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6. What kinds of intervention are available to the Federal Government, within the context of the central government’s responsibility (if any) and which is the most appropriate? What should be the conditions for Federal involvement, if any?

Those heard in the course of these hearings included the Mayor and other public officials of the City of New York; representatives of public interest groups within the City of New York; the Governor of the State of New York, the Chairman of the State’s Municipal Assistance Corporation, the Comptroller, and the Director of the Budget of the State. The Subcommittee also received testimony from representatives of banks within and without the State of New York and from the New York State Superintendent of Banks and from representatives of the three federal bank regulatory agencies. Also appearing as witnesses were representatives of various elements of the securities industry and the heads of the two principal municipal bond rating services. Testimony was also received from the Mayors of other large cities, and from representatives of the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties. Among other witnesses who appeared were several who are expert in international economic and political relations, in the law of bankruptcy, in constitutional law, and in the legal aspects of municipal finance.

Testimony was received from representatives of the American Federation of Teachers and the American Federation of State, County and Municipal Employees.

Finally, the Subcommittee had as witnesses the Chairman of the Board of Governors of the Federal Reserve System and the Secretary of the Treasury.

NEED FOR THE LEGISLATION

1. Effects of Default on New York City

Your Committee believes that in the absence of Federal guarantee assistance as provided in this legislation, your Committee believes that New York City will be forced to a default on the great majority of its $2.5 billion in short-term obligations maturing between December 1, 1975 and June 30, 1976, and that the effects of such a default would be lasting and destructive. In the immediate aftermath of a default, the city would face a shortfall of about $1.2 billion in the cash which it requires for operating expenses and capital projects from December through March. Without Federal assistance, the city will probably find it impossible to market the tax anticipation notes which ordinarily meet that shortfall. Were that $1.2 billion not to be forthcoming from any source, cuts amounting to about one-third of total city expenses exclusive of debt service would be required; these cuts would represent most of that part of the expense budget within the control of the Mayor. Mayor Beame has testified that such an event would leave the city virtually without police, firemen, sanitation, or schools. Vendors who supply the city’s hospitals, schools, administration and essential services would not be paid; general shortages and a wave of personal bankruptcies might ensue. Your Committee believes that this could not be allowed, and therefore concludes that Federal guarantee assistance would be forthcoming through renewed legislative action in any event.

In addition, a default would have an adverse impact on the revenues of the city. An advance of $800 million, which the State of New York...
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made to the city in the last fiscal year, would not be available again if the city defaults. Since real estate taxes are tied to payment of debt service, the city may find a high percentage of its real estate tax revenues uncollectible in the event of default, producing an additional annual shortfall of perhaps $500 or $600 million. These additional prospective shortfalls would have to be met with federal assistance and they would compound the problems involved in the sale of tax anticipation notes. For this reason, your Committee believes that unguaranteed certificates of indebtedness, no matter what priority they might be given by a federal bankruptcy court, could not provide an adequate flow of revenues to the city.

Over the long run, if one assumes that essential services are maintained after default and that the immediate consequences of failing to do so are averted, then in the absence of legislation providing for an orderly transition to a balanced budget, New York would be forced into bankruptcy. In all events, the flow of services to the citizens and corporations of the city would be significantly reduced and the tax burden would increase. The consequence would be renewed financial difficulties, perhaps a second bankruptcy, and a repetition of the cycle. Your Committee feels that such a course poses unacceptable costs on the city of New York and on the citizens of the United States as a whole. It would be far better, and far less costly, to provide New York the means to work out of its current difficulty with federal assistance. That is what the proposed legislation seeks to achieve.

3. Effects on the Municipal Bond Market

In its Background Paper No. 1 of October 10, 1975, entitled New York City's Fiscal Problem: Its Origins, Potential Repercussions, and Some Alternative Policy Responses, the Congressional Budget Office has described some of the adverse effects on the municipal bond market which might flow from a default as follows:

The impact of a New York City default on the municipal bond market is much more hazardous to predict
[page 4]

little, if any, impact on the situation facing most municipal borrowers. Yields on municipal issues have maintained their historic relationships to those on corporate issues of comparable maturity and quality. While municipal rates have edged up recently, so too have the rates for corporate and federal securities. Of course, it is possible that when more recent data are processed, they will show that a dramatic shift has taken place.

There are some significant exceptions to these generalizations. Investors have clearly started to shy away from low quality municipal offerings. However, the extent to which this is the by-product of New York's difficulties rather than the competition from an unusually large quantity of high quality municipal and treasury offerings cannot be determined with precision. Some larger, older cities, especially those in the eastern and northeaster areas, have been forced to pay unusually high rates of interest, probably because of their superficial fiscal resemblance to New York. For exam-
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...
ment. The testimony on behalf of the Board of Governors of the Federal Reserve System was that ‘The public need not fear for the stability of our banking system if a default does in fact take place.’ The Comptroller of the Currency testified that the effects would be “controllable,” and the Chairman of the F.D.I.C. reported that, under certain assumptions, fewer than 30 of 8,889 nonmember insured banks surveyed would become causes for supervisory concern in the event of default. On the other hand, the Superintendent of Banks of New York State testified that a New York City default would have “severely adverse” consequences for the banking system. The Chairman of the Board of the Morgan Guaranty Trust Company of New York testified that, in his opinion, “the potential consequences of any default are essentially unknowable before the event”.

The single greatest danger to the banking system in the event of a New York City default is the possibility that large holders of certificates of deposit at New York banks would withdraw their holdings and seek other sanctuary for them, perhaps abroad. Were this to occur, a substantial contraction of liquidity throughout the economy might ensue, with very severe consequences for the national banking system. The probability of such an occurrence seems slight, but in view of the substantial holdings by foreigners of large certificates of deposit in money market banks, and the unpredictability of their reaction to an event which is difficult for them to believe can happen, no statement about its consequences can be made with confidence.

A second significant danger to the banking system might arise if New York State and its agencies were forced to default in the wake of New York City. While testimony from regulators was in agreement that the number of banks placed in jeopardy by virtue of their excessive holdings of New York City paper is relatively small, most testified that the further default of the State would make matters considerably worse. Whether such a further default might trigger psychological reactions leading to collapse can only be guessed.

If one assumes that neither of the aforementioned disasters were to occur, then the effects of a New York City default on banks and other financial institutions which hold maturing New York paper may be summarized as follows:

First, all such banks would have to deduct from estimated revenues for the current fiscal year the interest payments on New York City obligations which would not be forthcoming.

Second, all such banks would be forced, eventually if not at once, to write off the loss value of their holdings of New York City paper against their capital. To the extent that such a write-off would produce liquidity problems for some banks, the Federal Reserve Banks stand ready to provide the necessary additional cash at the discount window. Federal regulators have assured your Committee that such write-offs would not be required until enough time had elapsed to determine the real value of such assets. If an exchange of defaulted debt for longer-term obligations can be effected within a short time, the capital write-down may be avoided altogether.

Third, certain banks may be subject to legal action on the part of their shareholders, as well as beneficiaries of trusts and other discretionary accounts, who may claim that the bank had either not been sufficiently prudent in diversifying its portfolio so as to minimize risk.
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or that the bank had not reviewed with sufficient caution the accounts
of New York City over the long period.

The magnitude of such effects is difficult to gauge, in part because
such surveys as were done by the regulatory agencies tended to exclude
trust department holdings of New York City debt, and to focus ex-
clusively on that part of the debt held by banks for their own port-
folios. Testimony received by the Committee indicates that 200-300
banks throughout the country would be seriously affected by a New
York City default.

3. Effects Throughout the Economy

The default and bankruptcy of New York City will injure the
economy of the United States. On this there is no doubt, and no dis-
agreement. Your Committee does not know, however, how serious
the effect will be. Within New York City and in the surrounding
region, the effect will be severe: increased joblessness, curtailed ser-
liness, and the possibility of personal and corporate bankruptcies. The
psychological effect of a New York default on the rest of the Nation
may produce similar defaults and similar consequences. On the other
hand, the default and bankruptcy of New York City could trigger a
national and international financial collapse. Your Committee believes,
however, that to ignore the problem of New York City's insolvency
would be to count an exceedingly large risk. It would also invite
large, unanticipated Federal costs: in direct assistance, in welfare
and unemployment compensation, in lost taxes, etcetera. Both the risk
and the costs can be averted by the adoption of a plan which makes
the City solvent again, but which provides the bridge whereby it can
do so without a destructive economic convulsion. The proposed legis-
lation provides for such a plan.

5. The Effects on America's International Position

What is the probable effect of a default by New York City on the
financial markets of the world, and, secondly, on the longer-range
political interests of the United States?

The answers to these questions are conditioned by the fact that
people who live in states with centralized governments—which means
most of the world—cannot understand the intricate relationships of
power and responsibility between municipalities and states and the
federal government in a true federal system such as ours own. In Eng-
lund or France, it would be unthinkable for a major city to go bank-
rup. In France, with a highly centralized system, the state exercises
substantial control over the finances of local government units, and in
Germany, ever since the depression years of the 1930s, the states have
rigorously overspent the finances of municipalities. In Britain, the
national government assumes such responsibility for the nation as a
whole that there is no real possibility of default; the budgets of local
authorities are approved each year by the British Treasury and no
local authority can sell securities in the capital market without its
approval.

Thus, when the Federal Government announces its refusal to assist
New York, Europeans are perplexed and deeply disturbed, and
some are even expressing suspicions that it is perhaps not only
New York City that is in trouble but the Federal Government itself.
The repercussions of a default would, of course, be considerably in-
tensified if New York City's problems were to bring the State itself
into difficulties.
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Clearly, no one can measure the total impact, either on the parity of the dollar or on foreign securities markets if the Federal Government were to sit by while New York was forced to default. The answer would depend in a considerable extent on the impact which that event might have on United States financial markets, since we live in a world where interdependence is an economic and financial fact. The financial health of New York and other large American cities is an element of real significance to the stability of the world’s financial and monetary system.

Consider, for example, these excerpts from recent telexes provided by a witness who spoke in opposition to Federal assistance—communications from foreign correspondents all of whom he characterized as experts on international economic and financial affairs:

**Frankfurt, Germany**

Default would basically indicate that, generally speaking, important things are out of control in the United States. Until recently, it was unbelievable for the Europeans that anything like a default of a public authority would be feasible. In fact, it would have been impossible in Europe. From this point of view it would be concluded that the situation must be really disastrous. Default will undermine the confidence in American institutions and thereby the confidence in American stability and recovery, and that could exercise further negative influence on our own recovery.

**Switzerland**

The prospect of a default of New York City last week had very little impact on our financial markets. I would say none at all. But the main reason for this is that nobody here believed that it could happen. I hate to imagine the consequences if it had happened.

**Paris, France**

It is very difficult for the French to admit that New York can default when Paris, Marseille and Lille cannot. In a country where financial solidarity goes hand-in-hand with national solidarity, the French cannot perceive of inhabitants of other states and cities being hostile to an intervention in behalf of New York City. Bankers now fear a weakening of the dollar and are beginning to worry about the large American banks if New York City cannot honor its obligations.

**London, England**

Generally, bond market has been concerned about possibility of higher interest rates in the event of New York default.

**Tokyo, Japan**

Most Japanese expect the federal government will step in to save the city. This would be a logical Japanese solution to the problem.

The world financial system, and therefore our own national financial system, have been weakened by recent bank failures and by the world recession. The balance between optimism and pessimism, now heavily weighted on the side of pessimism, could possibly become even worse if the system were subjected to new and significant strain.
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The world's financial markets are an indivisible network, even more integrated than the economies of the industrialized nations. The market for state and municipal bonds is an integral part of our own financial system, and Therefore of the world financial system. A loss of investor confidence in municipal bonds, driving up interest rates in that sector of the American market, would have effects on the entire structure of interest rates and stock prices here and throughout the world. There is no way in which these events can be isolated since money flows freely to and from every part of the financial system, nationally and internationally.

Certainly no one can read the European financial press without realizing that New York's problems have created apprehension. European political and financial circles would attribute what they regard as the willful and arbitrary refusal of the Federal Government to intervene in irresponsible domestic politics. They are worried that the impact of default would depress the American economy at a time when they are counting on an American upswing to give a boost to their own faltering economies. They fear, in fact, that an American setback might precipitate a slide toward world depression.

Leaders in foreign countries do not, as do many Americans, confuse the bankruptcy of a corporation in the private sector (such, for example, as Lockheed) with the default by a major arm of Government. The default of a private company is, as they see it, a phenomenon quite normal in the operation of a capitalist system; but for the Federal Government to sit by immobilized while one of the great cities of the world defaults on its obligations would, however unfairly, raise questions as to the good faith of our political authorities and create doubts as to the responsibility of our national Government, and, hence, the validity of its promises.

Witnesses before your Committee testified that default may also have an important impact on relations between the West and the Soviet Union as well as on Communist party activities around the world, particularly if that default should result from the failure of the Federal Government to come to New York's rescue and that critics of capitalism throughout the world would interpret the default of New York City as a symptom of the sickness of American capitalism; their arguments would surely also carry weight with the peoples of counties whose economies may be injured if a New York default triggers an international economic contraction. Your Committee is concerned that the bankruptcy of an important arm of the American democratic system would disadvantage those who seek to argue the cause of democracy around the world, and especially in countries whose political futures are troubled and uncertain.

It is therefore a matter of high importance in the judgment of your Committee, both in our own economic interests, and in the interests of our national state in the solidarity of our international relations that we act promptly to avert the bankruptcy of the city of New York, and of other cities in trouble.

Purpose of the Bill

In order to provide the Federal Government with the necessary legal authority to deal promptly and effectively with an unprece-
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dented financial crisis, the bill creates an emergency board consisting of three Cabinet officers and two independent agency chairman, which is authorized to guarantee, under stringent conditions of eligibility, State agency obligations where that action is necessary to prevent or mitigate the effects of a municipal default.

The total amount of long-term obligations which could be under guarantee at any one time could not exceed $5 billion; this would drop to $3 billion in 1980, and all guaranteed obligations would have to have a final maturity in fiscal 1999 or earlier. In addition to the foregoing, outstanding guaranteed short-term (11-month or under) obligations could not exceed $2 billion at any one time.

While it is believed that both costs and risks would be minimized by timely action to forestall the occurrence of default, the bill is deliberately designed to enable the Administration to take action to limit the destructive processes which default would set in motion, and to assist an orderly transition to a sound municipal fiscal structure in our Nation's largest city at the earliest practicable time.

THE CONSTITUTIONALITY OF FEDERAL ASSISTANCE TO NEW YORK CITY AND ITS IMPACT ON THE FEDERAL SYSTEM

In his statement before the Senate Committee on Banking, Housing and Urban Affairs on October 9, 1975, the Honorable William E. Simon, Secretary of the Treasury, indicated that assistance by the fed-

eral government to municipalities, and particularly to New York City, would present "grave practical and philosophical difficulties" in that it would contravene "constitutionally-imposed principles of federalism; principles which lie at the heart of the structure of government in this nation." It is your Committee's view that the constitutional opinion of the Secretary is erroneous.

On the basis of expert testimony and written submissions for the record, it is the Committee's view that assistance by the Federal Government to New York City, whether by direct subsidy, purchase of securities, or guarantee of securities, would not violate any constitutional principle, and would, in fact, strengthen rather than weaken the structure of the federal system.

Congress has plenary power under the Constitution to decide to help prevent the bankruptcy of New York and other institutions established under the authority of the States in the exercise of its own responsibilities for the common defense and general welfare of the United States.

The problem in this case is the converse of that presented in McCulloch v. Maryland. The reasoning of Chief Justice Marshall's opinion in that case established a firm constitutional foundation for national action to assist New York and other cities (or States) in financial difficulties, if the Congress should determine such action to be in the national interest.

Constitutionally, there is no wall of separation between the states and the Nation. A State cannot challenge a decision of the action in an area entrusted by the Constitution to the national authority. That was the issue at bar in McCulloch v. Maryland. But the constitutional problem is altogether different when the nation decides to help a state, or a city, without denying its legislative competence...
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The basic reason for the difference is brought out in *McCulloch v. Maryland* itself. A State legislature cannot speak for more than the people of a State. Others are not represented. But Congress embodies the whole of the Nation. There is no reason why the whole nation should not be free to help one of its parts, if it wishes to do so.

Congressional action to assist a city could rest on a number of specific constitutional grants of authority to Congress, and on all those grants viewed as an aggregate—the judicial approach used in *McCulloch v. Maryland*. Congress is of course constitutionally free to appropriate funds for the benefit of New York, so long as the broad political test of Article I Section 8 is met. Congress appropriates billions of dollars every year to support programs of housing, city planning, welfare, education, assistance to police forces, and so on affecting both cities and States. The United States owns large amounts of property in New York and other cities. It could, if it wishes, decide to make grants to those cities in lieu of local property taxes, as it does in communities where there are national parks and forests. Congress could aid the financial health of New York a factor of importance to the stability of the national and the international monetary and financial system—as indeed is the case—and act accordingly in the exercise of its comprehensive powers in the fields of interstate and foreign commerce, money, finance, and foreign affairs.

Assistance by the federal government to the City of New York by guarantees of taxable securities would involve the exercise by the Congress of its power to "lay and collect taxes... and provide for the... general welfare of the United States..." This power, under Article I, Section 8 of the Constitution, is generally referred to as the taxing and spending power and, particularly with respect to the power to spend for the general welfare, has been regarded as one of the least restricted and most broadly inclusive powers of the Congress. Indeed, one may go so far as to say that there is no significant constitutional issue with respect to the Federal power to spend for the general welfare. The power is not constrained by any obligation to spend equally throughout the United States and, in fact, the power has never been exercised with any such constraints in mind. Thus, projects which primarily benefit one region or one part of the country are authorized to the same extent as spending programs whose benefit is spread evenly throughout the nation.

