authority provided for fiscal years 1980 and 1981 shall not take effect if either the Senate or the House of Representatives passes a resolution of disapproval prior to the beginning of that fiscal year. The intent of this "one House veto" provision is to restore to some
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extent the opportunities for oversight and control afforded by the seasonal loan program, in which the loans expired at the end of each fiscal year and could potentially not be renewed if the city failed to meet its commitments and make progress toward balancing its budget. One of the committee's concerns about providing guarantees stretching out as long as 15 years was that the opportunities for "keeping the city on a short leash" and requiring it to take action on tough problems would be lost. The one-House-veto provision, coupled with the annual limitations on the guarantee authority, is intended to address this problem. The committee does not believe that this provision should raise any barrier to obtaining financing commitments from other sources covering the 4 years of the financing plan. The basic authority for the Federal guarantees over the 4 years will still be in place. If the city lives up to its commitments and makes continued progress toward a balanced budget, as there is every expectation that it will in view of its record over the past 3 years, then there is no reason to believe that the one-House-veto authority will ever have to be used. However, it would exist as a "Club in the closet" in case of any serious backsliding by the city.

3. Maturities

The administration bill, S. 2892, would provide that the guarantees be available for city indebtedness with a maturity of more than 1 year. The House bill, H.R. 12426, provides guarantee for short-term seasonal financing as well as long-term financing. In the course of the markup, the committee approved the administration language limiting the guarantees to long-term financing. However, section 3(b) of the bill contains an amendment which provides, that the maximum length of the guarantee be limited to 15 years in the case of the first $1 billion authorized and 10 years for the remainder. It is the understanding of the committee that these limitations simply set the maximum length of the guarantee permitted and that the administration intends to negotiate with the parties involved over the maturities of particular issues of guaranteed city indebtedness, which could be longer or shorter than the maximum length of the guarantee permitted. Requiring maturities of 10 years or less for the final $500 million in guarantees, if used, will reduce somewhat the extent of the Federal Government's financial exposure. It may also provide additional encouragement to the city to seek financing from sources other than the Federal Government in the final years of the plan, since such financing may be available elsewhere on better terms.

4. Guarantees to go only to pension funds

Section 3(c) of the bill provides that guarantees authorized under this section are to be applied only to obligations issued to employee pension funds of the city, the State, and their agencies and that the guarantee shall terminate whenever such obligations are sold or otherwise disposed of by such pension funds.

These pension funds include the New York City employees' retirement system, the teachers' retirement system for the city of New York, the New York City Police Pension Fund, article 2, the New York City Fire Department Pension Fund, article 1-B, and the board of education retirement system for the city of New York, the New York State employees' retirement system, the New York State police-
men's and firemen's retirement system, and the New York State teachers' retirement system. This provision makes mandatory the intention already expressed by the Secretary that the guaranteed obligations be sold only to the pension funds. It is the opinion of the committee that the adoption of this amendment, coupled with the fact

that pension funds are tax-exempt under Federal law, renders unnecessary the inclusion in the bill of title II of S. 2882 and H.R. 1246, which provides that interest received on debt guaranteed under the act be subject to Federal income taxation, until such time as the guarantee lapses due to sale, transfer, or other disposition. Accordingly, the committee agreed to delete title II from the bill.

6. No seasonal financing

In the course of adopting the language contained in the administration bill, with the amendments described above, the committee discussed at some length the question of whether the Federal guarantee authority should be limited to long-term indebtedness, as provided in S. 2882, or whether there should be seasonal financing authority provided as well, as in the House bill, H.R. 1246. The committee made the affirmative decision to limit the financial assistance provided to long-term guarantees, for the following reasons:

a. The committee has been told at various times by Secretary Blumenthal and by Mr. Rohatyn that if long-term guarantees were provided, then the city could probably meet its seasonal financing needs on its own. Furthermore, representatives of the six largest New York City banks told the committee back in December that the city would be likely to be able to market its own short-term notes in fiscal year 1979 if there were a complete financing plan in place, including long-term Federal guarantees. This legislation requires such a financing plan.

b. Since the committee is providing relief on the long-term financing side, where the financial risk is supposed to be greater, then the local parties should at least be expected to assume the risk on the seasonal financing side, where there is more limited exposure.

c. The city's financing plan, as outlined in Mr. Rohatyn's testimony does not specifically call for guarantees of seasonal financing. Mr. Rohatyn indicated that he was seeking a commitment of $600 million for seasonal financing purposes from the clearing house banks; a similar commitment should be sought from the city pension funds. This would leave probably less than $500 million to be raised from public sales of city notes or MAC notes (which do not count against MAC's borrowing ceiling), and this should be quite possible to accomplish.

The committee believes strongly that the city should be pushed to re-enter the credit markets and to meet its financing needs from private placements with local parties and from public sales of its obligations in the credit markets as rapidly as possible. Requiring the city to provide for its seasonal borrowing needs by not authorizing guarantees for this purpose is a good first step in that direction.

Conditions for Providing the Guarantees

In the course of marking up this legislation, the committee adopted a number of conditions which must be met before the Secretary is
authorized to commit to guarantee any city indebtedness (or to guarantee if he has not previously committed to guarantee), either in the first instance or on subsequent occasions over the life of the act. The committee believes that these conditions are very important and must be carried out to the letter during the 4-year period of the Federal

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guarantee program. They are intended to ensure that the program is administered stringently and that the basic goals are achieved: getting New York City’s budget into balance according to generally accepted accounting principles and enabling the city to meet all of its long-term and seasonal financial needs in the credit markets after June 30, 1982.

The conditions are further aimed at minimizing the amount and length of the federal involvement in New York City’s financial affairs, maximizing the involvement of local parties, and expediting the city’s return to the public credit markets.

This section of the report describes the conditions contained in section 4 of H.R. 12426, as amended by the committee, and also incorporates the conditions provided in section 5, relating to the guarantee fee.

1. Reasonable prospect of repayment

Section 4(1) of the bill requires that the Secretary shall not guarantee or commit to guarantee any city indebtedness unless he determines at the time such guarantee or commitment is made that there is a reasonable prospect of repayment of such city indebtedness in accordance with its terms and conditions.

The same condition is provided in the seasonal loan program authorized under existing law. In the past, this requirement has been interpreted broadly to mean that the Secretary was authorized to withhold the loans, or at least question the advisability of providing them, if there were serious problems pending which could jeopardize the city’s financial recovery, whether or not these problems directly threatened the security arrangements applying to the repayment of the particular loan. Thus, for instance, the Secretary used this authority to question a labor settlement in May of 1976, which was subsequently revised, and to delay granting a loan request in March of 1977 until a plan was worked out for repayment of the moratorium notes affected by the State court of appeals decision overturning the moratorium law. The committee believes that such actions were an appropriate use of the Secretary’s authority as provided in existing law and that the authority provided in section 4(1) of this act should be interpreted and used in the same way. Therefore, the Secretary should not provide the guarantees authorized by this act in fiscal year 1979 or at any time subsequently unless he determines that all aspects of the city’s budget-balancing and financing plans are in order and are being fully implemented. Only under these circumstances can he find a reasonable prospect that federal guarantees extending out for as long as 15 years will be repaid.

2. No credit elsewhere

Section 4(2) of the bill requires that the Secretary determine that credit is not otherwise available to the city or a financing agent on reasonable terms before he agrees to guarantee or commit to guarantee any city indebtedness. In making such determination, the Secretary is authorized to take into account the total long-term financing needs
of the City over the four-year period covered by the Act. This would include consideration of the limitations on the borrowing authority of the Municipal Assistance Corporation and the likely market access of the City and MAC on a year-by-year basis. It appears advisable that there be sufficient amounts of MAC borrowing authority remaining in the latter year of the plan to serve as back-up to anticipated sales of City bonds.

