MEMORANDUM

December 17, 1975

TO: Chairman Rohatyn
FROM: D. B. Goldberg
cc: Herbert Elish

SUBJECT: New Federal bankruptcy legislation

As of this date the proposed new Federal bankruptcy law has not been enacted. The Senate and the House have each passed differing bills which are before a Conference Committee at this time.

There is unified opposition to the proposed new legislation on the part of the Securities Industry Association and the various organizations of State and local government officials. This opposition is being expressed to the Conference Committee. If a bill substantially in the form of either the House bill or the Senate bill is reported to the respective houses, this opposition will be expressed against enactment of the Conference bill. If, however, such a bill is enacted, the opposing interests will request the President to veto it.

Both bills make for easier municipal bankruptcy by dispensing with the requirements in the existing law that 51 percent of the bondholders must agree to a plan before a court hearing a bankruptcy proceeding with regard to a local government agency.

Both bills differ from the President's recommendation in that they apply generally to all State and local obligors and not merely to municipalities with a population of one million or more.
As of this moment I have no more detailed information as to the bills, but I am pursuing the matter.

The reason for the united opposition of the securities industry and the local government interests is that easier access to bankruptcy on the part of all local governments will make local government paper less attractive to investors and thereby increase interest costs. Their feeling is that investor confidence, particularly in general obligation bonds, has been badly shattered by the New York experience and that there should not, at this critical time in the history of public finance, be added another negative factor such as easier municipal bankruptcy.

I share this view and, you will recall, I so advised the Board some weeks ago when I asked if the members saw any impediment to my taking that position publicly.

In my view it remains true that the restoration of New York City's credit will be harder if an easier bankruptcy route is opened.

You reported to the Board that the Governor's position was not to support any proposed bankruptcy legislation, but to concentrate his efforts in Congress on procuring assistance which would avoid default and thereby avoid the necessity for considering any bankruptcy alternative.

If you agree with me, you might consider the advisability of asking the Governor whether he might be willing to go one step beyond his formal position with regard to the proposed bankruptcy legislation and express his opposition to the enactment of the pending legislation. The opposition would be expressed at the first instance to the Conference Committee and, if necessary, to the houses of Congress considering a Conference report and, finally, if necessary, to the President.

It would be easy to take the position before the President that the bill before him is not what he recommended since it is not limited to cities of one million or more in population. Also, his proposal was an alternative to loan or loan guarantee proposals being made on behalf of New York City, and since the loan bill has now been enacted, the alternative bankruptcy law has no immediate necessity.

Furthermore, I am advised that the House Judiciary Committee is planning early next year to conduct a study,
with possible hearings, on the whole matter of bankruptcy. In any representation to the Conference Committee, to the Congress or to the President, it can appropriately be argued that any action to ease the bankruptcy laws for municipalities at this time should be deferred until that study is completed.

DBG:MW

Daniel B. Goldberg
Counsel
Calendar No. 429

94TH CONGRESS
1ST SESSION

S. 2615

[Report No. 94–443]

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 1975

Mr. Proxmire, from the Committee on Banking, Housing and Urban Affairs, reported the following bill; which was read twice and ordered to be placed on the calendar.

A BILL

To provide for a voluntary reorganization of municipal debt under conditions of fiscal reform, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SHORT TITLE AND STATEMENT OF PURPOSE
5 SECTION 1. (a) This Act may be cited as the “Volun-
6 tary Municipal Reorganization Act of 1975”.
7 (b) The Congress finds that it is in the national interest
8 to prevent the default by State or local governments on
9 their outstanding obligations in a manner consistent with
10 sound fiscal reform, as required under section 5 of this Act,
11 and to establish a temporary program of emergency credit
assistance to State or local governments unable to meet the
requirements of section 5.