As we approach the Bicentennial Year, it is well to remember that one of the earliest exercises of the federal spending power was the assistance by the federal government of the original States comprising the Federal Union. The first Congress of the United States voted to have the federal government assume the debts incurred by the original states. Indeed, this particular exercise of the Federal spending power followed a historic debate in which the Hamiltonian view of the broad grant of the spending power prevailed over other views which would have limited the exercise of the spending power to objectives within the powers expressly delegated to Congress in Section 8.

In recent times the spending power has been exercised very frequently and very broadly for the benefit of state and local governments. Aside from recent exercises of spending power involved in the revenue sharing program, which constitutes a direct and relatively
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unlimited subsidy to the states, the spending power has most frequently been exercised through the familiar grant-in-aid mechanism of these programs—whether in the housing, public health, education, agriculture or environmental field—has been to provide for a grant or subsidy to state or local governments for particular purposes determined by Congress to be for the general welfare of the United States, imposing such conditions on the grant as the Congress finds useful or necessary. Thus, in a variety of categorical programs, state and local governments have been required to meet a variety of substantive standards—which frequently involve the promulgation of new state or local law or regulations—to meet the Federal conditions. It is clear that the grant-in-aid system which has provided the necessary means for State and local governments to engage in a variety of programs, such as in housing, public health or environment, has generally had the effect of strengthening rather than weakening the federal system because it has enabled the states and localities to undertake tasks and meet obligations which they would not otherwise have been able to do. Thus, a program of assistance to major cities in the United States; or to New York City specifically, would not involve an exercise of Federal power which is either unusual or a substantial departure from past practice.

Whether or not State and local powers are adversely affected so as to imbalance the federal system depends essentially on the nature of the conditions imposed on the assistance. This, however, ceases to be a matter of constitutional limitation and becomes primarily a matter of sound and rational policy. The Congress is, of course, free to impose on states and municipalities any condition it desires (except conditions which violate the Bill of Rights) in return for the assistance. The city or state in turn is under no obligation to accept the federal assistance if the conditions appear too onerous or burdensome to it. In other words, the system of assistance is an affirmation of the federal system rather than its weakening or denial. Since a city or State is free to accept or reject such help, it does not act under federal compulsion but retains its choice, and the concept of municipal and State integrity within their own proper spheres in the federal system is preserved.

This is ample evidence that the imposition of federal conditions and requirements on states and municipalities has not and will not weaken the federal system, though indeed default by the city of New York would do so. The federal government has imposed far-reaching obligations on the States and localities under Social Security legislation, under the Fair Labor Standards Act, equal employment laws, and under a variety of other regulatory legislation. While clearly these laws have imposed obligations on the States requiring them to meet federal standards, and while the impact of these laws has oftentimes been to increase fiscal burdens on State and local governments, there have been few assertions that these requirements have resulted in unconstitutionality imbalancing the federal system.

If assistance to New York City is regarded as a preferential and uneven exercise of federal power, the clear response is that such exercises of the power have invariably been justified—and properly so—on the grounds that they benefit the general welfare. Federal programs to provide local disaster and flood relief, to assist agriculture for
industry in particular parts of the country, and to assist particular segments of the transportation or communications industry have always been justified on general welfare grounds. It cannot be asserted that a default by New York City with its far-reaching implications on the economy of the nation is not a matter which affects the general welfare. Hence, even if the city of New York were singled out for special federal aid, the legal justification lies in the need to provide for the general welfare of the Nation.

Federal assistance to New York City can also be justified on traditional grounds of the commerce power. Whatever the estimate of the consequences of a default by New York City on the economy of the Nation, there is little question but that such a default would greatly affect interstate commerce in municipal securities and could lead to a general loss of confidence in other securities as well. A New York City default would have far-reaching impact and effect on interstate commerce, and the prevention of such adverse impacts on interstate commerce is clearly within the established ambit of the commerce clause. It is hard to argue that the prevention of the adverse impact of default on interstate commerce is less justifiable an exercise of congressional power than the regulation of the adverse impact flowing from environmental damage, or the regulation of adverse effects of the payment of inadequate wages to workers employed in industry or in State and local government.

Detailed Description of H.R. 10181

Structure of the Bill

Title I of the bill sets forth the circumstances under which Federal aid may be made available to a distressed municipality in the form of a guarantee of State obligations which are issued for its benefit. Title II of the bill makes a conforming amendment to the Internal Revenue Code to provide that the interest on any obligations so guaranteed shall be subject to Federal income taxation. As reported by this Committee, the bill contains a heading for a Title III setting forth an amendment to the Bankruptcy Act in the event that a bill containing such provisions might possibly be reported by the Committee on the Judiciary and incorporated into H.R. 10181 by a later amendment. In the material which follows, under headings which correspond to the Title and section headings of the bill as reported, the legal effect and intended purpose of the provisions of Title I and II are discussed in detail.

Section-by-Section Analysis

§ 1. Short Title

This section provides that the short title of the Act is to be the Intergovernmental Emergency Assistance Act.

Title 1—Intergovernmental Emergency Assistance

§ 101. Definitions and rules of construction

This section sets forth definitions and rules of construction. The term "political subdivision" has developed an established legal meaning under the Internal Revenue Code, and this body of law is in-
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Section 103(d) makes clear that any action required under the Bill to be taken by a State can be taken by any agency or instrumentality of the State which is approved by the Board for that purpose. The Board must give regard for the purposes of the State law creating any such agencies or instrumentalities.

§ 102. Establishment of the Board

This section sets up the Intergovernmental Emergency Assistance Board, which is vested with the discretion to issue guarantees under this Title. The Board, whose decisions are to be made by majority vote, is composed of the Secretary of the Treasury, as Chairman, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Securities and Exchange Commission.

§ 103. Authority for guarantees

This section authorizes full or partial guarantees of State obligations, and requires that where the Board denies an application, it must report its reasons in writing to the Governor of the State concerned and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Currency and Housing of the House of Representatives.

Section 103 refers to the rule of construction set forth in section 101(d) in order to make clear the intention that obligations of a State agency or instrumentality may be guaranteed by the Board if the purpose of the State law creating it was to provide a mechanism to deal with the fiscal problems of a municipality.

§ 104. Purpose

Guarantees may be made for either of two purposes. One is to enable the municipality to continue to provide essential public services and facilities. The other is to prevent or mitigate the effects of a default which has had, or which can reasonably be expected to have, a serious adverse effect on general economic conditions or on the marketability of tax-exempt securities in general.

From the testimony received, your Committee has concluded that the present fiscal situation of New York City is sufficiently serious to meet either criterion. Without some sort of Federal aid, it seems doubtful that the City can maintain essential services and facilities through the coming winter. The suggestion that the City could tap the private market through the issuance of certificates of indebtedness under theegis of a bankruptcy court seems to be based on little more than wishful thinking. Once private investors have been put through the trauma of an actual default, the likelihood is remote that they can be induced to supply voluntarily on a nonguaranteed basis the very substantial financing needs of the City over the next several months, much less the next several years. Only a demonstrated capacity to repay obligations when due is likely to reopen the private market, and only a Federal guarantee can afford the City the opportunity to carry out that demonstration.

§ 105. Conditions of eligibility

Subsection (a) of this section requires (1) that the credit markets be closed to both the City and State involved, (2) the submission of a
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detailed financial plan for fiscal solvency, (3) the creation of State receivership, and (4) the provision of additional aid by the State to the City to the extent required by the Board not exceeding one-third of the municipality's deficit. In a postdefault or bankruptcy situation, where there may be a serious erosion in the city's revenue, the Board would be empowered under subsection (b) to waive one or more of the foregoing conditions.

It is the intention of section 105(a)(1) to create a test of practical unavailability of credit to both the city in question and the State of which it is a part before the Federal guarantee can be made available. For example, if the application for a guarantee were made by a State agency which had exhausted its credit, but it were feasible for a different State agency, or the State directly, to obtain credit adequate in amount for the needs of the municipality, it would clearly be incumbent upon the Board to deny the application.

In the same vein, it should be noted that while section 105(a)(2) literally speaks only of the assisted municipality submitting "a plan for bringing its operating expenses into balance with its recurring revenues", the Board, in assessing the soundness of the plan, clearly must take into consideration both capital investment requirements and the capacity of the municipality to retire its long-term bonded indebtedness at a reasonable rate.

Section 105(a)(3) requires the applicant State to demonstrate that it has the authority to control the fiscal affairs of the assisted municipality for the entire period during which the Federal guarantee will be outstanding including the authority to determine all revenue estimates, set aggregate expenditure limits, disapprove all expenditures not in compliance with the plan, and approve all borrowing and contracts during that period.

In the case of New York City, this test has been met by the establishment under State law of the Emergency Financial Control Board.

Section 105(a)(4) authorizes the Board to require the applicant State to assist the municipality to the extent of one-third of an anticipated operating deficit. Obviously, the special assistance contemplated under this paragraph would not extend beyond the end of the second fiscal year after the application for assistance, hence by that time the municipality must have a balanced budget in order to meet the requirements of section 105(a)(2).

The provisions of section 105(b), which permit the Board to waive the requirements set forth in section 105(a) above in the case of a political subdivision which has filed a petition under the Bankruptcy Act, or which is actually defaulted on one or more of its obligations, are essentially essential. This is because one of the consequences of either of these actions would be a substantial erosion in the City's revenues. Substantial creditors of the City who were also debtors in the City would be forced to withhold payments to the City in order to protect their own position.

§ 105. Guarantee fees.

This provides for a guarantee fee not exceeding three percent of one percent per annum. Within this limitation, the actual amount of the guarantee fee is left to the discretion of the Board. Under the situa-

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provide the fee for special purposes for an extended period without limit of up to

§ 105. Revisions remain some a failure to be sufficient to make a period of more or direction of a substantial obligation to:

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Rumblings of extreme hardship such as might exist in a postdefault situation where Federal aid had been withheld until the erosion of revenues and other costly and destructive effects of default were well underway, the Board might wish to consider imposing a substantially reduced or nominal guarantee fee in order to avoid compounding the disaster.

§ 107. Limitations on amount of guarantees outstanding.

This section limits the amount of outstanding guarantees of long-term securities to $5 billion in the period from date of enactment to 1980, and to $3 billion from then until 1999. The dates and amounts provided in this section set forth the outer limits which your Committee believes should be provided in order to enable the Federal Government to deal prudently with a postdefault situation in which the unguaranteed private market would be effectively closed to the City for an indeterminable but substantial period of time. They are intended for use under a financial plan which contemplates full payment without resort to refunding. To enable the City to get through the immediate postdefault period, there is authority for the guarantee of up to $2 billion in short-term obligations prior to October 1, 1978.

Section 107(c) sets an outer limit of September 30, 1999 for the fiscal maturity of any guaranteed obligation.

§ 108. Obligations callable after three years.

Because of the interplay between this section and the other provisions of the bill, it seems unlikely that any Federal guarantees will remain in effect for the full period allowed in section 107, even if some are initially issued for that period. If there is a substantial failure to carry out the plan for a balanced budget which is required to be submitted to and approved by the Board under section 105(a)(2), then there will almost certainly be a call on the Federal Government to make good on the guarantee. Shortening the permissible guarantee period would not help to avoid this result, and may tend to make it more probable by biasing the financial plan in an overly optimistic direction. On the other hand, if the plan is in fact carried out for a substantial time and the City re-establishes a history of meeting its obligations when due, it seems reasonable to anticipate that the private tax-exempt market will reopen to it. At that time, it should be financially advantageous to the city to refund its guaranteed obligations with unguaranteed tax-exempt securities, and if this is done, the Federal Government would thereby be relieved of its contingent liabilities under the guarantees.

The only circumstances under which the guarantees would remain in effect for the full period under section 107 would be those under which the City somehow managed to meet all of its obligations and yet was never able to engender sufficient confidence in its future ability to do so to reopen the private market. If the city's condition were indeed as tenuous as that, then the requirement of the bill that the State Emergency Financial Control Board and the Federal Intergovernmental Emergency Assistance Board continue to monitor the affairs of the City would seem to be a wise precaution.

§ 109. Additional terms and conditions.

This section requires the Board to insist that outstanding obligations be renegotiated as a precondition to the Federal guarantee. For
holders of debt instruments, this means an exchange of the paper which they hold for new unguaranteed paper bearing a substantially longer maturity, a substantially lower interest rate, or both. In the specific case of New York City, it is your Committee's intention that such renegotiation extend to a substantial portion of the M.A.C. obligations now outstanding, and to a significant portion of other City obligations maturing before June 30, 1976.

Where such negotiation involves the term of contracts of other provisions for compensation (including pensions and other benefits) for personal services rendered or to be rendered, there may be taken under consideration the compensation and other benefits provided for similar services by other employers, with particular reference to employers which are political subdivisions of the State or of other States.

Finally, this section authorizes the Board to insist on any other terms and conditions not inconsistent with the general purposes of the Act.

§ 110. Audits.

This section authorizes audits by the General Accounting Office either at its own initiative or at the request of the Board. Such audits

may be made not only of the municipality directly, but any other agency or instrumentality of the State or municipality that either the Board or the General Accounting Office feels should be audited. Under authority of a similar provision in the Emergency Loan Guarantee Act (15 U.S.C. 1816(b)), the General Accounting Office has made extensive use of audits made by an independent auditing firm, subjecting these to such checks for completeness and accuracy as it deems appropriate. Under the legislation herewith reported, your Committee would expect the General Accounting Office to make use of State and any other available audits, but to continue to exercise its own critical and independent judgment as to their adequacy, and to make audits of its own wherever necessary.

Your Committee takes note of allegations, by the Office of the State Comptroller and others, that the present and past management of New York City have grossly misrepresented the finances of the City, by hiding expense items in the capital budget, by issuing tax and revenue anticipation notes against income which would not be forthcoming, and otherwise. Section 110 is designed to ensure that such gimmickry cannot and will not continue.


The fund created by this section would be the receptacle for guarantee fees imposed under section 106, and would be the source for the Board's administrative expenses as well as any payments which might be required to fulfill the Board’s obligations. Should there be insufficient moneys in the fund to make such payments, the Secretary of the Treasury would be required to make them on behalf of the Board, and for that purpose would be authorized to use as a public debt transaction proceeds from the sale of direct obligations of the United States.

§ 112. Federal Reserve banks as fiscal agents.

This section requires Federal Reserve banks to act as fiscal agents of the Board at its request. A similar provision in the Emergency Loan Guarantee Act is widely in use.
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Loan Guarantee Act (15 U.S.C. 1849) appears to have been construed broadly in terms of the range of services which the Board may obtain under it.

§ 113. Protection of Government's interest.

This section authorizes legal action by the Attorney General to enforce any rights accruing to the Government as a result of the issuance of guarantees, and provides that the Government would be subrogated to the rights of any creditor whose claim was satisfied pursuant to the guarantee. It also reserves to the United States the right to offset against any sums owing to a State or political subdivision for whose benefit any guarantee is made under this title, the amount in whole or part of any payment actually made by the United States pursuant to any such claim. Discretion is vested in the Board as to the manner and extent that this right of offset would be exercised, because it is clear that the right of offset might arise under circumstances where its immediate and substantial exercise would only exacerbate the problems and increase the expenses of the Federal Government as a whole.

Finally, this section authorizes the Board to increase the guarantee fee (up to a maximum rate of 2.25 percent per annum) whenever there is a failure of the political subdivision or the obligor of any securities issued for its benefit to fulfill any commitment or undertaking which it agreed to fulfill in consideration of the issuance of the guarantee by the Board. The purpose of this provision is to give the Board a means to bring about the correction of shortcomings before they become critical.

§ 114. Reports.

The Board is required to make quarterly reports to the Congress of its operations under this title.

§ 225. Termination.

The Board's authority to make guarantees terminates on September 30, 1979. This would not, of course, affect the continuing validity of any guarantee entered into prior to that date, nor does it affect the Board's rights and remedies to enforce compliance with conditions attached to its guarantees.

TITLE II—AMENDMENT TO INTERNAL REVENUE CODE OF 1954

§ 291. Taxability of certain federally guaranteed obligations.

This section amends section 103(a)(1) of the Internal Revenue Code of 1954 to provide that interest on obligations guaranteed under Title I would be subject to Federal income taxation. The exclusion from gross income which the Revenue Code provides for interest on State obligations is not subject to waiver by the issuer of such obligations, and in the absence of this section of the bill, or some other provision having the same legal effect, it would be impossible for the State to comply with the condition set forth in Title I that guaranteed obligations must be taxable.

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COMMITTEE VOTE

On November 3, 1975, your Committee ordered H.R. 10481 favorably reported by a roll call vote in which 23 votes were cast in favor of, and 16 votes were cast against, the motion to report the bill.

ESTIMATE OF COSTS

In compliance with Clause 7 of Rule XIII of the Rules of the House of Representatives, there is set forth below an estimate of costs which would be incurred in carrying out H.R. 10481 in the current fiscal year and for each of the subsequent five fiscal years.

ADMINISTRATIVE COSTS

On the basis of experience with somewhat similar activities carried out by the Emergency Loan Guarantee Board and the General Accounting Office under the Emergency Loan Guarantee Act, the costs of which have ranged between about $240,000 and $342,000 per year, your Committee estimates that the administrative costs involved in the implementation of the bill herewith reported would be less than $1 million per year.

GUARANTEE EXPOSURE

In the event that the entire guarantee authority is utilized, that there is a total default on all obligations so guaranteed, and that no recovery is made of any sums paid out under the guarantee, the maximum possible costs to which the Federal Government could be subjected would amount to $7 billion. Since the guarantee authority will be utilized on a piecemeal basis rather than all at once, it is likely that if difficulties do develop, they will do so well before the maximum permissible guarantee authority has been used. Moreover, in view of the limited purposes for which guarantees can be issued, the strict conditions of eligibility which must be met, and the continuous monitoring of the situation which will be carried on by the Federal Intergovernmental Emergency Assistance Board, the General Accounting Office, and by New York State’s Emergency Financial Control Board, as well as the provisions in the bill for recoupment from other Federal payments of any sums actually paid out under guarantees, the likelihood of any ultimate cost to the Federal Government is small. Your Committee accordingly estimates that no costs will be incurred in carrying out the bill, other than the administrative costs referred to above.