The Committee intends that the city be encouraged to do its own financing in the credit markets as early and as often as feasible. A further delineation of the committee's intent in this regard is contained in the provisions of section 4(9) concerning tests of the market for city notes and bonds in the latter years of the guarantee program, as described below. In determining what are "reasonable terms" for credit available elsewhere, the Secretary should bear in mind that the guaranteed obligations are required to bear interest at rates normally applied only to taxable obligations and that therefore interest rates in similar amounts on the city's own sales of tax-exempt obligations should be considered reasonable.

3. Interest rate and guarantee fee

Section 4(3) of the bill requires the Secretary to determine that the interest rate on the guaranteed city indebtedness is reasonable and directs that he take into consideration current average market yields for other obligations guaranteed by the United States. In carrying out this directive, the committee intends that the Secretary consider specifically the current average market yields for guaranteed obligations of similar maturities to those guaranteed pursuant to this act.

The committee recognizes that it has created a somewhat anomalous situation by permitting a Federal guarantee of a tax-exempt obligation, albeit with the firm requirement that such obligations be held only by pension funds, which are already tax exempt. Notwithstanding this fact, it is the further intent of the committee that the interest rate on such obligations be determined by reference to rates on all other federally guaranteed obligations, the vast majority of which are taxable, and not be determined on the basis of an actual or imputed rate for a tax-exempt obligation. If the latter course were followed, then the incentive for the city to attempt public sales of its own tax-exempt obligations would be considerably diminished.

It should be noted here that section 5 of the bill directs the Secretary to assess and collect a guarantee fee of no less than one-half of 1 percent a year on the outstanding principal amount of the guaranteed city indebtedness. The fee is to be computed daily and collected at least annually, along with the interest paid on such indebtedness. All funds received by the Secretary in payment of such fees shall be paid into the general fund of the Treasury.

4. Financing commitments

Section 4(4) of the bill directs that the guarantees be provided only if the Secretary determines that the rest of the city's long-term borrowing needs (other than those to be assisted under the act) and all of its seasonal borrowing needs during the four-year period ending June 30, 1982, will be met through commitments from the State, an agency of the State, private sources, or through public credit markets in amounts which will be sufficient to enable the city to
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meet all of its long-term and seasonal borrowing needs in the public credit markets after the guarantee program expires on June 30, 1982.

This means that the committee intends that such financing be available in sufficient amounts to enable the city not just to maintain solvency but to accomplish all of the actions outlined in its present 4-year financial plan, which are intended to put the City in a position to meet all of its financing needs, both long-term and short-term, in the public credit markets after the end of the four-year period. Of course, the Committee understands that in order to achieve such market access, the City must also adhere to all the other requirements of this Act, and the Secretary is directed to take this into account in making his determination. The table titled “Uses of Funds” reproduced below from the prepared statement of the chairman of the Municipal Assistance Corporation gives the clearest indication available to date of the intended uses and timing of the $4.5 billion in long-term financing needs projected in the plan.

<table>
<thead>
<tr>
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<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bricks and mortar</td>
<td>382</td>
<td>432</td>
<td>637</td>
<td>749</td>
<td>2,100</td>
</tr>
<tr>
<td>Capitalized expenses</td>
<td>410</td>
<td>390</td>
<td>150</td>
<td>500</td>
<td>900</td>
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<tr>
<td>General plant</td>
<td>460</td>
<td>150</td>
<td>150</td>
<td>500</td>
<td>1,200</td>
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<tr>
<td>MAC capital reserve</td>
<td>150</td>
<td>150</td>
<td>119</td>
<td>287</td>
<td>500</td>
</tr>
<tr>
<td>MAC refunding</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>1,382</td>
<td>1,736</td>
<td>856</td>
<td>956</td>
<td></td>
</tr>
</tbody>
</table>

The crux of the city’s argument for long-term Federal guarantees is that it has to accomplish the full $4.5 billion in long-term financing as outlined in order to be able to restore investor confidence and get fully back in the credit markets by the end of the 4-year period. Specific arguments made included the following:

(a) The city needs the $2.3 billion in “true” capital (bricks and mortar) financing to restore its aging capital plant, which will help to preserve the tax base and make the city more attractive to business investment, thus improving the city’s long-run economic prospects.

(b) The city has to accomplish other parts of the plan in order to accomplish a balanced budget in fiscal year 1982 and reduce its long-term borrowing needs. It needs to borrow $900 million to cover the operating expenses remaining in the capital budget until they are phased out. On an accelerated schedule by 1982, $300 million to fund a MAC capital reserve required by State law which would otherwise have to be funded in a manner which would reduce the revenues available to the city and $500 million to refund certain MAC bonds.

(c) The city should bond out long-term at least $500 million of the $800 million annual State advance, to end the rollover of that accumulated deficit and reduce the city’s seasonal borrowing needs accordingly.

If all of these elements of the plan are achieved, then city and State officials claim that New York City will be able to bring its long-term and seasonal borrowing needs down to manageable levels of not more than $1 billion each per year and to confine them to real capital and real seasonal needs. This should enhance the city’s prospects for meeting those needs in the credit markets without Federal assistance.
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Given the fact that the full $4.5 billion appears to be essential to accomplishing the Financial Plan and its objectives, the committee believes it is imperative that the Secretary make certain that the necessary financing commitments from other sources are in place before any guarantees whatsoever are provided under this act. This means that there must be signed commitments of a binding legal nature from all those taking private placements for the specified amounts in the Secretary's hands prior to his guaranteeing or committing to guarantee any city indebtedness. Furthermore, in view of past problems, the Secretary is directed to make certain on an ongoing basis that these commitments have been met and will be met in full as scheduled as a condition for providing further amounts of guarantees authorized under the act.

The committee was told by representatives of the administration that commitments from private sources—banks, savings banks, insurance companies and city pension funds—to purchase unguaranteed long-term obligations in the total amount of $2.1 billion are being sought and of the long-term financing portion should be sufficient to enable the accomplishment of the long-term financing portion of the financial plan, when combined with the anticipated public sales of MAC and city bonds and the amounts of guaranteed city indebtedness expected to be provided under this act. With the reduction in the guarantee authority to $1.5 billion, the committee believes it is essential that the full $2.1 billion in long-term financing commitments be obtained in advance but leaves it to the negotiations between the administration and the various private sources to determine the amounts and the allocation among the parties involved.

Of course, the amounts committed through private placements may be subsequently reduced by the Secretary to the extent it becomes possible for the city to borrow in the public credit markets in amounts greater than originally anticipated. From testimony given at the hearings, the committee understands that conditional commitments for long-term financing over the 4-year period have been obtained from the clearing house banks in the amount of $600 million, from the savings banks in the amount of $250 million, and from the insurance companies in the amount of $250 million. The Secretary also testified that he is seeking to raise the commitments from the clearing house banks to $800 million. No commitments have as yet been obtained from the city pension funds to purchase either guaranteed or unguaranteed obligations. Their participation on both bases is considered essential to the execution of the 4-year financial plan.

With respect to the city's plan and the Treasury's understanding of the necessary participation by the financial institutions and the pension funds, Senator Heinz entered into the following colloquy with Deputy Secretary Carswell during the course of the committee's markup of the bill on June 15:

Senator Heinz, Mr. Secretary, earlier today we discussed and the committee narrowly rejected an amendment that would have required that at least $2.1 billion of the city's total long-term borrowing needs be met during the next four fiscal years through unguaranteed private placements.
5. Balanced budget

Section 4(5) of the bill adopts language from both S. 2892 and H.R. 12426, with amendments, with the intent of requiring that the city adopt and adhere to a plan to bring its budget into balance according to generally accepted accounting principles no later than fiscal year 1982 and to make substantial progress toward that goal during the intervening three fiscal years by adopting and adhering to budgets which are balanced at least according to accounting principles established under State law. The latter accounting principles permit the city to exclude temporarily certain operating expenses funded out of the capital budget and certain accrued pension liability, with the requirement that these amounts be eliminated by fiscal year 1982, when the city will be required to adhere to generally accepted accounting principles only.