DEFINITIONS

Sec. 2. As used in this Act—

(1) “Board” means the Emergency Municipal
Fiscal Reform Board;

(2) “assisted municipality” means a city incorpor-
ated under the laws of a State and any governmental
agency, public authority, or public benefit corporation
which receives or may receive moneys directly, in-
directly, or contingently (other than moneys received
for the sale of goods or the rendering of services or the
loan of moneys to the city) from that city;

(3) “State” means the State of the United States
which has jurisdiction of the assisted municipality, in-
cluding an agency of that State; and

(4) “Governor” means the chief executive officer
of a State.

ESTABLISHMENT OF THE BOARD

Sec. 3. There is established an Emergency Municipal
Fiscal Reform Board composed of the Secretary of the
Treasury, as Chairman, the Chairman of the Board of Gov-
ernors of the Federal Reserve System, and the Secretary of
Labor. Decisions of the Board shall be made by majority
vote.
AUTHORITY

Sec. 4. The Board, on such terms and conditions as it deems appropriate, is authorized—

(1) to guarantee or make commitments to guarantee the timely payment of principal and interest to holders of obligations to be issued by a State on behalf of an assisted municipality in order to prevent a default and carry out fiscal reform in accordance with section 5; or

(2) in the event of a default or other inability of an issuer to meet its obligations, to provide emergency guarantees of the timely payment of principal and interest to holders of obligations of that issuer or of a trustee or receiver of that issuer or of a State on behalf of an assisted municipality to support the provision by that issuer or assisted municipality of essential services in accordance with section 6.

Such obligations shall, to the extent feasible, be secured by a first lien on all future revenues of State or other issuer.

STANDARDS AND CONDITIONS FOR GUARANTEES TO PREVENT DEFAULT

Sec. 5. (a) No guarantee shall be made by the Board under this section unless—

(1) the Board finds that the obligations to be guaranteed are to be issued by a State for the purpose of
financing the credit needs of a municipality subject to its jurisdiction, that the State and the assisted municipality are not able to obtain such credit in the private market, and that the failure to obtain such credit is likely to cause the assisted municipality or State to default on its outstanding obligations;

(2) the assisted municipality submits, with the approval of the Governor of the State, in such detail and in accordance with such accounting principles as the Board may prescribe, a financial plan which in the judgment of the Board will bring the assisted municipality’s operating expenses (including debt service) into balance with its recurring revenues beginning with its second full fiscal year following the initial application for assistance. Such financial plan shall provide for reductions in the cost of employee pension plans to the assisted municipality through reductions in the level of benefits, limitations on the amount of overtime pay which can be counted in computing retirement benefits, increases in the amount of employee contributions, or otherwise. Such financial plan shall also provide for the maximum feasible participation by the employee pension funds of the assisted municipality in supplying the credit needs of the assisted municipality. Such financial plan
may be revised from time to time with the approval of the Board;

(3) the State demonstrates 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 expenditures limits, disapprove all expenditures not in compliance with the plan required under paragraph (2), approve all borrowing, and authorize all contracts during that period;

(4) the State provides assurances satisfactory to the Board that it will repay any losses the United States Government may sustain as a result of payments made pursuant to a guarantee under this section, and in furtherance of such assurances, the State and assisted municipality agree to waive the right to all payments which they would otherwise be entitled to receive under the State and Local Fiscal Assistance Act of 1972, or other comparable general purpose financial assistance from the Federal Government, at such time and in such amounts as the Board may determine to be necessary to reimburse the United States for any losses sustained
as a result of payments made pursuant to a guarantee under this section;

(5) the assisted municipality agrees (i) to make available to the Board, the Comptroller General of the United States, and any certified public accountant designated by the Board all its accounts, books, records, documents, or other information which the Board may request bearing on its financial situation prior to, and during, the entire period in which the Federal guarantee is outstanding; (ii) to follow such generally accepted accounting principles as the Board may prescribe; and (iii) to provide such periodic reports as the Board may require;

(6) the State agrees to pay to the Board such guarantee fee as may be prescribed by the Board but not to exceed 3\(\frac{1}{2}\) per centum per annum of the total principal amount of guaranteed obligations outstanding, except that such fee shall not exceed 1 per centum if the interest on the obligations is included in gross income for the purpose of the Federal income tax laws;