GUARANTEE FEES AND ADDITIONAL INCOME TAXES

Assuming that the Board were to approve applications in such amounts that the average total guaranteed obligations outstanding would be as set forth below, and assuming that the Board were to assess the full authorized guarantee fee of 0.75 percent per annum, the Federal Government would receive guarantee fees as indicated in the following table. On the assumption the guaranteed obligations were held by taxpayers having an effective average marginal rate of 20 percent, additional tax revenues would flow to the Federal Government in the amounts shown under the heading below. Although
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tax-exempt municipal obligations typically appeal to higher bracket taxpayers, the 20 percent figure was selected on the assumption that a substantial portion of the federally guaranteed debt would be held by pension funds and others whose incomes sheltered from current taxation.

<table>
<thead>
<tr>
<th>Fiscal year</th>
<th>Average outstanding guarantee obligations</th>
<th>Income taxes</th>
<th>Guarantee fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>1,400</td>
<td>20.0</td>
<td>10.5</td>
</tr>
<tr>
<td>1977</td>
<td>3,350</td>
<td>50.0</td>
<td>25.0</td>
</tr>
<tr>
<td>1978</td>
<td>4,100</td>
<td>66.0</td>
<td>33.0</td>
</tr>
<tr>
<td>1979</td>
<td>4,450</td>
<td>66.0</td>
<td>33.0</td>
</tr>
<tr>
<td>1980</td>
<td>4,375</td>
<td>65.0</td>
<td>31.0</td>
</tr>
<tr>
<td>1981</td>
<td>4,175</td>
<td>66.0</td>
<td>31.0</td>
</tr>
<tr>
<td>Total</td>
<td>NA</td>
<td>376.5</td>
<td>162.5</td>
</tr>
</tbody>
</table>

Net Cost

Since the increased revenues which will result from the enactment of the legislation vastly exceed any possible costs of administration, and will probably exceed any ultimate cost to the Government even if some portion of the guarantee must be paid, your Committee estimates that no costs will be incurred in carrying out the legislation.

The bill provides for no new spending authority. By preventing or mitigating the disruptive and wasteful effects of default on the provision of essential municipal services and facilities, as well as on capital markets, and thereby reducing the ultimate cost to the taxpayers of the country of New York's fiscal difficulties, your Committee has concluded that the enactment of H.R. 10481 will have no inflationary impact on the national economy and can be expected to have a counter-inflationary impact.

* * * * *

ADDITIONAL VIEWS OF HON. GARRY BROWN

Although I have joined many of my colleagues in the minority views expressed in this report since I feel those views provide a good factual representation of the New York financial situation, I feel it essential to add some further comments.

Both the bill reported by the Committee and the President's approach to a resolution of the New York problem contemplate a general answer to what I believe is a specific problem which should be dealt with in a specific, rather than general, way. I expressed this opinion at the time the President made his proposal and incorporate herein that statement:

WASHINGTON, D.C.—I am disappointed with President Ford's proposal with respect to the New York City financial situation.

Although the President's proposal to a certain extent tracks, in theory at least, my general view of the extent to which the Federal
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In an effort to avoid increasing New York with its financial problems. I believe the many recommendations by the President's proposal are ill-conceived.

President Ford in his remarks to the National Press Club on Wednesday stated that he was submitting to the Congress special legislation to provide a new Chapter XVI to the Federal Bankruptcy Act which would authorize proceedings by a municipality such as New York to avail itself of the debtor protections and financial supervision of the bankruptcy law. Under the amended law as proposed by the President, New York City would be able to effect an adjustment of its debts with its creditors while permitting the essential functions of the City to continue uninterrupted.

To utilize a general law such as the Bankruptcy Act and to make a general amendment equally applicable to all municipalities, when the New York situation is actually unique and should be dealt with in a particular and specific way, just doesn't make any sense, is politically and psychologically naive, and lies in the face of what the Administration has been telling us about the New York City problem and its impact on the nation and other communities' debt issues for the past several months.

In short, although the Administration has been saying that New York's problem is the result of its own mismanagement, not applicable to municipalities which have properly managed their affairs, it has proposed a remedy equally applicable to all municipalities; and, whereas the Administration has been saying a New York default would not have the catastrophic impact upon financial markets, municipal bond markets, and the nation generally, which some have been alleging, it admits a remedial proposal which will authorize every municipality to default on its bonds, and seek the cap-out of the amended bankruptcy laws; * * * which, in turn, can have nothing but a detrimental effect on the sale of municipals since now every investor will know

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that "full faith and credit" really means "moral obligation," that is, a moral obligation of the city not to avail itself of a structured default under the bankruptcy law.

Instead of prompting all of the visceral reaction which will be provoked by the stigma of having gone "bankrupt" and provoking investor fear by including all municipalities under the bankruptcy law, the President should have proposed:

(1) a specific piece of legislation to deal with the New York situation and the New York situation alone. "* * * An Act to Provide for the Financial Reorganization of the City of New York" would be my suggested title;

(2) this Act could track the provisions of the Bankruptcy Act and provide the same protections for municipal services and activities and the sharing of any loss by creditors as does the Bankruptcy Act;

(3) the Act could provide for supervision of the financial reorganization by a specific Federal Court similar to that provided for under the Bankruptcy Act or for a more appropriately oriented board, commission, or trustee.

Again, such an Act would not have the negative psychological impact that treating New York City as a common bankrupt would, nor would it suggest that we are opening the door to all municipalities to avail themselves of the provisions of the Bankruptcy Act.
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In addition to that which I have suggested would be a better route to take in the New York City situation, I believe temporary additional funding for the City of New York will be necessary. In this regard, although I reject the concept of a direct Federal loan or a Federal guarantee of New York City obligations, I would consider not inappropriate the possibility of providing special advances of certain Federal funds to which the City will automatically become entitled. I have in mind general revenue sharing, community development, and welfare funds just to name a few. These advances would then be recouped through a reduction in ensuing years of the City's entitlements for those years. In this way, the immediate cash flow problem of the City would be alleviated, but recoupment of the sums advanced would be assured to the Federal Government and any financial reorganization plan would contemplate the reduction in budget inflows for such succeeding years under the provisions of the recoupment plan.

The advancing of entitlement funds in emergency situations is not unprecedented, whereas the guaranteeing of municipal obligations or the providing of direct loans to municipalities such as New York is unprecedented and would be a bad precedent at best.

The truly unfortunate thing about the New York situation is that friend and foe alike have looked only at simplistic solutions to a very complicated New York City problem. Friends have advocated a direct loan or a Federal guarantee of the City's financing requirements and the Administration has proposed a simple resort to the bankruptcy laws. It's time we applied a little more expertise to the problem.

The bill we have reported, H.R. 10484, by providing a program of Federal guarantees and other structured relief available to all municipalities in the country, is subject to the same criticism I have previously expressed with respect to the President's proposal.

GARRY BROWN.

ADDITIONAL VIEWS OF HENRY B. GONZALEZ

It is not possible for any municipality to cease operations. Yet the Committee has been told that New York City would be forced virtually to suspend all essential services if it receives no financial relief. There is almost no indication that the City has left any financial stone unturned in its search for new funds, and almost no evidence that the City can escape default without some form of Federal assistance.

The record shows that it might be far less costly to the Federal government, and certainly more likely to assure that order and necessary services in New York can be maintained, if assistance is provided prior to default.

Yet I question whether this bill can produce the necessary relief, even if it could be enacted over the veto that has been promised by the President.

Time and time again, legislatures have acted in haste only to repent at leisure. Emergency legislation is very often the father of bad law and worse precedent. I am sympathetic to the problems of New York. No one can deny that the City must carry on, somehow. No one can dispute the evidence that it would be cheaper for the Federal government to provide a helping hand now, to preclude the possibility that we
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But would this bill provide the necessary help, and would it be the correct help? I think not.

The President has clearly announced his intention to veto this, or any other bill that he labels (however incorrectly) as a “bailout.” It is unlikely that this bill will even be passed by Congress prior to a default by New York, and even more unlikely that it could be passed over a veto before that time. Even supposing that these miracles took place, I doubt that the machinery to provide assistance to the City could be set up and placed into effective operation in time to rescue it from default and bankruptcy.

Beyond these practical constraints, I am troubled by some of the consequences of a loan guarantee. The bill provides that bondholders would be asked to renegotiate their notes, so as to prevent the windfall profits that would otherwise flow to people who have bought New York paper at a discount on the gamble that a guarantee would be forthcoming. Unfortunately, the renegotiation provision does not go far enough. I believe that no guarantee we enact should promise to do anything more than preserve the capital that investors have placed in the securities thus underwritten. The Federal government might well wish to protect innocent investors; but it should be in no way be called upon to provide profits to investors who have been imprudent or who are outright speculators. Therefore, I would limit any Federal guarantee strictly to the amount of cash that individuals have actually invested in the securities to be guaranteed. Payment of any difference between the cash investment and face value of the paper, or any interest on it, should be left up to the issuer. Otherwise, the Federal guarantee would tend to encourage the proliferation of unwise investments in questionable paper—which is certainly a factor that contributed to the problems of New York City. Had the investors blown the whistle sooner, the problems the City faces today would be far less severe. The terms of any Federal guarantee should take this into account, so that while capital would be preserved, prudent investment practices would also be encouraged. No Federal guarantee should provide anyone a speculative windfall or otherwise reward imprudent and unsound investment. I will, therefore, offer an amendment restricting any Federal payment on a guaranteed security to the amount actually invested by the holder of such a security.

I am disturbed also by the precedent that would necessarily be set by this legislation. It would alter in a profound way the relationships between the Federal government and municipal governments—not only New York, but all others as well. There are differences between the states of New York and those of the Lockheed Corporation, but it cannot be denied that the Lockheed bailout fundamentally changed relationships between the Federal government and private enterprises. The case of the Penn Central suggests that the precedent was not a good one.

In this case, we are proposing to intercede directly with a city. Cities are the creatures of the States, and New York is no exception. Part of New York’s problem is that the State of New York failed to live up to its responsibilities to New York City. The State went along with unsound practices, no less than did the big banks; and the State camouflaged the City with burdens it could not support, even as it did to ameliorate the social and economic ills that plagued the City. How City was irresponsible, and that is clearly the case, then the State...
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a duty to correct the problem. Far from doing its duty, however, the State ignored some of the City's problems, enacted policies that compounded other problems, and did not discourage activities that it surely must have known to be unwise or even outright illegal. It is possible that a loan guarantee, by interposing the Federal government between the City and State, might well cause the State to think its responsibilities have been met; when in fact the State of New York must be given every reason to know that it must accept and carry out its full responsibilities toward the sound government of all its instrumentalities, not just some of them. I am not satisfied that the bill does keep in place the correct relationships between the Federal government and the States and Cities, nor between the States and their instrumentalities, including the cities. If, as I suspect, this bill would change in a basic way the relationships within our Federal system, it is a step that we should take only with the greatest of fear and trepidation. The precedent set by this bill would be large indeed, and almost no thought has been given to the extent of it.

The financial problems of New York City are real. The dangers of the collapse of any financial structure as large as that of New York City are clear. The potential costs of such a collapse, even if it is confined only to New York City, itself, are very great. And it cannot be denied that the essential services of the City will have to be provided for as long as the City exists, no matter what happens to its financial system.

I do not believe that we are faced with a choice between bankruptcy and loan guarantees. The costs and dangers of a bankruptcy cannot be assessed, but I think they are too great for us to gamble on. Loan guarantees on the other hand, raise questions that I cannot immediately satisfy. My questions, reservations and doubts will take more time than is presently available to satisfy.

My opinion is that there is a third solution. Some believe that New York City can save itself, or that the state can do so. I do not believe this to be true. Some argue that there is no other choice than bankruptcy or a Federal guarantee. I do not believe this, either. I do believe that the Federal Reserve could provide financial assistance to New York through its powers as enumerated in section 14(b) of the Federal Reserve Act. If these powers are sufficient to allow the City to restructure its debt and establish itself on a sound and responsible footing, they are at least great enough to permit the City to escape default, and to provide sufficient time for Congress to give this complex and vexing problem the kind of careful and deliberate attention that is required. Furthermore, the Fed can act immediately, and immediate help is what is required.

No one could seriously argue that the Fed is ill equipped to exercise its powers to alleviate this sore problem. The Fed is the wealthiest of Government agencies; its powers and independence are known, respected and even feared. Its staff is expert by any standard. Its Chairman and Governors are known for their sagacity and caution. Chairman Burns is, as anyone who knows him will attest, a man of great ability, and moreover one who has a stern and righteous sense of values. It would be unlikely that the Fed or its Chairman would countenance less than the best effort that New York could provide to make itself honest and sound.

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I urge that the Fed act as it can and as it has done in other financial emergencies. I believe that this is the only way to assure that New York does not become a financial and perhaps social disaster as well. Most important of all, I believe that action by the Fed would enable us to provide with all the necessary caution and deliberation whatever further Federal action—if any—that might be needed to rectify this problem beyond its own ample powers.

In a crisis, there are dangers to be avoided. In this case, I believe that we have almost no chance that the bill will solve the problem, and a considerable one that if it should somehow meet the crisis, the action would be irremediably wrong from both a fiscal and constitutional point of view.

Henry Gonzalez

ADDITIONAL VIEWS OF HON. JOHN H. ROUSSELOT

New Yorkers have already helped themselves to benefits which go far beyond those available anywhere else in the country. Although Federal and state welfare laws impose a higher percentage of welfare costs upon New York City than some other cities must bear, New York City compounds this problem by offering a much broader range of public services than any other city in the nation provides. The Congressional Budget Office, in a recent report on New York's fiscal problems, stated:

New York's long tradition of providing enriched levels of public services also has contributed to its current fiscal difficulties. The more obvious services in which New York far outdistances most other local governments include the university system, the municipal hospital system, the low- and middle-income housing programs, and the extensive public transportation network. For many years there seemed little doubt that the city's wealth was sufficient to support its chosen level of services. However, in recent years, it has proved difficult politically to reduce services in line with the city's declining relative fiscal ability to afford them or to raise taxes and fees.

Another major cause of New York's present fiscal problems is the advanced development of municipal employee unionism, which has created a situation in which elected officials have found it expedient to be open-handed rather than to stand up to union demands. The fact that municipal employees not only have the right to strike but also constitute the most vocal and best organized voting bloc in the city results in a reversal of the normal employer-employee relationship which makes it difficult, if not impossible, for the administration to manage the city in the broad public interest.

The October 27, 1976, issue of New York magazine contained an article which chronicled "Twenty Critical Decisions That Broke New York City." Among these twenty events were the following:

5. March 26, 1960: Governor Rockefeller signs a bill increasing by 5 percent the state's contribution to state employees' pensions.

On the face of it, this appears to be a minor decision with small immediate dollar consequences. But, in fact, this decision signaled the beginning of a process of leapfrogging, of open competition between the city and state to outdo each
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other in rewarding their servants. The bill for the first time
made pensions a part of collective-bargaining settlements and
invited competition among public unions. **

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The financial consequences of the 54 pension bills passed
between 1960 and 1970 are staggering. In 1961, according to
the State Scott Commission, the city paid $260.8 million to
provide its employees with retirement and social security
benefits. By 1972, that had jumped to $753.9 million, a growth
of 173 percent. The rapid increase in city employment ac-
counted for only 20 percent of this increase.

This year, the city budget for retirement benefits is $1.3
billion. But not even that sum gives the whole story. The busi-
ess-oriented Committee for Economic Development has cal-
culated that when all the city’s costs—including hidden
ones—are figured in, pensions will cost about 25 percent of
payroll. And the payroll itself now consumes 60 percent of
the city’s budget.

12. January 4, 1967: The city’s Office of Collective Bargain-
ing names an impasse panel to settle a pay-parity dispute.

In 1967, faced with a tough quarrel involving old and sen-
sitive relationships—“parities”—within police ranks, and be-
tween police and fire pay scales, the city’s Office of Collective
Bargaining named an impasse panel to sort out the issues.
There followed the city’s breaking of a written agreement
with the police; a lawsuit, appeals, rehearings, and a six-day
police strike in 1971. Ultimately, the city lost a suit brought
by the Patrolmen’s Benevolent Association, and the financial
consequences were great. “By the time other groups, like fire-
men and sanitationmen, came forward with their related
demands,” writes professor Raymond Horton in his book
Municipal Labor Relations in New York City, “the cost to
the city was considerable—estimated from $150 million to
$215 million.”

But the city paid another price for its parity debacle. The
city had previously suffered strikes by its transit workers, its
teachers, sanitationmen, welfare workers. But until January,
1971, it had been almost unthinkable that those responsible
for public safety would strike. With that strike went another
piece of the social fabric, encouraging citizens and investors
alike to lose confidence in the city’s future.

New York can help itself to overcome its present fiscal difficulties
by renegotiating its labor contracts, as well as its agreements with
vendors and with holders of municipal securities. On the other side of
the ledger, New York needs to increase its revenue base by abandoning
its senseless rent control policy, which discourages improvement of
the taxable housing stock; by reducing its involvement in massive
public construction projects, which remove valuable property from

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the tax rolls; by improving its business climate, which continues to
deteriorate and to drive taxing industry from the city; and by im-
posing user fees for such presently free services as university
education.

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ALLEGED CONSEQUENCES OF A NEW YORK DEFAULT

There has been a tremendous amount of controversy over the prob-
able, possible, and likely effects of a default by New York City. It
must be said, in all candor, that no one really knows what the con-
sequences will be and that the only prediction which can be made with
certainty is that, "The market will continue to fluctuate."