The committee emphasizes the point that the city is expected to adhere to as well as adopt such a budget-balancing plan, and that its adherence will be demonstrated only by financial statements prepared at the end of each fiscal year which show, as the result of audits conducted in accordance with generally accepted accounting principles that the city has indeed made substantial progress toward eliminating any excess of operating expenditures over revenues, as provided in the budget plan for that fiscal year. The Secretary shall refer to these financial statements and the results of the audit conducted thereon in making his determination as to whether the city is complying with the requirements of this section and thus qualifying for additional guarantees.

This section requires further that the city agree to publish, after the completion of each fiscal year covered by the plan, an analysis reconciling its actual revenues and expenditures with the revenues and expenditures projected at the beginning of that fiscal year. The city must also agree to publish periodic projections which reflect the impact of the plan on tax rates.

Under the provisions of this section and of section 2(5) (definitions), there is required to be in place an independent fiscal monitor, an agency established under State law which has the authority to control the fiscal affairs of the city during the entire period for which the guarantees provided under this act shall be outstanding and which authority the State has covenanted will not be substantially impaired during such period. The New York State Legislature has recently passed legislation, signed into law by the Governor, which appears to meet this requirement. It extends the authority of the emergency financial control board for 30 years, with full powers to be in effect
for the life of any Federal guarantees. Under this law, the Control Board has the authority to require a balanced budget according to generally accepted accounting principles by fiscal year 1962 and in every year thereafter. There are two very narrow exceptions permitted under this authority, which may be invoked only to avoid a substantial adverse impact on essential services. One would permit a phase-in of any change in generally accepted accounting principles, so long as this is done in a reasonably expeditious manner. The other allows a waiver for unforeseen circumstances, provided that any deficit resulting therefrom is made up in the following fiscal year. Other powers provided to the Control Board under the State law include the authority to disapprove city financial plans or modifications if they do not comply with the Board’s standards; to approve all city borrowings; to disapprove any city labor, capital or purchase contracts that would unbalance the financial plan; and to require the city to develop a four-year financial plan each year and submit it to the EFCB at least 50 days before the beginning of the next fiscal year. Thus there are additional safeguards provided in State law to ensure that the city achieves and maintains a balanced budget, so that it can re-enter the credit markets and repay the Federal guarantees.

6. Audits

Section 4(6)(A) of the bill establishes a yearly requirement for the city to submit to the Secretary a certified opinion of an independent certified public accountant of the results of the audit. This opinion, if it is qualified, must set forth in detail the reasons for such deviation from generally accepted accounting principles. For example, if the accountant finds that the underlying records in support of the financial statements are inadequate under generally accepted accounting principles, the auditors’ opinion must state which records are inadequate and how they are inadequate. Or, for example, if the auditor finds that internal controls of the city are inadequate, his report should detail the inadequacies of the controls and specifically indicate areas to be improved.

Section 4(6)(B) establishes an audit committee. The purpose of this committee is to serve as a consulting board to the independent accountant. It is not the purpose of the audit committee to interfere with the conduct of the audit. It is the committee’s purpose to suggest areas of inquiry, to prevent any limitation on the scope of the auditor’s inquiry, and to work with the auditor to do all that is necessary to ensure that the auditor will be able to give an unqualified opinion as to the accounts of the city. It is anticipated that the committee’s meetings will replace those meetings that the auditor would normally have with the Comptroller alone. The auditor will report his progress to the audit committee as he would to the comptroller. It is also anticipated that if a member of the committee feels that the audit is not of adequate scope, in sufficient detail, or independent in nature, then that opinion should be expressed to the Secretary of the Treasury and to the EFCB.

7. State responsibilities

Section 4(7) of the bill provides certain responsibilities which the Secretary must determine to his satisfaction that the State of New York has met before he can guarantee or commit to guarantee city
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indebtedness. The committee believes strongly that under our Federal system, States are responsible for their cities and that New York State should be deeply involved on a continuing basis in New York City's efforts to balance its budget and get back in the credit markets. The provisions of this section, combined with certain other provisions of the bill, are designed to assure such State involvement.

Section 4(7)(A) provides that in the case of guarantees issued after June 30, 1979, the State must furnish to the Secretary satisfactory assurances that the amount of financial assistance it will provide to the city during the city fiscal year in which the guarantee is to be issued will not be any less than the amount of State assistance provided to the city during the city's 1979 fiscal year. However, such assur-

ances need not be furnished for any fiscal year during such period for which the city has presented a budget which the Secretary has determined is balanced in accordance with generally accepted accounting principles.

The purpose of this provision is to require that the State assist the city in its budget balancing efforts at least to the point of maintaining the present-year level of State aid to the city until such time as the city is able to present a budget which is balanced in accordance with generally accepted accounting principles, whether that occurs in fiscal year 1982 or in some previous fiscal year. In the course of the hearings, the committee was told by the Governor that the State intends in fact to increase the amount of the aid provided to the city for budget balancing purposes during the 4-year period covered by the Federal guarantee program.

Section 4(7)(B) requires the State or an agency of the State, subject to and in accordance with applicable State law, to establish a reserve fund in which shall be deposited amounts equal to not less than 5 percent of the outstanding principal of and one year's interest on the city indebtedness then guaranteed under the act. In the event that the city defaults on the payment of interest or principal on any guaranteed indebtedness, the money in this fund shall be used to make payments or to reimburse the Treasury for payments made due to the default. The intent of this provision is to see that the State bears part of the risk of the guarantees, along with the Federal Government, and that therefore it will have a stake in making certain that the city lives up to its commitments and does not default on the payment of principal and interest on the guaranteed obligations.

The committee understands that, under New York State law, a commitment by the State is subject to appropriation of the necessary amounts by the State Legislature in each fiscal year.

8. Productivity Council

Section 4(8) of the bill requires that, in addition to other efforts undertaken by the city to increase employee productivity, the city shall establish a productivity council which shall consist of representatives of the city government, city employee unions, and representatives of the emergency financial control board, and which shall develop and seek to implement methods for enhancing the productivity of the city's labor force.

The committee suggests that the productivity council meet regularly on a bimonthly basis to discuss specific recommendations for increasing productivity, and that it consult with private management firms and
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others in the private sector who can provide information on innovative ideas and procedures which can be implemented in the city of New York to increase worker productivity and reduce government costs. The council should be available to meet with interested authorities in the fields of management science, productivity enhancement, and personnel management and shall attempt to apply new knowledge in these fields to the problems of New York City.

9. Public sales of city notes and bonds

Section 4(9) of the bill directs the Secretary to require the city to sell through public offering some amounts of short-term notes in fiscal years 1980, 1981, and 1982, and long-term bonds in fiscal years 1981 and 1982, unless he determines that such a test of the market would be inconsistent with the financial interests of the city.

The purpose of this section is to push the city to test the market for its notes and bonds as quickly as appears feasible, to help ensure that it is fully back in the credit markets after the guarantee program ends. The dates provided in this section are consistent with the city's present financing plans. In addition, the committee has heard testimony from representatives of the financial community and from others that the city should be able to market some short-term notes soon after a long-term financing plan cemented by Federal guarantees is in place, and that it should be able to market long-term bonds at some time thereafter when it has established a record of repayment of the short-term obligations. The debt service fund requirement provided in the new EFCB legislation should also aid in the success of these market tests. While the committee intends that the city live up to the requirements of this section to the extent feasible, the Secretary is permitted to waive the requirement in a particular year if he determines that such a market test would be inconsistent with the general financial interests of the city. Thus the city will not be required to test the market and fail if there is strong evidence that such a market test will result in failure to sell the city obligations in the amounts offered.