(7) the State agrees to provide in accordance with this paragraph and at such times as the Board may prescribe a grant to the assisted municipality for each of the municipality’s fiscal years during which a guar-
antee under this section may be outstanding. Such a
grant shall—

(A) be in an amount equal to at least one-half
of the anticipated operating deficit of the assisted
municipality for the fiscal year or portion thereof
during which a guarantee under this section is out-
standing as determined without regard to the
amount of the grant in accordance with accounting
principles prescribed by the Board;

(B) be derived from the general tax revenues
of the State;

(C) be in addition to all other grant or similar
assistance provided to the assisted municipality by
the applicant or the State pursuant to programs es-
tablished or commitments made prior to its initial
request for a guarantee under this section;

(D) be provided at such times as the Board
may prescribe; and

(E) be used by the assisted municipality to
meet its operating expenses in accordance with the
financial plan under paragraph (2); and

(8) the State presents voluntary agreements
acceptable to the Board by the holders of obligations
issued by or on behalf of the assisted municipality to
exchange such obligations as prescribed herein. Such agreements may be conditioned upon the approval of guarantee assistance under this section and shall reduce the financial burden on the assisted municipality in such manner and degree as the Board may determine necessary to enable the assisted municipality to meet all its credit needs without further Federal guarantee assistance at the earliest practicable date. Such voluntary agreements shall not be accepted by the Board unless—

(A) the holders representing at least 65 per centum of the aggregate principal amount of the obligations issued by a State agency on behalf of the assisted municipality agree to exchange those obligations for bonds issued by that agency with serial maturities of not less than five years and bearing interest at such rates as the Board may determine are necessary to achieve the purposes of this paragraph, but in no case may a holder receive a bond with an earlier maturity than the obligation exchanged; and

(B) the holders representing at least 40 per centum of the aggregate principal amount of the obligations of the assisted municipality maturing prior to June 30, 1976, agree to exchange those obligations for bonds issued by the municipality with
serial maturities of not less than five years and 
bearing interest at such rates as the Board may de-
termine are necessary to achieve the purposes of 
this paragraph.
(b) (1) The maturity of any obligations guaranteed 
under this section may not exceed one year.
(2) The aggregate principal amount of obligations 
guaranteed by the Board under this section shall not exceed 
at any time $4,000,000,000 prior to June 30, 1977; 
$3,500,000,000 during the twelve-month period ending 
June 30, 1978; $2,500,000,000 during the twelve-month 
period ending June 30 1979; and $1,500,000,000 during 
the twelve-month period ending June 30, 1980.
(3) The Board may not make any commitment to 
guarantee any obligations under this section during any 
period when it determines the State or the assisted munici-
pality is not meeting its obligations under this section or that 
the plan required under paragraph (2) of subsection (a) is 
not being achieved on schedule.
(4) In approving guarantees under this section subse-
quently to June 30, 1976, the Board shall require, to the 
maximum extent feasible, that investors participate in sup-
plying the credit needs of the assisted municipality without 
Federal guarantee assistance by purchasing bonds issued 
by the municipality with serial maturities of not less than 
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five years so as to eliminate the need for Federal guarantee assistance at the earliest possible date, but in no event later than June 30, 1979.

STANDARDS AND CONDITIONS FOR GUARANTEE OF OBLIGATIONS OF ISSUERS IN DEFAULT

Sec. 6. (a) The Board may not guarantee obligations under this section unless—

(1) the Board finds that—

(A) assistance under section 5 cannot be provided because of a failure to meet the requirements of that section;

(B) the issuer of the obligations (i) has defaulted on its outstanding obligations, or (ii) has filed a petition under the Bankruptcy Act;

(C) the issuer is unable to obtain credit in the private market; and

(D) a guarantee under this section is necessary to permit the issuer to carry on essential services or programs the interruption of which would endanger the health, safety, or welfare of the residents of the affected area;

(2) the issuer submits a financial plan acceptable to the Board in such detail and in accordance with such accounting principles as the Board may prescribe, for
bringing its recurring revenues into balance with its
essential cash needs;