Noted experts on financial markets disagree. Chairman Arthur
Burns, of the Federal Reserve, in his testimony before the Subcom-
mittee on Economic Stabilization, described the probable effect of a
New York default as "temporary and manageable." Norman H.
Reamer, of Putnam Management Co., provided this prediction for the
"Abreast of the Market" column of the November 3, 1975, Wall Street
Journal: "Even if the city defaults, we don't think it would have an
enduring impact on the nation's economic recovery."

Dr. Pierre Rinfret, President of Rinfret-Boston Associates, col-
lected comments from correspondents around the world, and, in his
testimony before the Subcommittee, disclosed the results of his survey.
It is true that his correspondent in Hong Kong replied: "My opinion
would be catastrophic (sic) effect internationally," and correspondents
from Switzerland and Germany were also pessimistic. However, Dr.
Rinfret also received the following responses:

From Japan: "Where and what is New York? So far New
York woes haven't caused even a ripple in Japan's capital
markets, although the news is amply covered in the press."

From Belgium: "We don't think the eventual default of
N.Y.C. will have any direct influence on the financial markets
in Belgium."

From Mexico: "Immediate financial reaction to New York
default in Mexico would be almost negligible."

Other observations and predictions of dire consequences of a New
York default tend to be short-sighted and one-sided. For example, we
have repeatedly been told that states and municipalities have recently
encountered increased difficulty in floating their bonds and that this
is evidence that the market is not working. What difficulty has oc-
curred may very well reflect the fact that the volume of municipal
borrowing has increased from $11.2 billion in 1969 to $31.8 billion in
1974, and there are signs that the market for state and municipal
bonds is becoming saturated.

However, it must be recognized that there is another side to a fair
description of conditions in today's capital markets. States and mu-
icipalities which have good reputations for fiscal responsibility are
finding that the market is rewarding them handsomely. For example,
the Washington Post reported on October 24, 1973, that both the State
of Maryland and the County of Fairfax, Virginia, had been able to
sell their bonds to yield the lowest interest rates since February 1973:

The state of Maryland and Fairfax County sold more than
$95 million worth of bonds yesterday at interest rates sub-

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substantially below those they have paid in recent years, indicating that New York City's financial crisis has not had an adverse impact on all municipal bond sales.

William S. James, Maryland state treasurer, said that, contrary to his original fears, New York's problems appear to have actually helped his state rather than hurt it. This is because, James said, New York City's difficulties "make us look better."

Wall Street investment bankers contacted yesterday said that both Maryland and Fairfax have excellent reputations for fiscal integrity and that investors are sophisticated enough to differentiate between them and other jurisdictions, such as New York, where major problems exist.

* * * * *

Officials in both Annapolis and Fairfax were apprehensive about the bonds sales and the interest they would have to pay. After the bids were opened, there was jubilation.

Interest rates on Treasury bills declined during the week of October 27, 1975, to the lowest rate since June.

It is evident, therefore, that what is taking place is a "flight to quality," not a general disintegration of the market for government debt.

Learned speculation on the likely effect of a New York default upon the national economy, and upon prospects for economic recovery, comes from a recent study entitled "New York City's Financial Crisis," which has been issued by the Joint Economic Committee:

While it is difficult to ascertain precisely how New York's financial crisis will affect the national economy, it is very possible that a default could weaken the strength of the economic recovery. The major factor in a weaker economic outlook would be a significant reduction in the rate of growth in state and local government expenditures. This reduction could affect the spending of state and local government, and the reduction in expenditures will result primarily from higher borrowing costs and reduced access to the municipal bond market.

* * * * *

Finally, some state and local governments may be forced to reduce their operating expenditures and bring their budgets into balance. The recession has caused some state and local governments to borrow this year to fund small deficits, in the hope that the recovery will generate sufficient revenues next year to return their budgets to balance. If these governments are denied access to the credit markets they will be unable to fund their deficits and forced to adopt some combination of expenditure cuts and tax increases to bring their budgets into balance. (Pp. 55-56.)

The JEC goes on to proclaim that it has conducted an econometric analysis, with the assistance of the Wharton econometric model: "The result of this econometric analysis, modified by staff judgments, suggests that a default by New York City could have a meaningful effect.
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on the recovery process." The JEC study predicts a reduction in GNP of 1 percent by the fourth quarter of 1976, an increase in unemployment of 3 percent, and an increase in the Federal deficit of $4 billion. (P. 56.)

It is astounding that the JEC seems to be telling us that government should be viewed as just another growth industry and that we should view any slowing of that growth as an alarming sign of economic stagnation. The JEC econometric analysis ignores the fact that the funds which the capital markets may deny to New York City will not vanish into thin air, nor will they be buried in the sand. Rather, they will be available for the use of other borrowers—to create jobs and to fuel the recovery.

H.R. 10481—INVOLVEMENT THROUGH 1999

Finally, it is important to note that H.R. 10481 authorizes guarantees of obligations of up to $5 billion from date of enactment through September 30, 1989, and of $3 billion from October 1, 1989 through September 30, 1999. These authorizations would permit the Federal government to be involved in the guarantee of eligible obligations for the rest of this century. They would permit those holders of New York securities who guessed wrong about the ability of the city to meet its obligations to recover in full and would permit those recent purchasers who may be speculating on Congressional approval of an assistance package to reap a windfall profit. Meanwhile the ordinary taxpayer, who took no position at all, would be stuck with a piece of the "Big Apple."

Such a protracted and extensive involvement on the part of the Federal government in the fiscal affairs of New York is entirely unwarranted and would be inconsistent with our national commitment to the principles of free enterprise and local self-government.

J. H. Rousselot.

ADDITIONAL VIEWS OF HON. CHALMERS P. WYLIE

New York City has asked Congress to pass a law which would commit the American taxpayer to become a cosigner for the payment of bills brought on by New York City's prodigal spending. No matter how much time New York City can buy through financial acrobatics, it must inevitably face the simple arithmetic of the balance sheet. In view of New York's past fiscal sins, emergency help by the federal government in the form of loan guarantees, bond reinforcement, or direct grants would set a bad precedent for the rest of the nation. Ultimately, the solution rests either in the City of New York putting its financial house in order or going through the bankruptcy court where referees can piece together the framework for a financial rebirth.

New York City is in financial trouble because of excessive spending brought on partly by periodic strikes by teachers and public employees which are in direct violation of the law. Somehow we must as a people and as a nation stand up against this kind of tyranny. It may be that the New York City crisis is a blessing in disguise. We see what can happen to a great city when its elected officials respond to demands from irresponsible labor leaders and for more and more funding for

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welfare and social programs so that they have spent money beyond revenues.

Just recently, the firemen in Kansas City, Missouri, went out on strike. There were reports which were not refuted that some of the firemen actually set fires to force their demands for higher wages. The Mayor and the City Administration went along with their demands after first saying they were excessive. The same thing happened in San Francisco. This is very distressing to me when the elected public officials in charge of running the government in these cities are afraid to do what is right and succumb to power brokering of the worst kind.

Fiscally, New York City is a study in desperation. Correctly identifying the cause of this financial Waterloo is a major step in arriving at a solution. Rather than allocate blame, it becomes necessary to catalogue and weigh the missteps of the past decade. Of course, the immediate problem stems from the loss of investor confidence in New York City obligations.

BUDGET MISMANAGEMENT

Initially, I note the budgetary practices of New York City officials have been somewhat suspect, to understatement the matter. Some have described these practices as accounting "gimmickry." Were an officer of a private corporation to engage in the same practice, he would be hard pressed to avoid an indictment.

By law the city's budget is required to be balanced. Uncontradicted evidence shows that current operating expenditures were hidden in the capital expenditures budget, thus giving the appearance of fiscal equilibrii. The practice was camouflaged by issuing more revenue anticipation notes than could be amortized through actual revenues. To meet the monthly gaps between expenditures and revenue the city "rolled over" its debts and borrowed more to meet current expenses. The $2.6 billion dollar deficit represents an aggregate of the past decade of current operating deficits. Because the city borrowed so frequently, it was forced to go into the market at a most unattractive time, thereby compounding its mismanagement.

Frankly, I am astounded that city officials permitted this disgrace to continue. The handwriting has been on the wall for ten years.

CHAMPAGNE LIFE ON A BEER INCOME

Per capita expenditures for public services at unheard of levels contribute significantly to the city's financial ills. One person in eight is on welfare in New York City. Public assistance has become a way of life, rather than a temporary staging area for people to become self-reliant. The extreme levels of aid to the jobless is an inherent disincentive to work.

Under the public service umbrella come totally free education, from elementary school through college, a huge network of public hospitals, and heavily subsidized mass transportation systems. No city in the United States runs a university system like New York. Needless to say, the city invites fiscal chaos because tuition at the university is virtually free to its 285,000 students. The city pays half the $800 million budget with the state picking up the rest. Another frightening reveala-
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tion is the fact that one-third of the employees of the city's Board of Education do not teach.

Huge and costly public hospitals, eighteen of them, have one-quarter of their beds unoccupied, while the government pays millions for patients using private hospitals. Mass transportation costs have been kept at artificially low levels for years on end.

OVERPAID GOVERNMENT EMPLOYEES

Wage contract settlements for public employees have been excessive. Many city employees can retire after 20 years at half pay, with the pension determined by their last year salary plus overtime. All too often the story has been 10 years of mediocrity with a final year of demon activity to beef up the retirement. Pensions cost the city about a billion a year already. By 1980 projected pension costs will equal two billion per year. And, the astonishing fact is these are noncontributory while in most other areas private and public employees pay half of the pension.

Statistics show that public employee productivity is a farce. It costs New York City $45 a ton to pick up garbage, while in San Francisco it costs $22, in Boston $19, in Minneapolis $18, and in Columbus, Ohio, approximately $18. Many have claimed that New York is different, unique, or special. Can we also say that New York City's garbage is also special?

After one year, public employees are authorized unlimited sick leave and one month's vacation.

RENT CONTROL LAW

New York's rent control law, adopted at the end of World War II, causes 30,000 apartments to be abandoned each year. A change in the law might bring part of its middle and upper class tax base back to the city.

UNNECESSARY DUPLICATION OF SERVICES

Many city agencies unnecessarily duplicate state services. Some duplicative programs could be abolished in view of current fiscal problems, drug addiction centers, Department of Correction facilities, municipal broadcast systems, vocational counseling, and boards of examination for teacher certification are some examples. All this adds up to the whopping sum of $172 million a year.

All of these occurrences were within the city's power to control. Because the city failed to exercise control, a chain reaction has taken place. For instance, it is quite understandable that the middle and upper class tax base have fled to the suburbs. Businesses have left the crime ridden city center, and have taken valuable jobs along with them. Because New York chooses to rely primarily on income and sales tax rather than property tax, it is overly sensitive to business cycles.

DEFAULT IMPACT

Since the city has petitioned the federal government, the question is what is best for the country. We are going to set a precedent for every other city in the United States.

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In this connection we must be mindful of the people in those cities that have kept public services in line with their ability to pay and who have lived with balanced budgets. Geographically, the impact of a default will be confined to the New York City area. Inasmuch as New York City bonds are exempt from federal, New York State, and New York City taxes, it stands to reason that most of these bondholders live in New York.

Collapse of the municipal bond market is the heart of New York's appeal for direct assistance. I think the consequences of a default have been exaggerated to dramatize the appeal for federal aid. Most persons are aware of the fact that the welfare of the municipal bond market is tied to the national economy. Furthermore, it is the function of the market place to sort out and evaluate credit risk. Cities that are well managed and financially responsible will find investors beating at their door regardless of what happens to New York City. Recent issues of municipal bonds in several cities bear this out. Within the past two weeks, the City of Columbus, Ohio, sold $18 million worth of municipal bonds at 4 3/4 percent, the lowest rate in five years. Moreover, federal intervention in behalf of New York would be more chaotic for the market in the long run because bond values would not hinge on credit worthiness but rather on federal guarantees. There would then be no incentive for fiscal restraint.

The Federal Reserve Board, the FDIC, the U.S. Treasury, and the Comptroller of the Currency have standby authority to assist banks whose portfolios are heavy with New York City obligations. Thus, there will be no domino effect in the financial markets.

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FAIRNESS AND THE RESTORATION OF CONFIDENCE

The American people know why New York City is having a financial breakdown. They also know it has little to do with the difficulties and conditions of our national economy. The city is facing default because it has not shown itself willing to implement the necessary reforms to restore investor confidence and regain access to capital markets.

All too often there is a tendency to run to Washington to solve internal municipal problems. If Uncle Sam does not come to the rescue then the blame is conveniently and cleverly shifted to Washington by those at fault.

One question which is difficult to answer is how can we reconcile the billions we spend in foreign aid, the billions for defense, and chronic deficit spending and say no to New York City. The short of it is that we cannot reconcile them. However, a multitude of wrongs do not make a right. Congress must realize that the federal government cannot play world gendarme and wield Santa Claus. Furthermore, merely because it has the monetary printing presses it cannot continue to engage in deficit spending. Our national day of reckoning is just a little further down the road from New York City if we do not heed the warning sign.

C. Wylie.
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ADDITIONAL VIEWS OF HON. STEWART B. MCKINNEY

I wish that it was as easy for me to determine that only minimal difficulties will arise from the default of New York City as it appears to be for the President, and some members of the Administration and Congress. However, after 5 days of hearings, which included testimony from a broad base of specialists in municipal financing, national and international banking and academia, I have concluded that the default of New York will bring chaos not only to New York City but the fiscal failure of the nation's greatest city will have untold consequences on a national and international scale.

I suppose that because my district is in close proximity to New York City, I can be accused of being emotionally involved with the city's future. However, my concern for New York's plight is more a result of my representation of 3 cities who someday may find the municipal credit market closed to them. My statement at the outset of hearings on the problems of municipal debt financing indicated my belief that the hearings were not specifically geared toward saving New York City, but rather the plight of municipalities across the Nation.

It's interesting to note that in July of 1973, the Advisory Council on Intergovernmental Relations issued a study on the financial stability of America's cities. At that time, the Commission reported that no financial crisis existed for the cities but a combination of factors relating to services, taxes, wages and retirement benefits made several cities susceptible to financial emergencies. In discussing the available alternatives, it was suggested that appropriate action to revise the method of handling municipal crisis of this nature be taken when the causes of financial distress were few — so that a well-reasoned plan could be devised. Had this advice been heeded, we would not now be faced with what has sadly become the rule, not the exception, government by crisis.

Furthermore, a study of municipal defaults during the Depression and their causes read like a litany of today's municipal problems: demands for increased services, reluctance to increase taxes, over-development of real estate and — perhaps most significantly — a lack of responsible fiscal management. If the basic problems are parallel, the economic situation facing the country contains alarming similarities also. I do not intend to recount the problems so familiar to us all. I feel it is sufficient to observe that the present recession has placed the United States and the world on the weakest economic foundation in forty years.

What I attempted to do, during these 5 days of hearings was to evaluate both sides of the issue to determine precisely what the financial and psychological effects of default would be. It was surprising to me that even those of the Administration who were so firmly against bond guarantee assistance continually indicated that they did not really know what the psychological effect would be on either the bond market, on the stock market, on the international markets or on our infant economic recovery.

In 1974, there were 7,701 issues of long and short term state and local bonds with a par value of $1.9 billion. The total amount of tax

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exempt securities outstanding at the end of this period was $267 billion. The value of tax exempt obligations issued yearly between 1960 and 1974 has increased nearly five fold. Thus the tax exempt bond has become institutionalized as a means of securing added capital for municipal expenditures. This capital is used to refund debt, for short term borrowing in anticipation of tax receipts, for the construction of schools, hospitals, roads and other capital improvements.

It was made quite clear during testimony from municipal finance specialists that without the ability to go to the bond market for capital, municipalities would not be able to provide required public services and eventual collapse would result. Thus, a report by Standard and Poor's indicating that ten percent of the nation's municipalities are unable to enter the financial markets at all, as a result of the psychological effect which default is having on the bond market, is to say the least disturbing.

Moody's Bond Survey further reports that high rated municipal issues are at record yields, while the national association of counties states that smaller localities across the nation are paying higher interest rates than ever before. Simple calculation indicates that even if the psychological effect of default causes a one percentage point increase in the cost of local borrowing, it will result in an additional $1.84 billion in interest charges over the 8 year average life of municipal bonds offered over a one year period.

Thus while those who oppose a federal guarantee claim that they do not want to provide "one red cent to New York," all municipalities and therefore all taxpayers are already paying the price for inaction.

With the importance of the tax exempt market to most municipalities, it is vital that investor confidence is maintained. Unfortunately, that confidence is decidedly absent today and it is unrealistic to assume that defaults today will be met with passive acceptance by creditors. Call it a "domino" or "ripple" effect if you will, default by a major municipal borrower can be expected to trigger a confidence crisis of potentially disastrous proportions for all tax-exempt bonds, no matter how sound the backing.

Concern over the psychological impact on international markets has also been expressed in recent weeks by various authorities. Recently, London's Deputy Mayor stated that "a default by New York would result in a massive tragedy" for the Western world and possibly signal the end of self government by all democratic cities. Former Undersecretary of State George Ball told our Subcommittee that "default of a private company is, as foreign countries see it, a phenomenon quite normal in the operation of a capitalist system; but for the Federal government to sit by immobilized while one of the great cities of the world defaults on its obligations, would, however unfairly, raise questions as to the integrity and good faith of our political authorities and create doubts as to the responsibility of our national government and, hence, the validity of its promises."

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Dr. Pierre Kinfret, a noted international financial consultant compiled correspondence from top financial people in Europe and Asia inquiring as to the effect of a default on foreign markets. The response from Switzerland; "nobody can evaluate what the psychological reaction could have been, but the Euro dollar market is very sensitive to
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...nificantly more serious if other municipalities besides New York City were forced to default because of general turbulence in the markets for state and local obligations.

What will be the cost of the failure of a percentage of our banking system mean in dollars and financial security to the American taxpayer?