10. Refunding of the guaranteed obligations

Section 4(10) of the bill reflects the intent of the committee that the length of the Federal Government's involvement in guaranteeing city indebtedness be as brief as possible. It directs the Secretary to require that the city agree to take steps to retire or refund the guaranteed obligations as quickly as is feasible after the act expires on June 30, 1982, as a condition for the Secretary's providing the guarantees.

Section 4(10)(A) requires that, beginning in the first fiscal year following the expiration of the guarantee authority and during any fiscal year thereafter in which there is guaranteed indebtedness outstanding, the city shall devote not less than 15 percent in principal amount of the net proceeds of new city long-term borrowing in the public capital markets during such year to the repayment or refunding of the guaranteed indebtednesses, giving priority to that having the longest maturity or maturities. The Secretary is permitted to modify or waive this 15 percent requirement in any year to the extent that he determines that its application would substantially impair the city's ability to meet its essential capital needs.

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Section 4(10)(B) is a more general provision which directs the Secretary, as soon as practicable after the city has demonstrated its ability to meet its credit needs through the public credit markets, to require the city to agree to implement a program of refunding any outstanding obligations guaranteed under this act for the purpose of achieving complete repayment of such obligations at the earliest practicable date. The Secretary is further directed, in implementing this provision, to take into consideration such factors as he deems appropriate, including the effect of such refunding on the city's need to maintain the city's continued access to public credit markets. Thus it is intended that no refunding requirement be imposed to the extent to which it could impair the city's ability to sell new issues of its own obligations.

A further means of inducing the city to refund the guaranteed obligations outstanding is contained in section 5, which provides that the Secretary may periodically escalate the annual guarantee fee in order to induce the city to enter the public credit markets.

Section 4(11) of the bill requires the Secretary to determine that the city and State are meeting their respective obligations under the enumerated conditions of Section 4 before he guarantees or commits to guarantee City indebtedness. This provision is intended to ensure that the City and State are adhering to the various obligations respectively imposed on them under the conditions of Section 4. For example, Section 4(6)(A) requires the Secretary to determine that the city has "agreed" to provide annual independently audited financial statements; section 4(11) makes clear that the Secretary must determine that that "agreement" is being adhered to before he issues guarantees or commitments to guarantee.

Section 4 concludes with general language providing that any determination by the Secretary that the conditions set forth in this section have been met shall be conclusive; that the Secretary is authorized to determine the manner in which any guarantees and commitments to guarantees will be issued, and to require such other terms and conditions as he may deem appropriate, including provision of security for the repayment of amounts paid pursuant to any guarantee under this act. Any such other term or condition may be modified, amended, or waived in the discretion of the Secretary. However, all the conditions of eligibility specifically mentioned in this section are strict statutory requirements and may not, under this act, be waived.

REMEDIES AND SECURITY

Section 6 prescribes the remedies and protections available to the Federal Government under the act, to be used in the event of default or any other failure to comply with the provisions of the act.

1. Remedies

Section 6(a) requires the Secretary to take whatever legal actions may be necessary to ensure the rights accruing to the Government as a result of the issuance of guarantees under the act.

Section 6(b) entitles the Secretary to recovery and provides in the subrogation clause that any rights which the lenders who are reimbursed by the Government may have shall flow to the Government and become the Government's rights.
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Section 6(d) provides that the remedies prescribed in this act shall be cumulative and not in limitation of or substitution for any other remedies available to the Secretary or the United States.

2. Security

Section 6(e) mandates that the Secretary, in the event the Government is required to honor guarantees, withhold Federal transfer payments to New York City and New York State as offset against amounts paid out by the Government pursuant to the guarantees. This section does not specify the timing of the withholding, nor does it identify the payments to be withheld. It is within the discretion of the Secretary to determine when and which, Federal transfer payments shall be withheld, subject to reasonable criteria based on an assessment of which payments can be withheld while causing the least disruption to the city or the State.

The administration bill, S. 2892, would have established an order of priority by which Federal payments would have been withheld: first, general revenue sharing payments to the city; second, general revenue sharing payments to the State; and third, any other Federal payments to the city. The committee agreed to adopt instead the language contained in the House bill, H.R. 12426, which makes the city and State equally liable to have Federal payments withheld in the event of any losses to the Federal Government under the guarantee. The committee believes firmly that the State should share equal responsibility with the city in this matter. Furthermore, if the city is in such difficult financial straits that it defaults on the guaranteed obligations, and if the State is in better financial condition, then it may be more appropriate for the Secretary to withhold Federal payments to the State, rather than place the city in an even worse financial condition. The language “provide for the withholding of any payment from the United States to the city or State” is intended to mean that the Secretary can withhold Federal payments to the city, Federal payments to the State, or both, as he deems appropriate.

3. Federal priority and waiver

Section 6(e) invokes section 3466 of the Revised Statutes (31 U.S.C. 191) which gives any debt owed to the Federal Government absolute priority in the event of a city bankruptcy. However, the Secretary is authorized to waive such priority, in whole or in part, with respect to any unguaranteed indebtedness issued by the city or financing agent after the effective date of this act in order to increase the city’s ability to sell its obligations in the public credit markets. The committee is advised that without the waiver authority to be used in specific instances, the city may have difficulty marketing its own obligations pursuant to other provisions of this act. The language of this section makes it clear that no such waiver shall by its terms make the claims of the U.S. subordinate to those of any other creditor of the city or financing agent; it shall simply remove the absolute priority.

4. Right of civil action

Section 6(f) provides that the United States may, on the advice of the Secretary, bring a civil action in any U.S. district court or any other appropriate court to enforce compliance with the provisions of this act or of any agreement related thereto (including any provision
of State law) by the city, the State, the financing agent, the independent fiscal monitor, any official of any of the foregoing, or any other party to any agreement hereunder. This provision is intended to give the Federal Government authority not presently provided to enforce compliance by all parties with commitments made in connection with the provision of guarantees under this act. The need for such authority has been shown in connection with the failure of the city pension funds thus far to adhere to a financing commitment made under the 1975 Amended and Restated Agreements and purchase some $683 million in city bonds this May and June. Such commitment was and is considered to be a binding legal obligation, upon which the provision of the seasonal loans was contingent. However, the Secretary has no authority under present law to go to court and seek to enforce compliance with this commitment. Section 6(f) would provide the Secretary with such authority, as needed, and would be a clear indication of the committee's intent that the Secretary make certain that financing commitments covering all of the city's additional long-term and seasonal borrowing needs be made and adhered to before guarantees are made or committed to be made pursuant to this act. It is not intended that this provision be construed to relieve the city, or its financing agent, or the State from any obligation to enforce compliance with commitments made pursuant to this act.

REPORTS TO CONGRESS

Section 7 of the bill requires the Secretary to make detailed periodic reports to the House and Senate Banking Committees of his activities under the guarantee legislation.

INSPECTION OF DOCUMENTS

Section 8 of the bill authorized the Secretary to inspect all pertinent documents of the city or any financing agent at any time after a guarantee has been requested.

TERMINATION

Section 9 of the bill provides that the authority of the Secretary to make guarantees terminates on June 30, 1982, but it also makes it clear that this termination does not affect the carrying out of contracts or guarantees or the taking of any action necessary to protect the interests of the United States.

GENERAL ACCOUNTING OFFICE AUDITS

Section 10 of the bill authorizes the General Accounting Office to conduct such audits of the city or a financing agent as the Comptroller General shall deem appropriate, and requires that the GAO report the results of such audits to the Congress. This section also requires the City and/or a financing agent to agree to GAO audits as a condition of receiving the Federal guarantees.
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AUTHORIZATION

Section 11 (a) provides that there are authorized to be appropriated to remain available without fiscal year limitation such sums as may be necessary to carry out the provisions of this act. The committee intends that this language not be construed as interfering with the right of the Appropriations Committee to limit the administrative expenses of the guarantee program to amounts approved in annual appropriation acts.