(3) the issuer provides assurances satisfactory to
the Board that it will repay any losses the United States
Government may sustain as a result of payments made
pursuant to a guarantee under this section, and in further-
ance of such assurances the issuer agrees to waive the
right to all payments which such issuer would otherwise
be entitled to receive under the State and Local Fiscal
Assistance Act of 1972, or other comparable general
purpose financial assistance from the Federal Govern-
ment, at such time and in such amounts as the Board
may determine to be necessary to reimburse the United
States for any losses sustained as a result of payments
made pursuant to a guarantee under this section;

(4) the issuer agrees to—

(A) make available to the Board and the
Comptroller General of the United States all its ac-
counts, books, records, documents, transactions, and
any other information bearing on its financial situa-
tion which the Board may request prior to and dur-
ing the entire period during which a Federal guar-
antee is outstanding:
(B) follow such generally accepted accounting principles as the Board may prescribe; and

(C) provide such periodic reports as the Board may require;

(5) the issuer agrees to pay to the Board such guarantee fee as may be prescribed by the Board but not to exceed 3 1/2 per centum per annum of the total principal amount of guaranteed obligations outstanding, except that such fee shall not exceed 1 per centum if the interest on the obligations is included in gross income for the purpose of the Federal income tax laws; and

(6) in the case of an issuer which is a unit of local government, the State in which such issuer is located agrees to provide from its general tax revenues and at such times as the Board may prescribe, a grant to such unit in an amount equal to one-half of its anticipated operating deficit during any period when a Federal guarantee under this section may be outstanding as determined without regard to the amount of such grant in accordance with accounting principles prescribed by the Board. Such grants shall be in addition to all other grants or similar assistance provided to such issuer by the State pursuant to programs established or commitments made prior to the initial request for guarantee assistance under this section.
(b) (1) The maturity of any obligations guaranteed under this section shall not exceed three months.

(2) The aggregate principal amount of obligations guaranteed under this section shall not exceed, at any time, $500,000,000.

(3) For the purpose of this section, the term "issuer" includes any municipality on behalf of which an obligation under this section is issued for the purpose of assisting such municipality in meeting its credit needs.

EMERGENCY MUNICIPAL DEBT GUARANTEE FUND

Sec. 7. (a) There is established in the Treasury an emergency municipal debt guarantee fund (hereinafter referred to as the "fund") to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this Act. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof. Moneys in the fund not needed for current operations or for any future obligations shall be covered into the general fund of the Treasury.

(b) Guarantee fees paid under this Act shall be deposited in the fund. Notwithstanding any other provision of law, the Secretary of the Treasury shall deposit in the fund any payment, or portion thereof, which a State government or
unit of local government would otherwise be entitled to re-
ceive under the State and Local Fiscal Assistance Act of
1972, or any other comparable program of general purpose
financial assistance from the Federal Government, and which
is waived by such Government pursuant to this Act. Any
other sums received by the Board under this Act shall be paid
into the fund.

(c) Payments required to be made as a consequence of
any guarantee by the Board shall be made from the fund. In
the event and to the extent that the moneys in the fund are
insufficient to make such payments, the Secretary of the
Treasury is authorized and directed to make such payments
on behalf of the Board and for that purpose he is authorized to
use as a public debt transaction the proceeds from the sale of
any securities issued under the Second Liberty Bond Act, as
amended, and the purposes for which securities may be issued
under that Act are extended to include any such payments.

(d) The Federal Financing Bank shall purchase all
obligations guaranteed under this Act the interest on which
is excluded from gross income for the purposes of the Fed-
eral income tax laws.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

Sec. 8. Any Federal Reserve bank which is requested to
do so shall act as fiscal agent for the Board. Each such fiscal
agent shall be reimbursed by the Board for all expenses and
losses incurred by it in acting as agent on behalf of the  
Board.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 9. (a) The Attorney General shall take such action  
as may be appropriate to enforce any right accruing to the  
United States or any officer or agency thereof as a result of  
the issuance of guarantees under this Act. Any sums re-  
covered pursuant to this section shall be paid into the fund.  
(b) The Board shall be entitled to recover from any  
issuer of an obligation guaranteed under this Act or any  
other person liable therefor, the amount of any payments  
made pursuant to any guarantee made under this Act, and  
upon making such payments, the Board shall be subrogated  
to all the rights of the recipient thereof.