My conclusion after carefully evaluating the testimony of the witnesses before the Subcommittee is that the risks inherent in letting the largest city in the nation default are too great for me to take as a representative of 500,000 American citizens.

The President however feels that post default assistance will be less costly to the American people than a bond guarantee as proposed in this bill. Actually, a Federal guarantee will cost nothing and in all probability will provide added revenues for our federal treasury. This factor is evident from our experience with the Lockheed Loan Guarantee which has already netted the Treasury some $17 million. The loan guarantee fee and the submission of New York City and state revenue sharing funds as security for federal assistance more than adequately protect our federal interest.

An estimate of post default aid as suggested by the President, appears to me, to be the more costly alternative. Already the specter of New York City bankruptcy has taken its toll on some 1,500 companies that sell their goods and services to New York. For example, the American Seating Company of Grand Rapids, Michigan, the home town of our President, will start to lose over three quarters of a million dollars for seats which they provide for Yankee Stadium, if New York City cannot pay their bills. 500 million dollars of expected revenues to companies across the country, will not be paid. What will the cost of bad debt losses and lower corporate income tax dollars mean to our treasury.

It is estimated that default would necessitate lay-offs of an additional 30,000 city employees and partial payment of salaries for the rest. This figure does not include the thousands of lay-offs which will be caused by the cancellation of capital improvement and service contracts with the private sector. It is estimated that this will result in a New York City unemployment rate of over 20 percent. Thus, the lost jobs and the lost business to the cities vendors, could mean a $100 million tax loss for New York each month. This astounding municipal tax loss in addition to the increased unemployment and welfare payments which will come from our federal coffers, will cost the American taxpayers millions.

The President has also state that "In the event of default, the Federal Government will work with the Court to assure that police, fire and other essential services for the protection of life and property in New York are maintained." The problem with this statement is what services are considered "essential services" and what will be the cost of providing these essential services be to the federal government.

In addition to the obvious life support services of police, fire and hospitals, will the federal government also provide personnel or funds for the continued functioning of the water supply, sewage treatment and sanitation services. And if so, at what cost to the American taxpayer?

In March of 1976 the federal government had to call out the National Guard to deliver the mail during the mail carriers strike. National Guard's man when called up for a period of 14 days at a cost of $2,528,749. What if the President in keeping his promise to "assure
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that essential services are maintained" would have to call out the National Guard. The expense to the American taxpayer could be exorbitant.

What of the cost in both time and money to the individuals who bring suit in federal court over the superiority of their lien against the city and state. It has been estimated by witnesses that the courts could take from 3 to 5 years to clear their calendars of lawsuits stemming from a New York City default. Once again demonstrating that the cost of post default is considerably more than a pre-default guarantee.

The psychological and financial consequences of post default aid in my opinion, are sufficient to convince every member of Congress that the crisis which New York is experiencing today will possibly affect every urban center in America in the future. The fiscal decay which has beset New York and the cities subsequent default will have an impact felt by every American. Mayor Beame has stated "that the question President Ford should ask himself is not who benefits from a New York default? "— but "who loses?" Clearly there will be no winners.

At the outset of the hearings on this legislation I stated that "It is my hope that we will find that the federal government need not provide any direct federal payments to our ailing cities." Instead, I believe it is the responsibility of Congress to provide a medium for our cities to achieve fiscal stability, to restore confidence in their survival in order to establish normal funding channels. Those hearings have convinced me that this is the minimum that the federal government can do to preserve the fiscal integrity needed for economic recovery and growth. H.R. 10481 provides this medium in a most comprehensive, responsible and least costly manner.

STEWART L. McKinney.

INDIVIDUAL VIEWS OF HON. RICHARD T. SCHULZE

A federal bailout of New York City, in the form of an $8 billion loan guarantee, has been proposed. The "Big Apple" has gone sour.

Irresponsible fiscal policies and financial legerdemain have brought New York to where it is today * * * facing an outstanding debt of $13 billion, over $3 billion of which is beyond budgetary authority. Taxpayers across the nation are now requested to assist the city of New York in the form of a loan guarantee. I cannot support this legislation which in effect condones excessive spending, questionable accounting practices, and irresponsible municipal leadership. Let us look at how New York City reached this current financial crisis.

To begin with, New York City has long been proud of its high level of public services. Extraordinary "free" services have been provided. New York City's mayor recently boasted that "Everybody agrees that New York City has always done more for its people than any other city in the world." Let us examine some of these benefits enjoyed by the residents of New York:

- Tuition-free education at the city's 19 university institutions;
- Free services at the city's 18 municipal hospitals;
- Subsidized subway or transit fares;

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The highest municipal wages in the country;
100 percent municipal payment for employee pensions; and
The most generous welfare payments in the nation (which encourage the immigration of thousands into the city to enjoy them).

It is outrageous that the American taxpayer is being asked to come to the rescue of a city which offers benefits which are not available to most people in the nation.

The bailout of New York City has been referred to in emotional terms and as a "moral" issue. Is it "moral" to saddle our constituents with the cost of $68,587 penthouse, complete with greenhouse, swimming pool and underground parking, for the "needy" in New York?

Is it "moral" to overcharge the American taxpayer into subsidizing the $713,500 in overtime pay to New York City employees which was necessary for the collection of refuse which had accumulated during a garbagemen's strike? The answer is a resounding "No!"

State and local governments across the United States have been making on an almost daily basis the hard decisions necessary to living within their means. Should these communities now be held responsible for the betrayal of public trust by New York City's municipal officials?

To disguise their financial predicament, New York City officials engaged in financial legerdemain approaching massive public fraud. It is interesting to note that the defeat of New York referendum bond issues by the public in 1964 and 1965, resulted in the creation of so-called "moral obligation" bonds. These bonds do not require voter approval. In that year, 1964, the Mayor of New York City remarked that he did not intend "to permit our fiscal problems to set the limits" on what the city would do for the people. At that time, the Governor approved legislation permitting the city to use its capital budget to borrow for current expenses. Following this, $26 million in expense items was buried in the city's capital budget. In the decade of 1965-1975, a total of $2.4 billion was smuggled into the capital budget. The added interest was $250 million.

There was also the practice of tax-anticipation borrowing on revenues which had already been collected. In the last two years, the city has issued revenue anticipation notes in the amount of $1.275 billion against $404 million in receivables.

A federal rescue of New York City would imply a tacit acceptance of the irresponsible municipal mismanagement in that city and would encourage other States and municipalities to follow suit. It would threaten the historical and delicate relationship between our federal, state and municipal governments. It would remove the necessity of municipal officials being held accountable to their electorate if they were ensured federal assistance as a reward for a lack of fiscal restraint and budgetary discipline on hand.

It has also been advanced that a federal loan guarantee will be free, as will cost the taxpayer nothing. This is not so. The costs in higher interest rates, higher mortgages, more expensive products, etc., would be very high indeed.

Beyond this, the threat of a municipal bond market collapse has been advanced if New York City is forced to default. We have been warned of the "ripple" effect. We have been told that municipalities from Pennsylvania to California will be unable to market their bonds.
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Recent experience would indicate otherwise. Kansas City, the State of Delaware, and Minneapolis, Minn., have been lowest-cost short-term borrowers at 3.67, 1.29 and 4.629 percent respectively. In addition, in late October of this year, the State of Maryland and Fairfax County, Virginia, sold more than $95 million worth of bonds at interest rates substantially below those they have been paid in recent years. I submit that there will continue to be a market for municipal bonds with sound ratings.

Finally, there is the question of what New York City and New York State have done for themselves. There remains the possibility of imposing an emergency and temporary tax, as well as authority to borrow funds collateralized by assets in employee pension funds. I am not convinced that the City or the State have exhausted their alternatives. There are other solutions.

For the reasons stated above, I cannot support this legislation and I urgently encourage my colleagues who believe as I do that this proposal calls for shouldering the responsibilities which properly belong to the States and municipalities, to join me in opposing this measure.

RICHARD T. SCHUETE.

SUPPLEMENTAL VIEW OF HON. LEONOR K. SULLIVAN

I have serious reservations about this legislation, but I support it because it is the only measure immediately available to provide New York City and State with a means of avoiding default and, thus, protecting the municipal bond market from drastic erosion of confidence that could prove devastating to the credit needs of State and local governments across the nation.

H.R. 10481 is a one-shot bill aimed solely at New York City's financial dilemma. It completely fails to address the chronic and worsening credit problems which beset State and local governments in their efforts to obtain adequate loan funds on reasonable terms to finance vital public works and facilities.

A review of financial news produces convincing proof that an increasing number of municipalities and other political subdivisions are steadily being squeezed out of the money market by steadily rising interest rates and a diminishing pool of investors. More and more local governments are finding that they cannot even float their bond issues because no bids whatsoever are received or that bids that are made carry demands for interest rates which exceed legal permissible limits.

I readily acknowledge that the circumstances in which New York City finds itself have had a significant adverse effect on the bond market. However, the long-term debt financing problems of communities throughout the country did not begin with New York and they will not end with the aid this bill would provide to that City.

The Congressional Budget Office confirmed this point in a paper it issued on October 10, 1975. The Budget Office stated:

** * * New York's situation is far from the worst in the nation. One composite index of central city disadvantage shows New York in better shape than Newark, Baltimore and Chicago, as well as eight other large urban centers * * *.

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What is clearly needed is a Federal agency which can make direct loans and guarantee loans to State and local governments when these borrowers cannot obtain adequate credit on reasonable terms from other lenders. Moreover, such an agency, serving as a lender of last resort, should be equipped to meet the national priority credit needs of small and medium size businesses and industry and moderate income housing which are also victimized by the lack of adequate credit on reasonable terms.

Indeed, the hearing record on H.R. 10481 is replete with examples and testimony which show the credit problems of State and local governments to be nationwide in scope and deserving of a legislative response that goes far beyond the boundaries of New York City or New York State.

William White, Executive Director of the Massachusetts Housing Finance Agency, which has been forced to cancel bond issues and drastically cut back the production of urgently needed housing throughout that State, testified:

** * * * I would like to propose that the Federal government establish an agency with a standby authority of $20 billion to become a resource capital fund. This agency could make direct loans or guarantee the purchase of tax-exempt securities at current market prices ** * * * It would be a bank of last resort.

The fact that the problem is nationwide in its dimensions and requires such a nationwide approach is reflected in the testimony of none other than A. W. Clausen, President of BankAmerica Corporation, parent holding company of the nation's largest commercial bank. He testified that:

The financial markets of the country are floundering, owing in considerable part to New York City's budgetary difficulties. The market for municipal bonds has been the most severely affected, with interest rates currently at the highest point in history. ** * * * The prohibitive cost of borrowing has forced the cancellation or delay of numerous housing and public works projects.

Bank of America recommends accordingly that:

** * * * a new agency should be created in the Federal government for the purpose of serving municipalities as a lender of last resort.

The solution these witnesses have advocated is embodied in H.R. 10452, which would establish an Emergency Financial Assistance Corporation to provide adequate credit on reasonable terms to State and local governments, to small and medium size businesses and industry and to finance low and moderate income housing when private lenders cannot meet these standards for priority area borrowers.

It is my hope that this proposal, which is cosponsored by 16 Members of the House, will be given immediate consideration by the Banking, Currency and Housing Committee. The need to do so is urgent.

Leonor K. Sullivan.
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SUPPLEMENTAL VIEWS OF HON. DAVID W. EVANS

In recent weeks Congress has given a great deal of attention and consideration to the financial quagmire facing the City of New York and the detrimental effects "default" would have on the prosperity and economic recovery of our nation.

I have very serious and very strong reservations about the State and City of New York's attempts to break through the maze of financial mismanagement and excessive public services to a path of sound fiscal planning and budgetary programming. Such a path must be based on the needs of the populace and the assets of the municipal and not on the whims of special interests and political expediency. Yet, while these bills of particulars are severe, I do not believe that they alone should condemn this legislation.

I am more alarmed by the Committee's decision to create the Intergovernmental Emergency Assistance Board, which in several ways is an affront to our legislative and democratic processes. This Board would be given wide sweeping authorities and controls to deal with the fiscal problems confronting a city in either a pre- or a post-default setting. Taken at face value the general autonomy of the Board would appear essential in dealing effectively and expeditiously with default issues. However, a thorough analysis of the provisions of this legislation reflects that there are virtually no checks or balances as to what a Board may or may not decide to do to or for a "default" city. We have heard a certain amount of discussion that the federal government stands to make money from this crisis in the form of guarantee fees (Section 106). The inference of the language in this section of the legislation is that the Board may impose as little as a one-dollar guarantee fee from the obligor. Certainly not a high profit making situation. On the other extreme, a Board has the authority to call for the redemption of any obligations guaranteed after three years (Section 108).

The point I am driving at is that under this legislation the Board could and probably would make any city falling into the default category and having no alternative but to seek federal assistance, a political hostage of the current Administration—no matter which political party may be in power. I am in full agreement that such a thing is very unlikely, yet the legislation would be setting a precedent for future actions of this type.

I firmly believe that we should take every precaution and make every effort to prevent further erosion of Congressional power over and control of the programs we have initiated. To do less than this is to shirk the mandate given to us by our constituents as well as the obligation we have to the Constitution.

Dave Evans

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MINORITY VIEWS ON H.R. 10181

THE GOOD LIFE IN NEW YORK CITY

The American public does not begrudge all the good life for the residents of New York that the City can provide and for which the City can pay. But the American public, in general, does reject the notion that the Federal Government should pick up the tax for excessive
spending by New York politicians in providing vote-getting enriched public services that the City cannot afford.

The 86 million Americans who see their pay checks docked 5.85 percent each payday as their contributions to social security retirement find it hard to understand why New York City workers should have a free ride under the pension and retirement systems provided by the City which, in effect, are non-contributory systems. We would not want to have the job of trying to explain that set up to our constituents next fall, as we well might be called upon to do, had we supported this New York City bail-out bill.

Likewise, we would not want the job next fall of trying to explain to the parents of college and university students in our districts why it is they have to pay heavy tuition expenses each year while, under the good life program of New York City, free tuition is provided at City University which is one of the largest universities in the world. Any high school graduate, rich or poor, who wants to attend is eligible.

In addition to high salaries, New York City employees, under the good life, enjoy fringe benefits and paid retirements costs which average more than 50 percent of base pay. Four-week paid vacations and unlimited sick leave are provided for employees after only one year on the job.

No question about it. The good life is appealing if you can stretch your credit and don't have to face up to the question of paying for it. The numbers tell the story. In the past decade, New York City politicians have allowed the City's budget to triple. Expenses have increased by an average of 12 percent per year while tax revenues were increasing by only 4 to 5 percent a year. The moment of reality has arrived.

**NEW YORK CITY FINANCES**

We are told that even if no payments were made on principal and interest on debts of the City that there would be a cash flow deficit of approximately $1.2 billion in the next four months—December through March of next year. What we are not told is that such a cash flow deficit for that 4-month period is normal operating procedure under the way the books of the City are maintained. What we are not told is that the last quarter of the City's fiscal year ending June 30 is a lush revenue period with receipts substantially exceeding expenses including interest on debt. For instance, in the last quarter (April, May and June) of the City's fiscal year ending June 30, 1975, the City received 52.5 percent of its general fund revenues for the year and almost 40 percent of its total receipts excluding borrowing operations. For that last quarter of the fiscal year ending June 30, 1975, receipts of $5.165 billion exceeded expenses of $3.123 billion producing a surplus for the period of $2.042 billion. This surplus together with a drawdown of $105 million of cash and investment balances was used to reduce New York City's total debt from $14.450 billion as of March 31, 1975, to a total debt of $13.397 billion as of June 30, 1975.

In the light of additional facts, that $1.2 billion of cash flow deficit in the next four months is far less ominous than it appears standing by itself. The cash flow deficit for that period will be self-correcting from the excess of revenues over expenditures in the subsequent three-
LEGISLATIVE HISTORY
P.L. 94-143

month period. Further, the cash flow deficit could be eliminated completely by more closely gauging receipts to the time frame of expenditures made. Get away from that revenue pattern under which the last quarter of the City's fiscal year produces 40 percent of its total receipts excluding borrowing operations.

Appendix A lists bonded debt of the City as of June 30, 1975, and cash receipts and disbursements for fiscal years ending June 30, 1975, and 1974 as reported by the City Comptroller.

Big MAC

There is in being and in place a financing mechanism created to stretch out New York City debt and provide the City with funds for operating expenses. This is the Municipal Assistance Corporation, familiarly known as Big Mac. It was formed in June of this year and as of October 30, 1975, had sold $2.677 billion of its bonds with maturities extending from 2-1-77 to 2-1-95.

Big Mac is a "moral obligation" agency formed under New York State law. Big Mac has no taxing power, was created initially without any assets and its bonds and notes in no way are legal debts of either New York State or New York City.

But subject to legislative action by the New York State Legislature, Big Mac is endowed with a valuable right; that is the right to receive funds from the State controlled sales and compensating use taxes imposed by the State on these transactions after July 1, 1975, in New York City. Such revenue, if appropriated each year by the State to a "Special Account" to service Big Mac debt, amounts to approximately $800 million per year. The State has appropriated such funds to the "Special Account" for the State's fiscal year ending March 31, 1975. So by February 1, 1976, when Big Mac will have $116.9 million of interest due on its $2.677 billion of bonds, the "Special Amount" will have funds available (on a pro rata basis) of approximately $855 million to meet that interest payment.

Since Big Mac is a creature of the State and not of New York City, Big Mac will not default on February 1, 1976 interest due even if New York City should default in December of this year.

After March 31, 1976, the "Special Account" for Big Mac debt service, subject to annual State appropriation, can be augmented by the State's stock transfer tax approximately an additional $195 million per year.