Section 11 (b) provides that the authority of the Secretary to make any guarantee under this act shall be limited to such extent or amounts as are provided in advance in appropriation acts. This language is taken from the House bill, H.R. 12426, and the committee understands that the intent is that the Appropriations Committees will provide the full amount of the guarantees authorized in advance as a one-time appropriation. However, the release of the guarantees by the Secretary shall be subject to the annual limitations provided under section 3.

Section-by-Section Summary

Section 1. This section provides that the bill may be cited as the "New York City Loan Guarantee Act of 1978."

Section 2. Definitions.—The definitions indicate that the Secretary of the Treasury may provide Federal guarantees for city-related securities with maturities of more than one year, that an independent monitor authorized by the State to control the fiscal affairs of the City must be operating during the period in which the Federal guarantees are outstanding, and that the assistance provided under the proposed Guarantee Act is solely for the benefit of New York City.

Section 3. Guarantees.—The Secretary is authorized to guarantee up to $1.5 billion of the aggregate principal amount of city-related securities which are purchased by city or State employee pension funds. Of the $1.5 billion in guarantees, the first $500 million will be available after the beginning of the city's 1979 fiscal year, an additional $500 million will be made available during the 1980 fiscal year, and an increase of $250 million will be made in the 1981 fiscal year.

However, the Senate or the House of Representatives may, by resolution issued before the beginning of the 1980 or 1981 fiscal years, disapprove of the increase in guarantees provided in this bill for each of these fiscal years. In addition to the annual amounts of guarantees for 1979 through 1981, the Secretary may provide an additional $250 million in guarantees for securities issued during the first fiscal year before July 1, 1982, in which the city has a budget balanced in accordance with generally accepted accounting principles. The guarantees on the first $1 billion of indebtedness guaranteed may be for terms of up to 15 years while any additional city indebtedness may be guaranteed for up to 10 years. If guaranteed securities are sold or disposed of by the pension funds, the guarantee on such securities will terminate.

Section 4. Conditions of Eligibility.—Before the Secretary guarantees or commits to guarantee city-related securities, he must determine that the following conditions are met.

1. There is a reasonable prospect of repayment of the guaranteed city indebtedness.
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2. The city or its financing agent is unable to obtain credit elsewhere on reasonable terms.

3. The interest rate on guaranteed city indebtedness is reasonable.

4. During the 4-year period ending June 30, 1982, the long-term borrowing needs of the city (other than borrowing assisted or to be assisted under this act) and the seasonal borrowing needs of the city will be met through commitments from the State, an agency of the State, or private sources, or through public credit markets in amounts which will be sufficient to enable the city to fulfill its 4-year financial plan so that, on and after the termination of the guarantee authority conferred by this act, the city will be in a position to meet all of its long-term and seasonal financing needs through the public credit markets.

5. (a) The city is adopting and adhering to expense budgets for the 1979, 1980, and 1981 fiscal years, which are in balance in accordance with State law and, for each fiscal year beginning after June 30, 1981, are balanced in accordance with generally accepted accounting principles.

(b) The city submits to the Secretary, with the approval of the fiscal monitor and in conformity with accounting principles established by the Secretary, a plan for balancing its expense budget for each of the first three full fiscal years beginning after June 30, 1978. After the completion of each of these years, the city is also required to publish an analysis of its actual revenues and expenditures during the year with those projected in the plan. The city must also publish periodic projections which reflect the impact of the plan on tax rates.

6. (a) The city will employ an independent public accountant to perform an annual audit of the city's books during the guarantee period, such audit to include the issuance of a statement about the results of the audit.

(b) The city is also required to establish an audit committee, comprised of three City officials and four officials of local financial institutions and of accounting firms, which would assist in the determination of areas of inquiry for and review the progress and evaluate the results of such audits.

7. (a) The State agrees to furnish financial assistance to the City during each fiscal year in which such guarantees will be issued after June 30, 1979, in an amount not less than the total State assistance provided the City during its 1979 fiscal year. Such requirement would not have to be met in any year in which the city has a budget balanced in accordance with generally accepted accounting principles.

(b) The State or an agency of the State agrees to provide funds, through the establishment and maintenance of a capital reserve fund, in an amount not less than 5 percent of the outstanding principal of and one year's interest on the city indebtedness then guaranteed under the Act. In the event that the city defaults on the payment of interest or principal on any guaranteed indebtedness, the money in this fund shall be used to make payments or to reimburse the Treasury for payments made due to the default.

8. The city must establish a productivity council consisting of city, union, and fiscal monitor representatives, which will develop and seek to implement methods for enhancing the productivity of the city's labor force.

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9. The city attempts to sell its short-term notes in the public capital markets in fiscal years 1980, 1981 and 1982 and its long-term bonds in fiscal years 1981 and 1982. The Secretary may waive these market tests if he determines that such tests would be inconsistent with the financial interests of the city.

10. (a) During the city's 1983 fiscal year, and during any subsequent fiscal years in which guaranteed indebtedness is outstanding, not less than 15 percent of the proceeds of city-related securities issued in public credit markets in any such year will be used to redeem guaranteed indebtedness then outstanding. The Secretary is authorized to modify or waive the 15 percent requirement to the extent he determines that it would substantially impair the city's ability to meet its essential capital needs.

(b) As soon as practicable after the city meets its long-term financing needs in the public credit markets, the city adopts and implements a program designed to achieve complete repayment of outstanding guaranteed securities.

11. The city and the State are doing what they have agreed and are required to do under the enumerated conditions of section 4.

The Secretary's determination that any condition has been met is conclusive and, in addition to the conditions described above, the Secretary may require such other terms and conditions as he deems appropriate.

Section 5. Guarantee Fee.—The Secretary is required to assess and collect, at least annually, a guarantee fee of not less than one-half of one percent per annum on the outstanding principal amount of guaranteed securities. Funds received by the Secretary are to be deposited in the general fund of the Treasury. The Secretary is authorized to escalate the guarantee fee in order to induce the city to enter the public capital markets.

Section 6. Remedies of the Federal Government.—The Secretary is directed to enforce any right accruing to the United States as a result of the issuance of guarantees on city-related securities and, specifically, to withhold Federal transfer payments to the city or the State to offset any financial claim the Secretary may have as a result of the guarantee program. The Secretary may initiate a civil action in Federal or appropriate local courts to enforce compliance with the Guarantee Act, any related agreement, or any provision of State law, by the city, the State, the fiscal monitor, any official of the foregoing, or any other public or private party to an agreement under the act.

Section 7. Reports to Congress.—The Secretary is required to provide periodic reports to Congress on the guarantee program.

Section 8. Inspection of Documents.—During the guarantee program, the Secretary may inspect and copy books, records, and other documents of the city or its financing agent which relate to the city's financial affairs.

Section 9. Termination.—The authority of the Secretary to guarantee city-related securities ends on June 30, 1982. The termination does not, however, affect any ongoing contracts, guarantees, or other obligations entered into under the act.

Section 10. OIO Audits.—The Government Accounting Office is authorized to audit the financial accounts and records of the City or
its financing agent and is directed to report the results of any such audit to Congress.

Section 11. Authorization.—This section authorizes, without fiscal year limitation, such sums as may be necessary to carry out the provisions of the act. However, the authority of the Secretary to make guarantees is limited to such extent and amounts as are provided in advance in appropriation acts.