REPORTS

SEC. 10. The Board shall submit a quarterly report to the  
Congress as to its operations under this Act.

TERMINATION

SEC. 11. The authority of the Board to make any guar-  
antee under section 5 terminates on June 30, 1979, and  
under section 6 on March 31, 1976. Such termination does  
not affect the carrying out of any contract, guarantee, or  
other obligation entered into pursuant to this Act prior to  
that date, or the taking of any action necessary to preserve  
or protect the interest of the United States in any amounts
advanced or paid out in carrying on operations under this Act.

STOCK TRANSFER TAX

Sec. 12. The first sentence of section 28(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(d)) is amended to read as follows: "No State or political subdivision thereof shall impose any tax on any change in beneficial or record ownership of securities effected through the facilities of—

"(1) a registered clearing agency; or

"(2) a registered transfer agent when performing the function described in section 3(a)(25)(B) of this title or, in connection with such function, any functions described in section 3(a)(25)(B) through (D) of this title,

or any nominee thereof or custodian therefor or upon the delivery or transfer of securities to or through or receipt from such agency or agent or any nominee thereof or custodian therefor, unless such change in beneficial or record ownership or such transfer or delivery or receipt would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency, registered transfer agent, or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision."
A BILL

[Report No. 94-443]

S. 2615
1st Session
34th Congress

Calendar No. 429
IN THE HOUSE OF REPRESENTATIVES

October 31, 1975

Mr. Ashley (for himself, Mrs. Sullivan, Mr. Rees, Mr. Patterson of California, Mrs. Spellman, Mr. Tsongas, Mr. St Germain, and Mr. McKinney) introduced the following bill; which was referred to the Committee on Banking, Currency and Housing.

A BILL

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.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 § 1. Short title

3 This Act may be cited as the “Intergovernmental Emergency Assistance Act”.

1
TITLE I—INTERGOVERNMENTAL EMERGENCY ASSISTANCE

§101. Definitions and rules of construction

(a) The definitions and rules of construction set forth in this section shall be applicable for the purposes of this title.

(b) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(c) The term "political subdivision" shall have the same meaning as used in section 103 of the Internal Revenue Code of 1954.

(d) Any action authorized or required under this title by or with respect to a State may be taken by or with respect to any agency or instrumentality thereof approved by the Board for that purpose, having regard to the purposes of the State law creating any such agency or instrumentality.

§102. Establishment of the Board

There is created an Intergovernmental Emergency Assistance Board (referred to in this title as the "Board") 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. Decisions of the Board shall be made by majority vote.

§ 103. Authority for guarantees

The Board may guarantee the payment, in whole or in part, of interest, principal, or both, of obligations of States (including agencies and instrumentalities thereof as described in section 102d) the interest on which is subject to Federal taxation, in accordance with this title. The Board shall give prompt consideration to any application for a guarantee under this title and shall, in the event such guarantee is denied, set forth the reasons for such denial in a written statement copies of which shall be furnished to the Governor of the State concerned, the Committee on Banking, Housing and Urban Affairs of the Senate, and the Committee on Banking, Currency and Housing of the House of Representatives.

§ 104. Purpose

The Board may make guarantees under this title only for the purpose of—

(1) enabling a political subdivision of a State to continue to provide essential public services and facilities; or

(2) preventing, or mitigating the effects of, default in the payment of obligations of a political subdivision of
AMENDMENT

Mr. LaFalce of New York

p. 4, Section 105 line 17, strike semi-colon and add ...

"in amounts and terms sufficient to meet the municipality's financing needs during the period covered by the plan required to be submitted pursuant to Section 105 (2) of this Title;"
a State where such default has had, or, in the judgment of the Board, could reasonably be expected to have, a serious adverse effect on general economic conditions or on the marketability of obligations of States and their political subdivisions in general.