Big Mac is a versatile and ingenious financing device. When specific revenues are appropriated by the State each year, there will be available for the "Special Account" approximately $580 million to meet Big Mac debt service—principal and interest—which on the bonds now outstanding will peak at $425.1 million on 2-1-77. So long as New York State does not default, Big Mac will have the capacity to completely service its debt on approximately a 2 to 1 basis. After building up a Capital Reserve Fund from 1977 to 1980 equal to one year's debt service on Big Mac bonds, the excess revenues in the "Special Account" can be returned to New York City for current expenses. This could amount to upwards of $500 million a year to assist New York City in meeting its current expenses.
NEW YORK CITY FINANCING ACT OF 1975
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BILLIONS OF ASSETS

Until recently, the billions of assets owned by New York City and New York State pension and retirement funds and sinking funds virtually have been ignored by the vociferous political and big banker advocates of a Federal bailout for New York City. Now that default by New York City appears to be an increasing possibility, active consideration of some use of the billions of assets of the City and State investment funds to avert default by New York City is coming to the fore.

The Comptroller of New York State has advised that the various pension and retirement funds of the State approximately $7.4 billion, figures as to New York State bonded debt outstanding and such debt outstanding in the hands of public would indicate that another $750 million of assets are held in New York State sinking funds.

We did receive figures on New York State’s Common Retirement Fund portfolio of investments as of March 31, 1975, when the total amounted to $8.269 billion, and the funds were held in prime investments. That was $779.2 million more than the total as of March 31, 1974.

We were informed by a witness that the pension and retirement funds of New York City amounted to $7.3 billion at book and were worth approximately $1.7 billion at market. Sinking funds for the City also apparently total another $750 million, a news article states that New York City contributes $1.2 billion a year to the City’s pension and retirement funds. The estimate appears plausible since for the one fund for which we do have figures, namely the $8.492 billion New York City Teachers’ Retirement System, received $276 million in contributions from New York City in the fiscal year ended June 30, 1975.

These are big numbers: Combined assets of $16.2 billion in the State and City retirement and pension systems and State and City contributions to those systems of approximately $2 billion a year.

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We are aware of the New York State Court of Appeals decision that a trustee cannot be mandated to invest the funds under his control in Big Mac bonds. We are also aware of the law limiting the percentage of investment that may be invested in any one asset by a trustee. We likewise are aware of the Prudent Man Rule governing the proper investment conduct of trustees. And we are aware that short of bankruptcy, you cannot change the vested contract rights of beneficiaries of retirement and pension systems.

But strange things happen to established rules and laws when bankruptcy strikes a State or municipality in the face if they do not make full use of billions of dollars of assets that have been and are being siphoned out of the State’s and the City’s income streams.

The Court decision referred to above does not preclude a trustee from investing in Big Mac bonds if he voluntarily chooses to do so. And the New York Legislature has passed a law on September 9, 1975, known as the New York State Financial Emergency Act for the City of New York, which eased the position of trustees voluntarily investing in Big Mac bonds. In effect, it repeals the applicability of the Prudent Man Rule to trustee investment in Big Mac bonds. The Act declares that Big Mac securities are prudent and legal investment for
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a trustee of a public pension or retirement system. It releases such trustee from culpability in the event they lose money on their Big Mac investments. Further, the Act makes Big Mac bonds acceptable security for certificates of deposit and an acceptable investment for City sinking funds.

In part, these $16.2 billion of State and City investment funds have been tapped in an important way for investment in Big Mac securities. As of October 20, 1975, New York City Pension Funds had invested $535.5 million in Big Mac bonds. In addition, New York City Sinking Funds had purchased $137.5 million of Big Mac bonds. At the State level, as of October 20, 1975, the New York State Insurance Fund had made purchases of $65 million of Big Mac securities and the New York State Pension Fund had bought $50 million of Big Mac bonds. These combined purchases total $814 million or about 5.2 percent of the combined City and State pension, retirement and sinking fund assets of $16.2 billion.

Since the State participation is comparatively meager, it would appear the State and Big Mac on September 15, 1975, engaged in a cosmetic operation to make the State's participation appear to be larger than it actually is. On that date, it would appear the State swapped $55 million of 1-year Revenue Anticipation notes for a like amount of Big Mac 1-year subordinated notes. At the end of the year, the swap will cancel. Meanwhile, the transaction will have padded the State's actual participation in Big Mac by $55 million.

Clearly, without any more financial shuffling than the State has already done in suspending the Prudent Man Rule with respect to Big Mac bonds, there is much more that could be done with the $16 billion of City and State fund assets. And to be overlooked, of course, is that $2 billion per year of new funds, without any vested strings attached, that are diverted from the City and State's income streams and squirreled away in the supposedly safe haven of pension, retirement and sinking funds.

Years ago, when the present Mayor of New York City became the City's Comptroller, it was common knowledge in investment circles that practically all of the City's pension and retirement funds were invested in New York City obligations. The former Comptroller was credited with changing that established investment policy by disposing of the New York City obligations and replacing them with higher yielding other assets since the City derived no benefit from the tax exemption privilege accorded municipal debt. Perhaps it is time to again reverse that investment policy since the highest yielding investments around are Big Mac securities which most recently have been offered with 11 percent coupons.

New York politicians and bankers in recent weeks have pulled out all stops on rhetoric making default a horror word. That was not so back in February 1975, when New York State did default on a note issue of one of its "moral obligation" agencies, the Urban Development Corporation.

On February 25, the Urban Development Corporation failed to pay the principal of a $100 million note issue then due and failed to pay interest of approximately $5 million due on that date. It was default by choice on the part of New York State.

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NEW YORK CITY FINANCING ACT OF 1975
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Financial markets did not collapse—as a matter of record, the Dow Jones Industrial Stock Average went up 90 points while the Urban Development Corporation was in default.

The default continued for approximately three months. On April 30th, the State voted approval of an aid package which removed restrictions on a previously authorized appropriation—not a new appropriation but a previous one—so that up to $110 million of that previously authorized appropriation could be used to cure the default.

Actually, the default was cured on May 20, 1975, from proceeds of a $140 million revolving credit established for the State's Project Finance Agency by the eleven New York Clearing House Banks. At that time, holders of the $110 million Urban Development Corporation notes were paid their principal in full, together with the $5.1 million of defaulted interest then due.

New York State credit was not destroyed by the default of its moral obligation agency. On May 28, 1975, New York State sold in the investment market $975 million of short-term tax anticipation notes at an average interest cost of 5.9976 percent. The notes dated June 16, 1975, were due $300 million on September 15, 1975, $300 million on December 30, 1975, and $375 million due on March 31, 1976.

Strange, isn't it, that when default actually occurred on a New York State agency issue last February there was hardly a ripple of rhetoric whereas now, when default has not occurred but might, the media has been saturated by the New York politicos and big bankers trying to sandbag the Congress for a guaranteed Federal bailout.

Title I, the New York City bailout provision in this legislation, should be stricken from the bill.
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APPENDIX A


NEW YORK CITY (MUNICIAL)

<table>
<thead>
<tr>
<th>Outstanding, June 30, 75</th>
<th>Held by public</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonded debt:</td>
<td></td>
</tr>
<tr>
<td>Redeemable from:</td>
<td></td>
</tr>
<tr>
<td>State, local,</td>
<td></td>
</tr>
<tr>
<td>124,000,000.00</td>
<td>124,000,000.00</td>
</tr>
<tr>
<td>Federal,</td>
<td></td>
</tr>
<tr>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Total funded:</td>
<td>124,000,000.00</td>
</tr>
<tr>
<td>Bond issues:</td>
<td>124,000,000.00</td>
</tr>
<tr>
<td>Housing loans:</td>
<td>124,000,000.00</td>
</tr>
<tr>
<td>Multi-family:</td>
<td>124,000,000.00</td>
</tr>
<tr>
<td>Capital credit:</td>
<td>124,000,000.00</td>
</tr>
<tr>
<td>Temporary debt issuance</td>
<td>124,000,000.00</td>
</tr>
<tr>
<td>Total temp. debt issued</td>
<td>124,000,000.00</td>
</tr>
<tr>
<td>Total bond debt</td>
<td>248,000,000.00</td>
</tr>
</tbody>
</table>

1 As reported by Comptroller.
2 Issued to New York State.
3 Issued to New York City.
4 Including $90,000,000 issued to the Muni. Assn. Corp.

Cash Receipts and Disbursements (excl. sink. funds & trust funds), years ended June 30 (on a warrant basis—as reported by City Comptroller) (in dollars):

<table>
<thead>
<tr>
<th>Source</th>
<th>1975</th>
<th>1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receipts by general sources</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Real estate taxes</td>
<td>$2,657,883,314</td>
<td>$2,499,189,687</td>
</tr>
<tr>
<td>Assessments</td>
<td>3,141,104</td>
<td>3,141,104</td>
</tr>
<tr>
<td>General fund</td>
<td>791,327,568</td>
<td>791,327,568</td>
</tr>
<tr>
<td>Sales tax</td>
<td>549,475,646</td>
<td>549,475,646</td>
</tr>
<tr>
<td>Personal income tax</td>
<td>229,380,529</td>
<td>229,380,529</td>
</tr>
<tr>
<td>General corporation tax</td>
<td>42,538,269</td>
<td>42,538,269</td>
</tr>
<tr>
<td>Dent/other business income</td>
<td>11,560,929</td>
<td>11,560,929</td>
</tr>
<tr>
<td>Franchised services</td>
<td>1,397,418</td>
<td>1,397,418</td>
</tr>
<tr>
<td>Insurance corporations</td>
<td>1,982,184</td>
<td>1,982,184</td>
</tr>
<tr>
<td>Transfer incidental corp.</td>
<td>5,414,241</td>
<td>5,414,241</td>
</tr>
<tr>
<td>Commercial rents</td>
<td>4,683,729</td>
<td>4,683,729</td>
</tr>
<tr>
<td>Excess profits and I</td>
<td>5,491,439</td>
<td>5,491,439</td>
</tr>
<tr>
<td>Commercial motor vehicle</td>
<td>9,686,728</td>
<td>9,686,728</td>
</tr>
<tr>
<td>Interest</td>
<td>4,694,134</td>
<td>4,694,134</td>
</tr>
<tr>
<td>Leased property and li</td>
<td>875,926</td>
<td>875,926</td>
</tr>
<tr>
<td>Other city taxes</td>
<td>56,465,433</td>
<td>56,465,433</td>
</tr>
<tr>
<td>Gasoline and motor fuel</td>
<td>29,333,286</td>
<td>29,333,286</td>
</tr>
<tr>
<td>Bank credit</td>
<td>166,724,328</td>
<td>166,724,328</td>
</tr>
<tr>
<td>State aid</td>
<td>411,325,826</td>
<td>411,325,826</td>
</tr>
<tr>
<td>Federal revenue sharing</td>
<td>225,278,000</td>
<td>225,278,000</td>
</tr>
<tr>
<td>Federal tax refunds</td>
<td>11,172,437</td>
<td>11,172,437</td>
</tr>
<tr>
<td>Private rent, etc.</td>
<td>1,067,729</td>
<td>1,067,729</td>
</tr>
<tr>
<td>Other</td>
<td>46,558,288</td>
<td>46,558,288</td>
</tr>
<tr>
<td>Total general fund</td>
<td>$1,529,876,898</td>
<td>$1,422,402,076</td>
</tr>
</tbody>
</table>

See footnotes at end of table.

3298
# NEW YORK CITY FINANCING ACT OF 1975

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[page 55]

<table>
<thead>
<tr>
<th>1975</th>
<th>1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supplemental receipts:</td>
<td></td>
</tr>
<tr>
<td>State aid</td>
<td>2,458,474,341</td>
</tr>
<tr>
<td>Federal aid</td>
<td>7,010,047,733</td>
</tr>
<tr>
<td>Others</td>
<td>93,545,578</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Other receipts:</td>
<td></td>
</tr>
<tr>
<td>State aid</td>
<td>746,808,310</td>
</tr>
<tr>
<td>Federal aid</td>
<td>466,418,302</td>
</tr>
<tr>
<td>Federal revenue sharing</td>
<td>67,114,874</td>
</tr>
<tr>
<td>Sewer rents</td>
<td>91,163,929</td>
</tr>
<tr>
<td>Parks, parkways, etc.</td>
<td>76,665,815</td>
</tr>
<tr>
<td>Other receipts</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Total receipts</td>
<td>12,970,148,114</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1975</th>
<th>1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>Borrowings:</td>
<td></td>
</tr>
<tr>
<td>Tax inc. notes</td>
<td>1,469,000,000</td>
</tr>
<tr>
<td>Rev. &amp; mort. notes</td>
<td>4,055,020,800</td>
</tr>
<tr>
<td>Budget notes</td>
<td>3,350,000,000</td>
</tr>
<tr>
<td>Capital notes</td>
<td>2,024,000,000</td>
</tr>
<tr>
<td>Bond inc. notes</td>
<td>2,024,000,000</td>
</tr>
<tr>
<td>Other bonds</td>
<td>7,412,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Total borrowings</td>
<td>9,337,665,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1975</th>
<th>1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total reg. and bond</td>
<td>22,316,813,118</td>
</tr>
<tr>
<td>Cash and inv., 7-1</td>
<td>628,745,076</td>
</tr>
<tr>
<td>Total reg. and bal.</td>
<td>22,945,558,194</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disbursements by general functions:</td>
</tr>
<tr>
<td>General government</td>
</tr>
<tr>
<td>Elec. and high school education</td>
</tr>
<tr>
<td>Colleges education</td>
</tr>
<tr>
<td>Parks, rec., and cult</td>
</tr>
<tr>
<td>Police</td>
</tr>
<tr>
<td>Fire</td>
</tr>
<tr>
<td>Public health</td>
</tr>
<tr>
<td>Light &amp; power</td>
</tr>
<tr>
<td>Utilities</td>
</tr>
<tr>
<td>Public welfare</td>
</tr>
<tr>
<td>Transportation</td>
</tr>
<tr>
<td>Repairs and maintenance</td>
</tr>
<tr>
<td>Court and police</td>
</tr>
<tr>
<td>Other</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1975</th>
<th>1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total disburse</td>
<td>21,784,022,494</td>
</tr>
<tr>
<td>Cash and inv., 6-30</td>
<td>628,445,076</td>
</tr>
</tbody>
</table>

* Includes bonded expenditures.
* Excl. $55,000,000 (01973, $47,000,000) rev. inc. notes issued to tax Appropriation & Gen. Fd. Stabilization Res. Fund which have been redeemed.
* Excl. land & multiple dwelling loans.
* Excl. $100,000,000 redemption of rev. inc. notes and refunds.


Law Signed—Mayor Abraham Beame signed a bill allowing property owners to prepay real estate taxes at an 8% discount, a step ensuring that at least $150,000,000 from the prepayments would flow into the city's treasury by Sept. 13. The law signed by Mr. Beame.
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actually allows property owners to prepay their taxes due between now and the end of the fiscal year. They are normally due in quarterly installments in Oct., Jan., and Apr. Those who agree to prepay their taxes receive an 8% discount on them, calculated on an annual basis.

Albert W. Johnson,
J. William Stanton,
Garry Brown,
Chalmers P. Wylie,
John H. Roushlot,
John B. Conlan,
George Hansen,
Henry J. Hyde,
Charles E. Grassley.

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ADDITIONAL MINORITY VIEWS OF HON. JOHN B. CONLAN

During deliberations over this federal legislation to bail-out New York City, no real thought has been given to the further serious damage that such aid—whether direct or indirect—will inflict on the principle of federalism in American government.

Congress simply cannot, and will not, dispense aid to New York City without demanding strings on that aid. If Congress bailouts New York City—which I firmly believe it should not do—responsibility on the part of Congress demands strict and specific controls on how that aid is used, and how New York puts its financial affairs in order.

This means that Congress will have to deal, in detail, with particular questions of a city's finances. This drain in power to the government in Washington is one of the most worrisome aspects of this whole affair, with far greater long-run consequences for the Nation than a default. It is most important that New York City solve its own problems, that New York State solve its own problems, and that every level of government be immediately responsible to its own constituency for resolving whatever problems arise.

Otherwise, the unitary socialist state is brought just that much closer, with all its attendant loss of individual freedoms and creativity in meeting the needs and desires of the people in communities throughout America.

John B. Conlan.

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DISSENTING VIEWS OF HON. CHARLES GRASSLEY

Should the American public be New York City's keeper? The city's current dilemma raises a number of serious questions which those who voted in favor of H.R. 10181 have refused to take account of. These include moral questions suggested by New York's inability to control its own finances as well as practical problems inherent in any Federal program designed to solve the financial difficulties of inferior political jurisdictions.

Members from both sides of the aisle have admitted that New York City has been poorly managed for at least the past decade. Below is a
NEW YORK CITY FINANCING ACT OF 1975
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The table prepared by the Library of Congress which puts in perspective just how reckless the city's spending has been. It should be made clear at this point, however, that any attempt to place the blame for New York's budgetary crisis on either one of the major parties is simply a smokescreen aimed at covering up the true nature of the problems involved.

TOTAL EXPENDITURES, INCREASE IN EXPENDITURES, GROSS DEBT OUTSTANDING, AND INCREASE IN GROSS DEBT IN NEW YORK CITY, FISCAL YEARS 1965-74

<table>
<thead>
<tr>
<th>Year</th>
<th>Total expenditures</th>
<th>Increase in expenditures over previous year</th>
<th>Gross debt outstanding</th>
<th>Increase in gross debt outstanding over previous year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971</td>
<td>12,581</td>
<td>1,045</td>
<td>13,500</td>
<td>1,745</td>
</tr>
<tr>
<td>1972</td>
<td>11,536</td>
<td>1,014</td>
<td>11,784</td>
<td>1,141</td>
</tr>
<tr>
<td>1973</td>
<td>10,720</td>
<td>1,100</td>
<td>10,279</td>
<td>1,114</td>
</tr>
<tr>
<td>1974</td>
<td>9,528</td>
<td>1,273</td>
<td>8,752</td>
<td>1,341</td>
</tr>
<tr>
<td>1975</td>
<td>7,989</td>
<td>973</td>
<td>7,015</td>
<td>398</td>
</tr>
<tr>
<td>1976</td>
<td>7,005</td>
<td>1,105</td>
<td>8,003</td>
<td>86</td>
</tr>
<tr>
<td>1977</td>
<td>6,531</td>
<td>285</td>
<td>7,817</td>
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</tr>
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<td>1978</td>
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<td>1980</td>
<td>4,394</td>
<td>227</td>
<td>7,419</td>
<td>688</td>
</tr>
</tbody>
</table>

Source: U.S. Department of Commerce, Bureau of the Census. (Annual publication entitled "City Government Finances.")