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**Cost of Legislation**

Pursuant to section 252(a) of the Legislative Reorganization Act of 1970, the committee estimates the cost of the legislation as follows:

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<tr>
<td>Administrative costs</td>
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<td>1.4</td>
<td>1.5</td>
<td>1.6</td>
<td>1.7</td>
</tr>
<tr>
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<td>1.3</td>
<td>1.8</td>
<td>1.1</td>
<td>1.4</td>
<td>1.4</td>
</tr>
<tr>
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<td>-0.6</td>
<td>-0.6</td>
<td>-1.3</td>
<td>-1.7</td>
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Note: This estimate is based on the estimate of the Congressional Budget Office.

**Congressional Budget Office,**
**Washington, D.C., June 22, 1978.**

Hon. William Proxmire,
Chairman, Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 12426, as amended, the New York City Loan Guarantee Act of 1978.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin, Director.

**Congressional Budget Office—Cost Estimate**

3. Bill status: As reported by the Senate Committee on Banking, Housing and Urban Affairs on June 22, 1978.
4. Bill purpose: This bill would authorize the Secretary of the Treasury to guarantee, subject to certain limitations, the payment of principal or interest on debt obligations of greater than one year's maturity issued by New York City or its financing agent before June 30, 1982. The loan guarantee program is designed to insure the availability of credit to New York City so that it may meet its long-term development needs and improve its financial position.
5. Cost estimate: Other than for administrative costs, no budget authority is required for a loan guarantee program unless and until defaults require federal payments in fulfillment of guarantee commitments. In the absence of default, the budget impact of this bill is the
difference between administrative costs and loan guarantee fee collections. Section 5 authorizes such sums as may be necessary to cover the costs of administering the program. Section 11(a) requires that New York City pay a guarantee fee equal to no less than one-half of 1 percent per annum on the outstanding amount of guaranteed principal. At any one time the maximum outstanding amount of guaranteed principal cannot exceed $1.5 billion. Since guarantee fees are expected to exceed administrative costs, estimated costs for this bill are negative. Budget impact is summarized in the following table.

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<tr>
<td>Administrative costs</td>
<td>1.3</td>
<td>1.4</td>
<td>1.5</td>
<td>1.6</td>
<td>1.7</td>
</tr>
<tr>
<td>Offsetting receipts from loan guarantee fee collections</td>
<td>2.5</td>
<td>3.0</td>
<td>4.1</td>
<td>5.1</td>
<td>5.4</td>
</tr>
<tr>
<td>Net costs</td>
<td>-1.2</td>
<td>-1.6</td>
<td>-4.6</td>
<td>-5.3</td>
<td>-4.7</td>
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If New York City were to default, additional budget authority would be required to cover defaulted payments of both guaranteed principal and interest. Assuming the obligations are serial bonds that have maximum maturities allowable under the bill, guaranteed interest at the rate of 7.75 percent per annum, and no provisions for early recall, the maximum federal liability could be as much as $2 billion. If the bonds were callable, maximum federal exposure should be no more than $1.4 billion since the federal government could avoid liability for interest that otherwise would be earned after the date of default. At most points during the life of the program, however, the exposure of the federal government would be less since some guaranteed principal would be retired each year. The bill includes a variety of remedies for the Secretary to recover from the City any amounts paid on its behalf in fulfillment of a guarantee commitment.

6. Basis of estimate: Net costs represent administrative expenses less loan guarantee fee collections.

Administrative costs are estimated based on experience under the expiring New York City seasonal financing program. They are inflated using a specialized price index developed by the Congressional Budget Office for Federal purchases of nondefense research and development services.

Estimates of loan guarantee fee collections require assumptions regarding the size of the guarantee fee and the amounts of guaranteed principal outstanding in each fiscal year. The guarantee fee is assumed to be one-half of 1 percent, the minimal amount allowable under the bill. The amount of principal to receive guarantees each year subject to a maximum is at the discretion of the Secretary of the Treasury after a review of New York’s financial situation and negotiation with interested parties. The amounts assumed for purposes of this estimate are the maximum made available in each year in the bill.
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[In millions of dollars; fiscal years]

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<tr>
<td>Debt obligations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guaranteed principal on new issues</td>
<td>500.0</td>
<td>500.0</td>
<td>753.0</td>
<td>258.0</td>
<td></td>
</tr>
<tr>
<td>Guaranteed principal retired</td>
<td>38.5</td>
<td>76.4</td>
<td>108.2</td>
<td></td>
<td></td>
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<tr>
<td>Total guaranteed principal outstanding</td>
<td>538.5</td>
<td>1,076.4</td>
<td>1,219.5</td>
<td>1,384.6</td>
<td>1,726.4</td>
</tr>
<tr>
<td>Loan guarantee fees: On long-term debt</td>
<td>2.5</td>
<td>5.0</td>
<td>6.1</td>
<td>6.3</td>
<td>6.4</td>
</tr>
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Borrowing is assumed to be in the form of serial bond offerings that allow for the retirement of principal in equal amounts over a period two years less than the bond's maturity. The maximum maturity for the first billion in guaranteed principal is 15 years, and for additional amounts, 10 years. The maximum maturities are assumed in the estimate. Fee collections are assumed to occur during the same federal fiscal year as the New York City fiscal year in which the guarantees are made.

7. Estimate comparison: None.

8. Previous CBO estimate: The previous CBO estimate of H.R. 12426 was done on May 8, 1978, for the House version of this bill. The net costs under the House version were lower due to higher fee payments. This resulted from (1) a higher guarantee authority ($2 billion versus $1.5 billion), and (2) no yearly restrictions on the use of that authority.


10. Estimate approved by:

   JAMES L. BLUM,
   Assistant Director for Budget Analysis.

EVALUATION OF REGULATORY IMPACT

In accordance with paragraph 5(a) of rule xxix of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of the bill. The committee concludes that the bill will have no regulatory impact.

* * * * * * * * * * * *

ADDITIONAL VIEWS OF MR. PROXMIRE

The bill reported by the committee is a distinct improvement over both the administration bill and the substantially more generous House bill. The committee's bill imposes strict conditions for extending financial aid to New York City and relies heavily upon private sources to meet the city's financing needs. Nonetheless, I remain opposed to providing additional Federal financial assistance to New York City because I think it has been fully demonstrated that the resources are available in the city and in New York State, from the various financial institutions and the pension funds, to meet New York City's financing needs without any more Federal aid. Furthermore, I believe that the financing needed would be forthcoming from the local parties.
at this point if the Federal Government did not step in and that New York City's financial problems would be far better and more appropriately handled at the local level than at the Federal level.

In 1975, there was some justification for the view that only Federal assistance could save New York City from bankruptcy and that such a bankruptcy would have a severe adverse impact on New York State, on the municipal bond market, on the banking system, and on the national economy, all of which appeared to be in rather shaky condition at the time. Today, in 1978, I find little evidence to support such a view. The municipal bond market and the banking system are in fine shape; the national economy is in the third year of a solid recovery; and New York State has just passed a $750 million tax cut. Under these circumstances, I think the defects of further Federal financial aid to New York City far outweigh the benefits.

I am disturbed at the precedent we are setting by approving long-term Federal guarantees to a municipality to meet its basic financing needs. Despite the efforts the committee has made to limit that scope of the guarantees and confine them to the rather singular conditions prevailing in New York City, there is no way to get around the fact that the Federal Government will now, by virtue of the enactment of this legislation, be putting itself in the business of guaranteeing municipal obligations. We are likely to see a downturn in the economy sometime in the next couple of years, and this is bound to place strains on city budgets, as was the case in the 1974-75 recession which pushed New York City to the brink. The passage of Proposition 13 in California and the growing popularity of "tax revolts" in other States may cause additional budget problems for many cities. The response should be to cut spending and exercise more fiscal restraint. But given the precedent we are setting here, I fear that the response will more likely be instead to come to Washington for a guarantee. This has serious implications for the nature and future of our Federal system.

I certainly do not intend to encourage other cities to seek Federal guarantees, nor am I likely to support their efforts if they do. However, I am less than sanguine about the prospects for avoiding a general municipal run on the Federal credit bank.