§ 105. Conditions of eligibility

(a) Except as provided in subsection (b) of this section, the Board may make guarantees under this title to a State for the benefit of a political subdivision thereof only if—

(1) the Board finds that the State or State agency whose obligations would be guaranteed (hereinafter referred to as "the applicant State") and the political subdivision whose credit needs would be financed by such obligations (hereinafter referred to as "the assisted municipality") are effectively unable to obtain credit in the private market or elsewhere;

(2) the assisted municipality submits, with the approval of the Governor of the applicant State, in such detail and in accordance with such accounting principles as the Board may prescribe, a plan for bringing its operating expenses into balance with its recurring revenues for its second full fiscal year following the initial application for assistance, and thereafter for as long as any such assistance remains outstanding;
(3) the applicant State demonstrates 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 required under paragraph (2), and approve all borrowing and contracts during that period; and

(4) the applicant State agrees to provide in accordance with this subsection a grant or loan to the assisted municipality for each fiscal year of the municipality during which a guarantee under this title may be outstanding. Such grant or loan shall—

(A) be in an amount determined by the Board but not exceeding one-third of the anticipated operating deficit of the assisted municipality for that fiscal year or portion thereof as determined in accordance with accounting principles prescribed by the Board;

(B) be derived from the general tax revenues of the applicant State;

(C) be in addition to all other grant or similar assistance provided to the assisted municipality by the applicant State pursuant to programs established
or commitments made prior to its initial request for
a guarantee under this title;
  (D) be provided at such times as the Board
may prescribe; and
  (E) be used by the assisted municipality to
meet its operating expenses in accordance with the
financial plan required under paragraph (2).
(b) In the case of a political subdivision which has
filed a petition under the Bankruptcy Act or which has actu-
ally defaulted on one or more of its obligations, the Board
may, for a period of six months following the filing of such
petition or the date of such default (as determined by the
Board), make guarantees under this title without regard
to one or more of the conditions prescribed in subsection (a)
of this section to a State for the benefit of such political sub-
division if the Board determines that an emergency exists
which makes compliance with such condition or conditions
impracticable.
§106. Guarantee fees
Whenever any obligation is guaranteed under this title,
the Board shall assess and collect from the obligor a guaran-
tee fee which shall not exceed three-quarters of one percent
per annum. Any such fees shall be paid into the Emergency
Municipal Debt Guarantee Fund established under section
111 of this title.
§ 107. Limitations on amount of guarantees outstanding

(a) Except as provided in subsection (b) of this section, the total amount of all guarantees (exclusive of uncashed interest) which may be outstanding under this title at any one time shall not exceed—

(1) $5,000,000,000 during the period from the date of enactment of this title through September 30, 1989, and

(2) $3,000,000,000 during the period from October 1, 1989 through September 30, 1999.

(b) In addition to the amounts authorized under subsection (a) of this section, prior to October 1, 1978, there may be outstanding at any one time not exceeding $2,000,000,000 in the form of guarantees of obligations having a maturity of eleven months or less from date of issue.

(c) No obligation may be guaranteed under this title which has a maturity beyond September 30, 1999.

§ 108. Obligations callable after three years

Any obligation guaranteed under this title may be called for redemption at the option of the issuer and without the payment of a call premium at any time more than three years after the date of issue.

§ 109. Additional Terms and Conditions

(a) As a condition to making any guarantee under this title, the Board shall impose reasonable requirements with
respect to the renegotiation or exchange of outstanding obligations entered into by, on behalf of, or for the benefit of, the political subdivision for whose benefit such guarantee is intended. Where such renegotiation or exchange involves the terms of bonds, notes, or similar obligations previously entered into, the Board shall require that a substantial percentage of such obligations be exchanged for nonguaranteed obligations bearing a substantially longer maturity, a substantially lower interest rate, or both. Where such renegotiation involves the terms 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 same State or of other States. In any renegotiation, there may also be taken into consideration the reduction which the results of such renegotiation may effect in the risk that the political subdivision involved would be unable to fulfill its commitments.