Let's, then, analyze New York's situation in terms that I feel most members of the Committee will acknowledge as being valid. First, New York has clearly overspent and must either find new sources of revenue to decrease and eliminate its deficits and debt, or else reduce its spending. While the former, though politically distasteful, is a real alternative, and possible without any sort of Federal action, the latter is a wiser course of action. Certainly, it could involve personnel layoffs; but there could be minimized by a reduction in salaries and fringe benefits of those retained on the payroll, as well as more cost-effective management. For those who feel that such steps would be impossible or simply too painful, I invite you to review the case of Detroit in the early 1930's. At that time, the municipality faced a budget situation similar to New York's; but it overcame its dilemma through the tough sorts of actions I listed above. Keep in mind, too, that there are currently Federal programs designed to help those who are severely affected by economic dislocation. This was not the case when Detroit made the tough decisions required to stave off financial disaster. Of course, many proponents of a Federal bond guarantee feel that such a program would be preferable to increased welfare or unemployment expenditures. I disagree. The sort of guarantee being promoted in H.R. 10481 fails to address itself to the fact that the leaders of New York have been less than straight-forward with the city's residents, that the municipality's accounting and financing procedures have been fraught with irregularity, and that the policies of public officials have brought the city to the brink of financial chaos.

However powerful the New York labor unions may be, the actions of those elected officials who have refused to stand up and tell their constituents the truth—that New York could not go on indefinitely
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without making some sort of accommodation for its ever-burgeoning budget—are inexcusable. In essence, Congress, by aiding the city now, would be lending a degree of legitimacy to the city’s leadership that these officials ought not to receive. Indeed, one reason the American people are overwhelmingly against a Federal bail-out of New York is that they are fed-up with dishonesty in politics, and the precedence short-term political considerations take over long-term, responsible planning. They are tired of paying bills created by politicians who appear more concerned with the next election than with the next generation. Events surrounding the last Administration in Washington created an air of cynicism among the populous which is only reinforced by the current situation in New York. Americans now feel that any public officials who act irresponsibly or dishonestly should pay a price, and should not be rescued by last minute emergency action which fails to strike at the root causes of the problem. I was particularly disturbed by a Wall Street Journal article of October 30 which details how Mayor Beame and New York State legislators tacitly participated in political chicanery seemingly intended, at least in part, to convince the American people that New York City’s leaders were responsible enough to cope with its financial dilemma. Thousands of city employees were apparently laid off; but most were almost immediately rehired. In Mayor Beame’s own words, “We all knew they would be put back. I think that, more than anything else, really hurt our credibility in the nation.”

Now, many members of Congress fear that large-scale financial disruption would occur if New York defaulted. While Administration officials argue that long-term disruption is extremely unlikely, many are not convinced. Yet I believe we have more reason to fear the results of the bill discussed here than we do a New York default. In the first place, we have no idea what effect its passage would have on interest rates, and, thus, the current economic recovery. Investors, in anticipation of a New York default and a subsequent Federal pay-off of the defaulted obligations may rush out to borrow for fear that the Federal pay-off will raise interest rates later on. Or a guarantee, by inducing investors to put their money into New York city bonds, might cause borrowing rates for companies, states, and municipalities to rise because of a capital shortfall. Also, we have no assurance that those who could be affected by the actions of the Emergency Assistance Board—for example, pension recipients and current bondholders, might not bring suit against the Board, thus causing months or even years of litigation. Of course, the Board would, in any case be subject to the same sorts of political pressures that New York’s public officials are currently subjected to. And I am also fearful that criticism of the Board’s decisions might serve more as a camouflage to permit interference with the Federal Reserve’s control over monetary policy than as a constructive means to improve the Board’s handling of New York’s dilemma.

Finally, I believe it is morally wrong to saddle future taxpayers in New York City, or any political jurisdiction, with debts incurred by today’s leaders that promise no yields of fruit to future generations. Indeed, it is the taxdollars of these future taxpayers, many of whom have yet to be born, that would be used to pay off the long-term bonds.
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which now help finance today's free university tuition, underutilized hospital rooms, over-generous fringe benefits for city employees, and the like.

In conclusion, New York should be allowed only to take advantage of altered bankruptcy laws. Control of the city's finances would be put in the hands of those who would have no reason to be anything but straightforward. In addition, such a course of action would make clear that the Federal government will not offer an umbrella to shortsighted politicians who insist on walking out naked into the rain.

CHARLES E. GRASSLEY.

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DISSENTING VIEWS OF HON. WILLIS D. GRADISON, JR.

The proponents of a federal loan guarantee are claiming that the plan will not cost the American taxpayers a cent. In fact, they say, the loan guarantee plan will actually make money for the federal government.

In view of the fact that the federal deficit this year will be more than $70 billion, this logic is not surprising. Nevertheless, it should not go unchallenged.

In essence, the loan is an agreement by the federal government to borrow up to $7 billion for New York City. Congress would rather label federal debt as loan guarantees in the same way that New York City officials would rather call their debt Bond Anticipation Notes and Tax Anticipation Notes. This is understandable, but it should not blind us to the fact that federal loan guarantees will have the same effect on the market as federal borrowing. All Americans will pay for the loan guarantees through higher interest rates, more inflation, and less credit availability for private borrowers.

I am opposed in principle to forcing all Americans to pay for spending in New York City. If New York City residents want to continue to receive a higher level of social services than is the case elsewhere, they should be no objection. One of the great things about our federal system of government is that it allows for diversity at the local level. But fairness also demands that those who benefit from the services should pay for them.

In addition to my objection to the principle embodied in H.R. 10481, I am also opposed to several specific provisions of the bill.

(1) The amount of the loan guarantee is excessive. Governor Carey said in testimony before the Economic Stabilization Subcommittee, "so that with a guarantee on bonds with a principal amount of five billion dollars we can effectively handle New York City's remaining short term debt." The Subcommittee received absolutely no testimony to support the higher $7 billion figure contained in H.R. 10481. The Senate Banking Committee apparently feels that $1 billion is sufficient. I strongly object to any loan guarantees whatsoever, but to give the city more than Governor Carey asked for would be ridiculous.

(2) There is no requirement that a guarantee fee be paid by New York City, although the Board may require one.

(3) There is no requirement that New York State extend any assistance to New York City, although the Board may require this.

(4) This bill would place control over the details of the city's finances in the hands of a five member board of federal officials, three of whom

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serve at the pleasure of the President. Not only will this mean decisions which should properly be made at the local level will be made at the federal level, but it will also mean that national political forces will impinge on essentially local issues.

(5) New York City officials have submitted a financial plan which supposedly will lead to a balanced budget in three years. There is no reason why a balanced budget should take three years to achieve when most cities, both large and small, balance their budgets every year. Furthermore, we are being asked to extend loan guarantees which may run until 1999. We have been given no assurance that New York City can live up to the three year plan, much less about what will happen after three years. In view of past performances, there is a good possibility the federal government will end up paying off the guaranteed loans.

The basic law of economics holds that there is no such thing as a free lunch. Having tried to exempt itself from this law, Congress is generously offering to repeal the law for New York City. The attempt will fail, of course, but if H.R. 11481 is enacted, the American people will pay dearly for the attempt.

WILLIS D. GRABSTON, JR.

Dissenting Views of Hon. Richard Kelly

As a witness to the carefully staged drama that has been played and replayed before this Congress in the last few weeks, I know every character and every line by heart. We have been told in our Committee meetings countless times that New York City and all of its inhabitants—particularly the poor, the hungry, the unemployed (not to mention the banks)—are in grave danger should the City default. It has been carefully explained that default must be avoided at all costs for the sake of New York itself and all other municipalities across the country who are now or could ever be in financial trouble. It has been argued time and again that legislation such as the bill at hand must be enacted without delay based on the justifications that no one can help New York City now but the federal government (read: American taxpayer) and that a program of loan guarantees costs nothing.

My concern is that no one sees this drama for what it is—pure fiction. My concern is that it is too easy for many to believe the superficial story about the bill, rather than face the reality of what is happening.

My concern is that Congress is treating this as just another item on the legislative schedule to be debated and passed without full cognizance of its true meaning for New York and of its long-range effect on the fabric of our national existence.

The Committee report will outline the mechanics of this "emergency assistance" program. The attention of the Congress and the public must be drawn to the real consequences:

1. A complete surrender of control by New York City over its local affairs. The Intergovernmental Emergency Assistance Board is authorized to impose such terms and conditions as it deems appropriate with respect to making guarantees under the Act. Clearly, this is a violation of the separation of federal and local authorities since it was
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brought out in the Committee deliberations that federal control in New York City will be absolute following implementation of the "emergency" plan.

2. The leadership of the municipal unions will be rewarded for extracting from the City more than it can afford to pay.—Today the City of New York pays generally the highest municipal salaries in the United States and unparalleled pension benefits. In many instances, employee benefits were augmented when the City government was dealing from a position of vulnerability, when the people of New York were afraid of losing important municipal services or of being exposed to hazards of their own health and safety. Because of the unusual powers of the City's union leaders, it has been easy for them to negotiate contracts that contain unjustifiable items, and by passage of this bill we reward them for their past successes and encourage similar activity by the growing numbers of municipal unions throughout the country.

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3. The poor are being used as tools.—The poor, the sick, the hungry, the medicated and the unemployed are ill-served by those who invoke their names in the campaign for a federal bail-out of the City. They are being used as an excuse to overlook the mismanagement and overspending that have characterized the City's government for so many years. It is of paramount importance to realize that those who will be helped the most by a bail-out are politicians and the bond-holders. The federal guarantees will increase the value of all paper issued by New York, to the disadvantage of all the cities and States across the country who will not have the opportunity of enjoying this display of largesse by the federal government.

4. It weakens rather than strengthens New York's position.—the rest of the country needs New York more than New York needs the rest of the country in this instance. If New York will help itself assume the responsibility for its own future, it will give inspiration to the rest of the country, raise itself in the eyes of the nation, and hopefully reverse the trend toward bankruptcy and fiscal irresponsibility for the whole country.

5. It is a political solution to a financial problem.—New York's problems are its own creation. No amount of rhetoric directed at the President of the United States or the Secretary of the Treasury can disguise the fact that budget decisions made by the City over the last 20 years have been the direct result of political and government choices made by the officials of the City and the direct cause of its current financial problems. By appealing to majority sentiment in Congress and attempting to shift the blame to the Executive branch, those who advocate this legislation are legitimizing the use of politics as a solution to what appears clearly to be plain and simple financial problems.

This legislation is an extension of the myth that there is something for nothing, and that what government does, does not have to be paid for. New York is looking at the stark reality of deficit spending. If a bail-out occurs, that reality will be avoided and the myth extended.

Richard Kelley.
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HOUSE REPORT NO. 632—PART II

The Committee on Ways and Means, to whom was referred title II of the bill (H.R. 10481) to authorize emergency guarantees of obligations of States and political subdivisions thereof; to amend the Internal Revenue Code of 1954 to provide that income from certain obligations guaranteed by the United States shall be subject to taxation; to amend the Bankruptcy Act; and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that title II of the bill as amended do pass.

I. SUMMARY

The bill, H.R. 10481, as reported to the House by the Committee on Banking, Currency and Housing establishes a Federal agency that under certain conditions would be able to guarantee taxable debt issues of a city or municipality that faces default on its obligations or is in (or pending) bankruptcy. Since the bill requires that the interest on these obligations be subject to Federal income tax if the guarantee is to be effective, the bill, as reported, amends the Internal Revenue Code to provide that interest on these types of guaranteed obligations is to be taxable. In view of this amendment to the Internal Revenue Code, which is under the jurisdiction of the Committee on Ways and Means, the bill was sequentially referred to the committee on Ways and Means for consideration of title II of the bill which amends the tax laws.

Your committee did not consider the underlying legislation in title I of the bill. However, the committee did conclude that if Federal guarantees of State or local government obligations are to be provided, the interest on these obligations should be subject to Federal income tax. As a result, your committee's bill provides a substitute for title II of the bill which provides for taxation of interest on guaranteed obligations but only on those obligations issued after the date of enactment of the bill.

II. GENERAL STATEMENT

Present law

Under present law (sec. 103 of the Internal Revenue Code) interest on most obligations issued by a State, a territory, a possession of the United States, the District of Columbia, or a political subdivision of any of the foregoing is excluded from gross income and is therefore exempt from taxation. This exclusion from gross income is not subject to waiver by the issuer of the obligations. Exceptions to this provision are provided for certain industrial development bonds and arbitrage bonds, the interest on which generally is taxable.

Obligations issued by the Federal Government, however, are generally subject to tax.

Reasons for change

On November 3, 1975, the Committee on Ways and Means was informed that pending legislation before the Committee on Banking...
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Currency and Housing to authorize emergency guarantees of obligations of States and their political subdivisions contained certain provisions which relate to the Ways and Means Committee's jurisdiction. When the bill, H.R. 10481, was reported to the House by the Committee on Banking, Currency and Housing on November 6, it was sequentially referred to the Committee on Ways and Means for consideration of Title II of the bill, which amended the Internal Revenue Code of 1954.

While the referral of H.R. 10481 to the Committee on Ways and Means involved only Title II, the committee's attention was drawn to section 111 of Title I, the Emergency Municipal Debt Guarantee Fund. This section provides for payments under the guarantee in the event the State or State agency issuing an obligation is not able to make a timely payment of interest or principal. The fund would

be financed by guarantee insurance fees, revenue sharing funds and the issue of Federal obligations under the Second Liberty Bond Act. The Committee on Ways and Means noted that this provision (sec. 111(c)), because of the reference to the Second Liberty Bond Act, is within its jurisdiction. Any issue of public debt obligations under this subsection also would affect the public debt limit. Probably more important, spending of Federal funds, whether derived from tax or debt receipts, would constitute spending under the provisions of Title IV of the Congressional Budget and Impoundment Control Act of 1974. In response to these observations of the Ways and Means Committee and comments from other committees of the House, your committee understands that the Committee on Banking, Currency and Housing is to propose that section 111 be deleted from H.R. 10481.

The major focus of your committee's attention was on the provision under Title II of the bill dealing with the taxability of certain Federally guaranteed governmental obligations.

Because of its concern with the fiscal crisis in New York City, the Committee on Banking, Currency and Housing in the bill, H.R. 10481, which it reported to the House, establishes a Federal agency that under certain conditions would be able to guarantee taxable debt issues of a city or municipality that faces default on its obligations or is in (or pending) bankruptcy. Since the bill requires that the interest on these obligations be subject to Federal income tax if the Federal guarantees are to be effective, the bill, as reported, amended the Internal Revenue Code to provide that interest on these guaranteed obligations is to be taxable.

Your committee did not consider the provisions of title I of the bill which provide Federal assistance to distressed State or local governments, nor did it examine the obligation guarantee program provided in Title I. However, the committee did conclude that, if Federal guarantees of State or local government obligations are to be provided, the interest on these obligations should be subject to Federal income tax.

Your committee believes these bonds should be taxable for two reasons. First, Federal guarantees make these obligations more nearly comparable to obligations issued by the Federal Government, which are taxable. Allowing a tax exemption for the Federally guaranteed obligations would give them a competitive advantage in this respect.

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over Federal obligations generally. Second, allowing a tax exemption for the interest on these obligations is an indirect form of assistance to the issuing government. Your committee concluded that any such assistance should be accomplished directly, rather than through the tax system, so that the amount of assistance to be given and the conditions governing the use of the assistance can be reviewed by the appropriate congressional committees through the authorization and annual appropriation process.

Explanation of provision

Your committee's bill provides a substitute for the provision in title II in the bill as referred to this committee. The committee substitute amends the Internal Revenue Code to provide that interest on obligations which are guaranteed under this bill are to be taxable. The substitute applies only to new issues and thus does not permit the taxation of any existing obligations. The amendment requires that the new issues be taxable if all or part of the interest or all or part of the principal (or all or part of both) is guaranteed. Any guarantee must be in effect at the time the obligation is issued. However, if the guarantee is later withdrawn from any obligation, the interest on that obligation remains taxable.

The substitute differs from the title referred to the committee in that the substitute provides for taxation or interest only from such guaranteed securities issued after the date of enactment of the bill. The substitute further provides that the taxable status of the bonds is to apply only if no amendments are made after enactment to Title I (the title providing the guarantees). As a result, if any amendments to Title I are made, amendments to Title II would be required before additional taxable obligations are issued (a requirement for the bonds to be eligible for the guarantees). In this way, the tax-writing committees of Congress will have an opportunity to review any future amendments to the legislation affecting the tax treatment of any new obligations.

III. Effect on the Revenues of the Bill and Vote of the Committee in Reporting the Bill

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effect on the revenues of this bill.

It is estimated that over the period 1976-1981, total additional income taxes of $326.5 million will be collected as a result of this bill. Also, it is estimated over the same period that total guarantee fees of $162.5 million will be collected. Thus, total additional revenues are estimated at $489 million in the period from 1976 to 1981. These estimates are predicated on levels of average outstanding obligations displayed in Table 1. Also, it is assumed that no default will occur on the obligations guaranteed. If the entire guarantee authority is utilized and if the entire issue defaulted, the cost of the guarantee could be as much as $7 billion. On the basis of experience in comparable loan guarantee programs, it is estimated that annual administrative expenses will be less than $1 million.
NEW YORK CITY FINANCING ACT OF 1975
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TABLE I
(In millions of dollars)

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<th>Fiscal year</th>
<th>Average outstanding guaranteed obligations</th>
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<th>Guarantee fees</th>
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<tr>
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<td>1978</td>
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<tr>
<td>1981</td>
<td>4,175</td>
<td>63.0</td>
<td>31.0</td>
</tr>
<tr>
<td>Total</td>
<td>NA</td>
<td>326.5</td>
<td>162.5</td>
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</table>

* Assumes 7.5 percent yield.