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Despite my basic opposition to Federal guarantees for New York City, I think the committee has done a good job and come up with a responsible bill—far better than the Administration bill, and far better than the House bill. Cutting the guarantee authority down to $1.5 billion, at least $500 million of which will be on a standby basis and may not be used, is a major improvement, even though I would have liked to have that authority cut further down to $1 billion. Combined with the requirement that specific long-term and seasonal financing commitments from private sources be in place before any guarantees can be provided, this should place the maximum responsibility exactly where it ought to be placed—at the local level—with the State, the local financial institutions, and the pension funds.

I also think that the one-house veto of the guarantees authorized for fiscal years 1980 and 1981 is absolutely essential, since it provides the only remaining basis for direct congressional monitoring of the City's progress under the guarantee program, however limited this power may prove to be. And as no less partisan a publication than the
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New York Times stated in a Sunday, June 18, editorial: "the more Federal monitoring from here on, the better."

In my view, H.R. 12426 as amended by the committee is sound legislation, given the committee's disposition to provide long-term guarantees to New York City. I intend to fight hard to keep the Committee bill intact when I manage it on the Senate floor and when we go to conference with the House.

It is a tight bill, it is a tough bill, it is a bill designed to do the job of getting New York City back in the credit markets and off the back of the Federal Government.

BILL PROXMIRE.

ADDITIONAL VIEWS OF SENATORS TOWER AND GARN

We are strongly opposed to a Federal guarantee of New York City's obligations. We believe that the bill approved by the committee represents a giant step backward in the approach taken to New York City's financial problems. Unlike the Seasonal Financing Act passed by the Congress in 1975, this bill contemplates a long-term Federal involvement in New York City affairs which is inconsistent with the proper relationship of the Federal Government and local governments. It represents an unwarranted and undesirable exposure of taxpayers' dollars, which is totally inconsistent with the best interest of taxpayers throughout the country, and it creates a situation from which the Federal Government may never be able to extricate itself.

We oppose the committee's bill both for philosophical and practical reasons, including the following: (1) it ignores the unanimous findings reached by this committee as recently as last February that there is no need for additional financial assistance to New York City; (2) it exposes substantial Federal resources to risk when it is clear that there are sufficient resources available in New York to meet New York City's financing needs; (3) it establishes a dangerous and unwarranted precedent in a magnitude which, in terms of expenditure of Federal resources and erosion of principles of local financial integrity, is not even measurable; (4) it discriminates against other cities throughout the country, including those which have conducted their affairs on a fiscally sound basis and others which have experienced difficulties; (5) it would appear to apply a double standard on aid to financially troubled cities, one for New York City and one for the rest of the Nation; (6) notwithstanding its unwarranted misuse of Federal financing power, it fails to address adequately New York City's most fundamental problem, its inability to limit its expenses to its revenues; (7) it is founded upon a New York City budget and four-year financial plan that are unrealistic and uncertain; and (8) it will lead inevitably to a greater role in local decisionmaking by the Federal Government.

As recently as last February, the committee unanimously stated that it "believes that New York City should be able to meet its financing needs and avoid bankruptcy after June 30, 1978, without further Federal financial aid." That statement was thoroughly consistent with the committee's earlier reports, based on oversight hearings conducted to monitor the 1975 Seasonal Financing Act, beginning with the report issued in May 1976. That finding, as well as other extensive findings
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and recommendations made by the committee in February, was amply supported by the record of hearings and sound public policy considerations. The sudden departure by a majority of the committee from the conclusions reached in the February report, which departure is nowhere explained in the report, is greatly disturbing in that no change in circumstances has occurred which should alter the conclusions reached at that time.

The February 1978 committee report contains an extensive discussion of the past, present and future of the New York City loans, and events which have occurred since its issuance have confirmed, not negated, its conclusions. The central finding, that New York City could avoid bankruptcy without further Federal assistance, has been forcefully demonstrated in recent weeks.

The amount of the potential guarantees which would be authorized by the committee's bill—$1.5 billion—is a staggering sum to be committed over a period of more than 15 years for the benefit of the New York City government. Federal involvement in the local affairs of New York City, which will inevitably increase during the life of the guarantees, will create a situation in which Federal and local financial interests become intertwined beyond repair. As a result, many of the remedies and conditions placed on the guarantees by the committee will be rendered meaningless, since allowing a New York City default would then cause a substantial loss of Federal funds. The Federal treasury is therefore likely to become hostage to a panoply of New York City budgetary and other disputes and to interest groups of every kind. Thus it is unlikely that the remedies added by the committee to reduce the Federal risk will be useful if New York City fails to comply with the bill's conditions. The fact that New York City is seeking long-term Federal guarantees of its obligations even after 3 years of seasonal financing by the Federal Government should be taken as an ominous sign that New York City will continue to rely on Federal assistance indefinitely.

The precedent set by the legislation is the granting of the Federal guarantee. Other financially troubled cities in assessing remedies and the potential for assistance from the Federal Government, will be interested not in what details or conditions may accompany Federal aid but primarily in the fact that it is available.

The majority report, while admitting that there is no sure way to prevent this bill from setting a precedent for other cities, asserts that the "onerous" conditions attached to the guarantees will make the precedent "less appealing to other cities." We disagree vehemently.

An unfortunate precedent for Federal assistance to cities was set in 1975, when the Federal Government bailed out a virtually bankrupt New York City. At that time, however, the nature of the relief was said to be limited, temporary, seasonal and final. New York City has since that time made progress in reducing its operating deficits, cutting expenses and improving its financial condition.

Why then is it proposed to enact a program of long-term, pervasive Federal involvement seeking to "provide a basis for New York City to work out all of its remaining financial problems"?

Other cities in financial distress will have no choice, if Federal guarantees become available, than to submit to conditions demanded in return for Federal aid.

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Even though most of the witnesses represented New York-based interests, the committee's hearings are replete with evidence that there are sufficient resources available in New York City and New York State to meet the city's financing needs. As long as the prospect of Federal guarantees is being considered, there is no incentive for local sources to act. This was amply demonstrated by Mayor Koch's statement shortly before the hearings that he offered the union leadership a better contract than he otherwise would have in order to present the committee with a completed financial package. However, resort to local resources is the only way that the financial condition of New York City is likely to be improved, particularly over the long term.

The New York City Seasonal Financing Act was passed in 1975 based on a number of assurances made by city and State officials as well as other parties. The most important of those assurances was that the act would enable New York City to avoid default and to provide sufficient time for New York City to put its affairs in order. All that was needed, the Congress was told, was a one-time commitment to supplement State and local efforts to restore a semblance of fiscal integrity to New York City's government.

Congress adopted the Seasonal Financing Act at a time when a New York City default and bankruptcy appeared imminent. The possible consequences of those events, including devastating impacts on the municipal securities markets and the liquidity of many major banks, were difficult to evaluate under the emergency conditions that prevailed at that time. In addition, New York City's financial condition was in such a state of chaos that it was impossible to judge even the extent of the city's needs. Under those circumstances, Federal involvement was viewed as an alternative to bankruptcy, which could have had devastating local and national consequences.

In 1978, however, conditions are far different, both in New York City and elsewhere. While New York City still does not have access to the public credit markets, there have been significant improvements in its accounting and recordkeeping systems so that its financing needs, as well as the impact of particular revenues and expenses, can be viewed with far greater reliability. In addition, the effects of New York City financial collapse no longer appear to be as severe as they might have been in 1975.