(b) In addition to the terms and conditions otherwise required by or under this title, the Board may impose such terms and conditions, not inconsistent with the general purposes of this title, as it deems appropriate with respect to the making of any guarantee under this title.
§ 110. Audits

(a) No guarantee may be made under this title for the benefit of any State or political subdivision thereof unless the General Accounting Office is authorized to make such audits as may be deemed appropriate by either the Board or the General Accounting Office of all accounts, books, records, and transactions of the State, the political subdivision, if any, involved, and any agency or instrumentality of such State or political subdivision. The General Accounting Office shall report the results of any such audit to the Board and to the Congress.

§ 111. Emergency Municipal Debt Guarantee Fund

(a) There is established in the Treasury an emergency municipal debt guarantee fund (hereinafter referred to as the "fund") to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this Act. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

(b) Sums realized from the guarantee fee required under this Act shall be deposited in the fund. Notwithstanding any other provision of law, the Secretary of the Treasury shall deposit in the fund any payment, or portion thereof,
which a State government or unit of local government would otherwise be entitled to receive under the State and Local Fiscal Assistance Act of 1972, or any comparable program of fiscal assistance to State and local government, and which is waived by such government pursuant to this Act.

(c) Payments required to be made as a consequence of any guarantee by the Board shall be made from the fund. In the event and to the extent that the moneys in the fund are insufficient to make such payments the Secretary of the Treasury is authorized and directed to make such payments on behalf of the Board and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any such payments.

§ 112. Federal Reserve banks as fiscal agents

Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

§ 113. Protection of Government’s interest

(a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this title. Any sums
recovered pursuant to this section shall be paid into the
emergency loan guarantee fund.

(b) The Board shall be entitled to recover from the
borrower, or any other person liable therefor, the amount
of any payments made pursuant to any guarantee agree-
ment entered into under this title, and upon making any
such payment, the Board shall be subrogated to all the
rights of the recipient thereof.

(c) There is hereby reserved to the United States the
right to offset against any sums otherwise due for any reason
from the United States (including but not limited to any
sums which may be due under the State and Local Fiscal
Assistance Act of 1972, or other comparable general purpose
financial assistance) to any State whose obligations are guar-
anteed under this title, or to any 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 guarantee. Such right
of offset shall be exercised only with respect to such sources
of Federal revenue, and at such rate, as the Board may deter-
mine to be appropriate with a view to reimbursing the United
States as expeditiously as may be practicable under the cir-
cumstances as they exist at the time.

(d) Whenever any guarantee under this title is out-
standing, and there is a failure on the part of the obligor
or on the part of the political subdivision for whose benefit
such assistance was extended to fulfill any commitment or
undertaking which it agreed to fulfill in consideration of
such assistance, the Board may, in its discretion, for any
period during which such failure continues, assess an addi-
tional guarantee fee in any amount such that the total of
the original guarantee fee and any such additional fees for
such period does not produce a total which is at a rate in
excess of three times the rate otherwise authorized under
section 106.

§ 114. Reports

The Board shall submit to the Congress quarterly a full
report of its operations under this title.

§ 115. Termination

The authority of the Board to make guarantees under
this title terminates on September 30, 1979. Such termina-
tion does not affect the carrying out of any contract, guaran-
tee, commitment, or other obligation entered into pursuant
to this title prior to that date, or the taking of any action
necessary to preserve or protect the interests of the United
States in any amounts advanced or paid out in carrying on
operations under this title.
TITLE II—AMENDMENT TO INTERNAL REVENUE CODE OF 1954

§201. Taxability of certain federally guaranteed obligations

Section 103 (a) (1) of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by inserting immediately before the semicolon at the end thereof the following: "except in the case of an obligation whose payment is guaranteed in whole or part under authority of section 103 of the Intergovernmental Emergency Assistance Act".