In compliance with clause 2(1)(2) of Rule XI of the Rules of the House of Representatives, the following statement is made relative to the record vote by the committee on the motion to report the bill. The bill was ordered reported by a roll call vote of 20 in favor and 13 opposed.

IV. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clauses 2(1)(3) and 2(1)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made.

With respect to subdivision (A) of clauses 3 relating to oversight findings, your committee advises that in its review of the tax treatment of obligations of States and their municipalities, it concluded that the changes in taxation in Title II of the bill should be made with respect to the taxable status of such obligations which are guaranteed by the Federal Government in order to provide consistent treatment of such obligations with Federal obligations generally. This is also desirable in order to distinguish them from other State and municipal obligations which are not guaranteed.

In compliance with subdivision (B) of clause 3 of Rule XI of the Rules of the House of Representatives, the committee states that the changes made to this bill involve no new budget authority.

With respect to subdivisions (C) and (D) of clause 3 of Rule XI of the Rules of the House of Representatives, your committee advises that no estimate of comparison has been submitted to your committee by the Director of the Congressional Budget Office relative to the changes made by your committee, nor have any oversight findings or recommendations been submitted to your committee by the Committee on Government Operations.

In compliance with clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, your committee states that the inflation impact of the changes made to this bill should be negligible.
VI. DISSenting VIEWS OF HON. HAROLD FORD

I have opposed the provision of taxable guaranteed bonds for fiscally distressed municipalities, not because I am without concern about the financial difficulties some are facing, but because I think it is inappropriate for the Federal Government to step in to provide financial assistance. It is a new kind of Federalism which I fear the Committee does not fully appreciate, but will learn to regret.

The provision of such guarantees has been prompted by New York City's fiscal problems. The question before the Committee is whether the Congress should provide financial assistance before the City and the State of New York have exhausted their resources to raise revenues and examined every item in the City's budget to achieve economies. By providing guarantees to financially distressed municipalities, we are in effect relieving the State governments of their constitutional responsibilities to their localities. Moreover, we are enabling the city to forestall hard decisions about spending and taxing which their elected officials have been placed in office to make. I see no merit in having the Congress catch the fiscal hot potato and foot the bill. It would serve to establish a dangerous precedent, encouraging mischievous claims on Federal tax dollars by incompetent State and local Administrations.

Over the years, the Congress has properly addressed particular social problems which cities face and provided targeted assistance. This is appropriate and I support such measures. However, what this bill does is provide aid for a new kind of social problem: fiscal irresponsibility and mismanagement on the part of locally elected officials, and I fear the cure of Federal assistance may induce other cities and their officials to catch the disease.

Let us be clear. There are a wide variety of areas in New York where substantial cuts can be achieved now. Currently, better than 25 percent of the City supported hospital beds are vacant. The City heavily subsidizes the City University system at a level well beyond that of any other public university. The pay scales in New York far exceed those in other cities in the Nation: a sanitation worker with three years' experience now receives a base salary of nearly $15,000 per year. After one year of service, City employees get four-week vacations with pay and unlimited sick leave. I find it hard to believe in view of these facts that New York City has exhausted its search for economies in government. Supporting a guarantee at this point amounts to supporting this kind of municipal largesse. I cannot support taxing my constituents to pay these kinds of wages and benefit levels in New York City. It is about time the citizens and employees of the City face up to the fact that they have chosen to provide services and wages well beyond their means. I seriously doubt that my colleagues on this great committee have intended to relieve the citizens of New York from the responsi-

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the level of services they can obtain for their tax dollar. The elected officials in the City and the State have to become more realistic about what they can promise within the tax resources they wish to impose. When the elected officials, City employees, and Citizens of New York begin to act like their counterparts across the country, revenues will equal expenditures, and the fiscal problems of the City will disappear.

HAROLD FORD.

VII. MINORITY VIEWS

The Intergovernmental Emergency Assistance Act was favorably reported by the House Committee on Banking, Currency and Housing and referred to the Committee on Ways and Means for its review of Title II. This title would amend the Internal Revenue Code of 1954 to make taxable the interest earned on obligations subject to Federal guarantees under other provisions of the Bill. Since only Title II of the Bill was referred to the Committee on Ways and Means, we did not directly consider or deal with the provisions of the Bill contained in Title I.

Interest on State and municipal obligations is now excluded from gross income for tax purposes under Section 103(a)(1) of the Internal Revenue Code. Title II would alter that to make taxable the interest on bonds which are Federally guaranteed. This would avoid the obvious inequity of providing some investors both a guarantee and preferential tax treatment.

Our favorable votes on Title II do not constitute an acceptance of the argument that New York City should be provided Federal loan guarantees. We believe, and our votes reflect our belief, that if Federal loan guarantees ultimately are provided, the interest on the obligations involved should be taxable.

Absent the change in the Internal Revenue Code which is embodied in Title II, this Bill might well create a class of investments so attractive as to constitute a clear threat to other States and their subdivisions in the bond market. Investors would be inclined to choose Federally guaranteed tax-exempt New York obligations over those issued by fiscally responsible jurisdictions but not Federally guaranteed. With their combined Federal guarantee and tax preference the New York bonds would simply be too attractive, and others desiring to sell their bonds would find it difficult to compete.

We voted for Title II for only these reasons and reserve the right to vote against the other portions of the Bill on the House floor.

H. T. SCHNEEBELI
BARRER B. CONARLE, JR.
W. A. STEGER,
BILLS FRONZEL,
JIM MARTIN.
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VIII. DISSERTING VIEWS OF THE HON. PHILIP M. CRANE

I am totally opposed to a Federal bail out of New York City. For years that City has been operated on an unacceptable fiscal basis; to reward such inherently unwise and unsound governmental policy and actions with a Federal bail out would be reprehensible.

There simply is no earthly reason why the taxpayers of Illinois or California or any other State should be forced to pay for the extravagant nature of those officials in New York who have sought reelection year after year on outrageously underfunded budgets. They have borrowed and borrowed for today not planning adequately to pay tomorrow; but tomorrow has come.

PHILIP M. CRANE

IX. SUPPLEMENTAL VIEWS OF HON. BILL FRENZEL

I voted in favor of Title II of H.R. 10181 which passed the Ways and Means Committee after sequential reference from the Banking and Currency Committee.

My affirmative vote was simply to ensure that any bonds which may be guaranteed by the Federal Government will not also be tax exempt. My vote on Title II in no way represents an endorsement of H.R. 10181.

The concept of sequential reference worked well in the case of H.R. 10181. The Ways and Means Committee was able to get the Banking and Currency Committee’s agreement to remove the back door spending provisions of Section 111 of Title I and to clarify the language of Section 103. In addition, Title II was completely rewritten to ensure that prior obligations would not be guaranteed.

I believe it is important to protect the principle of sequential reference, and therefore I voted in favor of what the Ways and Means Committee accomplished on this bill. Still, it is my present intention to vote against H.R. 10181.

BILL FRENZEL

X. DISSERTING VIEWS OF HON. DONALD D. CLANCY

AND HON. WILLIAM M. KETCHUM

While I strenuously oppose Title I of this bill, I recognize that it is properly under the jurisdiction of the Committee on Banking, Currency and Housing. I shall simply state that I object to the concept that the American taxpayer should pay for the municipal extravaganzas that have been held in New York for decades.

There is nothing particularly obtuse about Title II. It simply states that the municipal bonds guaranteed under Title I are subject to taxation by the Federal government. This is a precedent which is as potentially harmful as that set out in the bail-out provision of Title I, and is the first step towards elimination of the exemption for local government bonds.

The majority of people who purchase state and municipal bonds do not do so out of an overwhelming sense of civic pride. The attractive-
CONSUMER GOODS PRICING ACT
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ness of these issues consists of their high yield and their tax exempt status. For some time, advocates of “tax reform” have spoken of their desire to see the latter “shelter” removed. Title II of this bill will give this movement a powerful impetus.

I am convinced that should this occur the effect on local governments’ financing would be disastrous. Bond issues would go begging for purchasers. The specter of default would loom over hundreds of our cities, and scores of states. And the guarantee provisions of Title I would be brought into play, with the Federal government finally bailing out everyone.

I have sympathy for the people of New York. But that sympathy does not extend to supporting legislation whose precedents I fear will visit New York’s plight upon countless other towns. State and local bonds have been free from taxation almost as long as they have been in existence. Tinkering with that fine system is ruinous fiscal policy. This bill should be defeated.

WILLIAM M. KETCHUM,
DONALD D. CLANCY.

CONSUMER GOODS PRICING ACT OF 1975
P.L. 94-145, see page 80 Stat. 801

House Report (Judiciary Committee) No. 94-341,
July 9, 1975 [To accompany H.R. 6971]

Senate Report (Judiciary Committee) No. 94-466,
Nov. 20, 1975 [To accompany H.R. 6971]

Cong. Record Vol. 121 (1975)

DATES OF CONSIDERATION AND PASSAGE
House July 21, 1975
Senate December 2, 1975
The Senate Report is set out.

SENATE REPORT NO. 94-466

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The Committee on the Judiciary, to which was referred the bill (H.R. 6971) to repeal exemptions in the antitrust laws permitting State fair trade laws, having considered the same, reports favorably thereon, and recommends that the bill be passed.

Purpose

The purpose of the proposed legislation is to repeal Federal antitrust exemptions which permit States to enact fair trade laws. Such laws allow manufacturers to require retailers to resell at a price set by the manufacturer. These laws are, in fact, legalized price-fixing. They permit competing retailers to have identical prices and thus
eliminate price competition between them. Repeal of the fair trade
laws should result in a lowering of consumer prices.

This proposed legislation repeals the Miller-Tydings Act which
enables the States to enact fair trade laws and the McGuire Act which
permits States to enact nonsigner provisions. Without these exemp-
tions the agreements they authorize would violate the antitrust laws.

SUBSTITUTION OF H.R. 6971 FOR S. 408

A bill to repeal fair trade enabling legislation (S. 408) was intro-
duced in the Senate in January 1973 by Edward Brooks (R-Mass.)
and was passed unanimously from the Antitrust and Monopoly Sub-
committee on May 5. Before this committee was able to consider
S. 408, the House of Representatives passed H.R. 6971 which is iden-
tical to S. 408, except for the title of the bill. This committee voted to
substitute H.R. 6971 for S. 408 in order to expedite passage of this

legislation. Without the substitution S. 408 would have had to be con-
sidered by the House after the Senate passed it. The substitution per-
mits the bill to go directly to the President for consideration after
passage by the Senate.

STATEMENT

Fair trade laws permit a manufacturer to enter into an agreement
with a retailer setting the minimum or stipulated price at which his
product may be sold. California passed the first State law in 1931 and
other States followed. It became apparent, however, that any state law
which applied to interstate commerce violated Federal antitrust laws.
Thus, in 1937, Congress passed the Miller-Tydings Act granting State
fair trade laws an exemption from the Sherman Antitrust Act. Some
manufacturers attempted to set the resale prices not only of retailers
who had signed fair trade contracts but of retailers who had not done
so. In 1951, the Supreme Court in *Schweigmann Bros. v. Calvert Distillers Corp.*, 314 U.S. 384 ruled this practice illegal. Congress rectified
the situation in 1952 by enacting the McGuire Act which permitted
States to pass fair trade laws with nonsigner clauses. However, the
fair trade contract could be enforced against a nonsigner only as long
as the manufacturer procured the signature of at least one retailer
to a contract.

At the time S. 408 was introduced, 13 States had fair trade laws
with nonsigner provisions and 21 States had fair trade laws without
nonsigner provisions. The States with nonsigner provisions were Ar-
izona, California, Connecticut, Delaware, Illinois, Maryland, New
Hampshire, New Jersey, New York, Ohio, Tennessee, Virginia, and
Wisconsin. The States with fair trade laws without nonsigner pro-
visions were Arkansas, Colorado, Florida, Georgia, Idaho, Indiana,
Iowa, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minne-
sota, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon,
Pennsylvania, South Carolina, South Dakota, Washington, and West
Virginia. By November, 15 of those States had repealed their fair
trade laws. They are: Arkansas, California, Colorado, Connecticut,
Florida, Iowa, New Hampshire, New Jersey, New Mexico, New York,
North Carolina, Ohio, Oregon, Tennessee, and Washington.
CONSUMER GOODS PRICING ACT
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The principle products fair traded are stereo components, television sets, major appliances, mattresses, toiletries, kitchenware, watches, jewelry, glassware, wallpapers, bicycles, some types of clothing, liquor, and prescription drugs.

Liquor will not be affected by the repeal of the fair trade laws in the same manner as other products because the Twenty-First Amendment to the Constitution gives the States broad powers over the sale of alcoholic beverages. Thus, while repeal of the fair trade laws generally will prohibit manufacturers from enforcing resale prices, alcohol manufacturers may do such in States which pass price fixing statutes pursuant to the Twenty-First Amendment.

Seven days of hearings were held in the Senate. Six of these days were hearings on the bill proper. The seventh concerned an amendment proposed by several newspapers to amend the bill to permit newspapers to set maximum retail prices. The amendment was not brought to a vote because of lack of support for it.

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Repeal of the fair trade laws was called for by President Ford, consumer groups, the Justice Department, the Federal Trade Commission, the Council on Wage and Price Stability, discount stores and smaller business associations. Editorials in newspapers across the country unanimously favored repeal.

Opponents were primarily service-oriented manufacturers who claimed retailers would not give adequate service unless they were guaranteed a good margin of profit. However, the manufacturer could solve this problem by placing a clause in the distributorship contract requiring the retailer to maintain adequate service. Moreover, the manufacturer has the right to select distributors who are likely to emphasize service.

While small business groups did not testify, a couple submitted statements expressing fear that there would be vicious price-cutting without fair trade. No evidence was presented to indicate that there were destructive predatory practices in States which had repealed fair trade laws. Nor were there bad effects in Canada which repealed its fair trade laws in 1957 or in Great Britain which repealed such laws in 1965. A study published in 1969 reports small retailers were not driven out of business and predatory price cutting was rare in the 4 years following repeal in Great Britain. Similar experiences have been reported in Canada.

Moreover, statistics gathered by the Library of Congress indicate that the absence of fair trade has not harmed small business. Using Dun and Bradstreet data, the Library of Congress found the 1972 firm failure rate in “fair trade” States which have the nonsigner provision was 33.9 failures per 10,000 firms, in “fair trade” States without the nonsigner provision the rate was 32.2 failures per 10,000 firms, while the failure rate in free trade States averaged 23.3 failures per 10,000 firms—in other words “fair trade” States with fully effective laws have a 55 percent higher rate of firm failures than free trade States.

Finally, the traditional argument that fair trade protects the “mom and pop” store from unfair competition is not borne out by statistics. Between 1956 and 1972 the rate of growth of small retail stores in free trade States (including States which repealed “fair trade” during this period) is 32 percent higher than the rate in “fair trade” States.
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Fair trade laws are, in fact, legalized price-fixing. They permit competing retailers to have identical prices and thus eliminate price competition between retailers.

Studies by the Department of Justice which were cited in a 1962 Economic Report of the President, indicate that the consumer would have saved $1.2 billion a year by the elimination of the fair trade laws. Updated for inflation this figure comes to $2.1 billion. Another study of the Department of Justice estimated that fair trade laws increase prices on fair traded goods by 18-27 percent. For example, a set of golf clubs that lists for $250 can be purchased in non-fair trade areas for $136; a $49 electric shaver for $32; a $1,360 stereo system for $915; and a $600 19-inch color television for $483.

The repeal of the fair trade laws does not affect the use of suggested prices by a manufacturer. However, the use of suggested prices in such a way as to coerce adherence to them would be illegal.

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ADDITIONAL VIEWS OF SENATOR STROM THURMOND (R-SC) ON H.R. 6971, A BILL TO REPEAL ENABLING LEGISLATION FOR FAIR TRADE LAWS

The question should be raised as to whether it is desirable to pass Federal legislation to repeal existing fair trade laws. Under the Miller-Tydings Act and McGuire Act, the respective States are not required to enact fair trade laws and non-signer provisions, but are merely given the opportunity to do so if they wish. Congress has permitted the States to enact fair trade laws since 1935, almost forty years ago, and reinforced that right in 1962.

I firmly believe in the fulfillment of the spirit, as well as the letter, of the Constitution of the United States regarding the Tenth Amendment's preservation of the powers and the rights of the States and the people. Some years ago, I strongly opposed the effort on the Federal level to impose a national fair trade law upon this Country. I remain concerned that the separate States be allowed to make decisions regarding fair trade laws to the greatest extent possible.

In view of my respect for the integrity of the individual States, I have given careful thought to whether the Federal Government should supplant the judgment of the States in this area. In considering this matter, I have been aware the States have not been completely insensitive to the need to make changes in this area as shown by the fact that a number of States in recent years have moved to repeal their fair trade laws.

After careful thought and analysis, I conclude that I will not dissent from the decision of this Committee to favorably report H.R. 6971. A review of the record indicates repeal of the fair trade laws in the various States would be in the best interest of the Country. Lower prices should be available to consumers, and a substantial contribution should be made in the effort to control inflation.

On balance, it appears the positive benefits produced by this legislation should outweigh any negative effects it would have. I have concluded that it is less objectionable to enact legislation disallowing fair trade laws than it is for the Congress to continue to sanction price fixing that results from the existence of fair trade laws.