Although the Congress is being asked to believe that New York City's financial distress is so severe that the failure of the Federal Government to take action will lead to intolerable results, it is readily apparent that those who would be most affected by a New York City default do not take the prospect of default seriously. The most persuasive example, though not the only one, is the recent wage settlement between the city and the municipal labor unions. That settlement, although apparently not as excessive as many past contracts which played a significant role in bringing New York City to the brink of bankruptcy, was not the product of the kind of sacrifice which we would have expected in a time of financial distress. Instead, the city's labor unions, confident that their demands would be met, insisted upon and ultimately obtained a contract settlement that New York City cannot afford.
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Mayor Koch announced shortly after taking office that any labor settlements reached by the city this year would have to be "no cost" contracts, with any pay increases to be made up out of productivity increases or other savings. The committee's February report adopted the same approach, noting that New York City "cannot afford to agree to labor contracts which would further increase the deficit, and thus any pay raise would have to be offset by additional budget cuts and/or savings from higher productivity." Secretary Blumenthal agreed, noting that "any increases will have to be funded from productivity or related savings."

Mayor Koch's bark proved far worse than his bite in dealing with the unions. The city "found" approximately $610 million in its budget, all of which was immediately offered to the unions.

The committee was told repeatedly during the hearings that New York City's physical plant is deteriorating and in a dangerous state, yet no part of the $610 million "found" this spring in the budget was devoted to the repair and restoration of that plant. That fact tells us a great deal about the purported willingness of New York City officials to address the city's long-term needs in a responsible manner.

Even the $610 million wage package offered to the municipal unions was rejected. Ultimately the city agreed to a 2 year contract which will cost at least $757 million over 2 years and more than $1.1 billion long-term. While the salary increases embodied in the contracts appear to be milder than contracts approved in earlier years, the negotiations nevertheless demonstrate that city officials still have far too flexible a notion of the concept of budgetary restraint. If New York City could truthfully afford that settlement, then it hardly has made a case for Federal assistance, and such assistance in the form of long-term guarantees can only be viewed as a means of underwriting and accommodating an unconsolable increase in the wage demands of city employees which the city cannot possibly afford.

It is also significant that, although the committee's February report specifically recognized that the city's 4-year financial plan could only work if a 4-year labor settlement was agreed to, the city did not even make an effort to negotiate a 4-year contract.

Even the settlements reached, assuming that they are ratified by union members, cannot be used as a reliable measure of the total cost of New York City's labor force. Unions representing the police and fire department employees are negotiating separately and have announced an intention to seek substantially higher benefits than other city workers. This means that the city cannot now predict the size of its 1979 budget deficit.

We also believe that the committee has chosen to ignore one of the most disastrous consequences of the bill, namely its establishment of a pattern likely to be repeated by other cities with as good a claim to Federal assistance as that of New York City. The job required of local officials is a highly demanding one, and increasing demands continue to accentuate the difficulties faced by those officials. The most persuasive basis for limiting the amount of local expenditures has always been the fact of limited local resources. To the extent that that limit is removed or, more importantly, there is any appearance of a weakening of those restraints, it will become even more difficult for city officials to govern with a proper emphasis upon fiscal integrity.
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lesson to be learned from the debacle which first brought New York City to the Federal Government for a bailout should be precisely the opposite one from that upon which the committee is acting. We must encourage—rather than penalize—responsible government at the local level. The majority's assertion that the conditions attached to the guarantees should allay concerns about the precedent set by the bill overlooks the central fact that it is the nature of the relief, long-term guarantees, and not the conditions, which set a dangerous precedent. If this bill is passed by the Congress, New York City will be followed by other cities which have the same problems as does New York.

The use of long-term Federal guarantees is particularly unwarranted in this case when one considers the background of the Seasonal Financing Act. The mismanagement and manipulation of New York City's financial recordkeeping systems led to disarray not only in the market for New York securities but also in the municipal markets generally. As a result, many cities and states with exemplary fiscal records were denied access to the securities markets or were required to issue securities at higher interest costs than those prevailing before New York City's ineptitude came to light.

The committee's bill will in effect reward the mismanagement that devastated the municipal markets by enabling New York to issue up to $1.5 billion in securities at an artificially low interest rate (because of the existence of the guarantees). Local taxpayers from all over the country would thus be doubly penalized for mistakes over which they had no control.

We note in the same vein that many cities other than New York have experienced severe financial difficulties. Those cities have been expected to deal with such problems on a local basis and, as a result, many of their officials have been forced to make hard but necessary choices about the priority of local spending. In many cases those cities, in order to obtain the funds needed to operate, have been forced to pay a premium in the credit markets due to the increased risks associated with their financial problems. The bill reported by the committee, for reasons which are not revealed by the record, is based on the unsupportable assumption that New York City should be afforded special treatment which has not been made available to those other cities. In this light, the Federal guarantee of New York City's obligations can only be viewed as a reward for fiscal mismanagement on the part of city officials, and as a penalty for cities all over the Nation which have followed sound and prudent fiscal policies.

The administration's position on this bill is remarkable evidence of the double standard which it is willing to apply. The State of New York recently enacted a $750 million tax cut, rather than channeling some or all of that money to meet New York City's needs, and the Administration proposes to use long-term guarantees in the place of funds which could have been provided by the State. Yet when confronted with the prospect of federal assistance to state and local governments in California in the wake of that State's recent tax cut, President Carter emphatically stated that no such federal assistance would be forthcoming under any circumstances. This bill cannot be considered in a vacuum, but rather it must be viewed in the context of the manner in which the Federal Government will address the long-term problems of financially distressed cities.
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Proponents of the bill emphasized that long-term assistance is the only kind that will accomplish a principal goal of the legislation, namely, to establish a firm foundation for New York City which will assure that the city will not return again for continuing help. While we certainly share the hope that New York City will never be back asking for aid, we are convinced that this bill is the wrong way to accomplish that objective and that, in fact, it will probably inspire that the Congress will be faced with later calls for more Federal help.

New York City is seeking continuation of Federal financial assistance because it has been unable to attract investment in the public credit markets. That inability is attributable to the recognition by public investors that city officials are not yet committed, particularly over the long-term, to operate within balanced budgets, year after year. The existence of Federal guarantees of a limited amount of the city's securities is not likely to enhance investor confidence, or lead to the degree of fiscal responsibility which will open up the credit markets long term; any suggestion to the contrary is based on an optimism not supported by the record.

If the Congress approves the bill endorsed by the committee, it will in effect be endorsing the city's 4-year financial plan and the 1979 budget on which the entire financial plan and the guarantees are based. But the uncertainties in both are so enormous that they cannot be relied upon at all.

For example, the plan contains no allowance for increases in labor costs which will undoubtedly arise in 2 years when the most recently negotiated contracts expire. The performance of city officials in giving in on their "no cost" condition in the just-concluded negotiations should convince even the city's most vocal proponents that this aspect makes the plan inherently unreliable.

The budget is equally deficient in that a number of projected revenue sources are uncertain at best. At least $640 million in the 1979 budget is dependent upon a number of factors outside the control of city and State officials, including enactment of countercyclical aid legislation, substantial alteration of the present CETA program and receipt of proceeds from the sale of the Westway right of way (which was also included in the 1978 budget).

In the later years of the financial plan, the city's projections are even more unrealistic. Its proposals depend on, among other things, the enactment of federal welfare reform legislation, Medicare funding of skilled nursing facilities, and property tax relief from the state. It would be irresponsible for the Congress to enact the long-term guarantees provided for in the bill on the basis of the tenuous assumptions which are an integral component of the city's plan.

The most glaring example of the committee's overly optimistic approach to New York City is contained in the Committee Report: "Finally, the committee wishes to make the point as forcefully as possible that this is the last time." We were here in 1975, when New York City represented to the Congress that that was the last time, and when the committee said: "The bill also assures that Federal involvement will be phased out at the earliest possible date, and in any event no later than 4 years." If the Senate is unwilling to take a strong stand now, there is no reason to believe that it will be willing to do so the next time New York City asks for help. And there will be a next time.