TITLE III AMENDMENT TO THE BANKRUPTCY ACT
November 14, 1975

Allen L. Thomas, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison
345 Park Avenue
New York, New York 10022

Re: United States Trust Company
of New York - MAC

Dear Allen:

Here are copies of Mr. J. Sinclair Armstrong's letters of today to Senator Proxmire and Mr. Reuss, together with enclosures, reflecting the Trust Company's technical comments on S. 2615 and H.R. 10481, as discussed with you yesterday.

Best personal regards.

Sincerely yours,

Robert R. Grew

MKG:KC
Enclosure

cc: J. Sinclair Armstrong, Esq.
Daniel B. Goldberg, Esq.
Donald J. Robinson, Esq.
UNITED STATES TRUST COMPANY
of NEW YORK
45 WALL STREET NEW YORK, N. Y. 10005
212-435-4400

J. SINCLAIR ARMSTRONG
Executive Vice President

November 14, 1975

Dear Senator Proxmire:

Re: S. 2615, Proposed Voluntary
Municipal Reorganization Act
of 1975

In accordance with my prior communications with Mr. Kenneth A. McLean, your Staff Director, I am pleased to enclose, on behalf of the Trust Company, Trustee under the General Bond Resolution, adopted July 2, 1975, of the Municipal Assistance Corporation For The City of New York, a memorandum setting forth technical comments on the above Bill.

Sincerely,

[Signature]

Honorable William Proxmire
Chairman
Committee on Banking, Housing
and Urban Affairs
5300 New Senate Office Building
First and C Streets, N. E.
Washington, D. C. 20510
November 14, 1975

Dear Mr. Reuss:

Re: H. R. 10481, Proposed Intergovernmental Emergency Assistance Act

On behalf of United States Trust Company of New York, which acts as Trustee under the General Bond Resolution, adopted July 2, 1975, of the Municipal Assistance Corporation For The City of New York, I am pleased to enclose a memorandum setting forth the Trust Company's technical comments on the above Bill.

Sincerely,

J. Sinclair Armstrong

Honorable Henry S. Reuss
Chairman
Committee on Banking, Currency and Housing
2186 Rayburn House Office Building
Washington, D. C. 20515
MEMORANDUM FOR
MR. J. SINCLAIR ARMSTRONG,
Executive Vice President
United States Trust Company
of New York
45 Wall Street
New York, New York 10005

Re: S. 2615, Proposed Voluntary Municipal
Reorganization Act of 1975;
H.R. 10481, Proposed Intergovernmental
Emergency Assistance Act.

November 13, 1975

Bills now before the United States Congress have
been introduced in response to the threat of default by the
City of New York. These bills would provide for some form
of federal guarantee of municipal debt. By means of this
memorandum, we are giving you our technical comments on the
Senate Bill, S. 2615, which was reported out from the
Senate Committee on Banking, Housing and Urban Affairs on
November 4, 1975, and on the House Bill, H.R. 10481, which
was reported out from the House Committee on Banking,
Currency and Housing on November 6, 1975.

S. 2615

Many of our questions and comments on the earlier
version of the Senate Bill have been clarified as a result of
the Committee revisions. A number of technical concerns remain, however, as well as questions regarding the new provisions. Our comments on the Senate Bill, S. 2615, are as follows (a mark-up of the Bill to reflect these suggestions is enclosed for your convenience, with the circled numbers corresponding to the paragraph numbers of this memorandum):

1. **MAC is a State Agency and Not a City Agency.**

   Page 3.
   Line 6.

   Change

   "issued by a State on behalf of"
   [an assisted municipality]

   to read

   "issued by a State to finance the credit needs of" [an assisted municipality].

"State" is defined to include a State agency such as MAC. Page 2, line 14. The characterization of the issuance of MAC obligations as "on behalf of" the City is inappropriate because it may suggest MAC is a City Agency, whereas in fact it is a State agency.

The phrase "to finance the credit needs" of the
municipality is consistent with other language in the Bill. Page 4, line 1.*

2. Lien in Favor of Holders of Guaranteed Obligations.
Page 3.
Line 19.

Change
"first lien on all future revenues of State"
to read
"first lien on all or a designated portion of all future revenues of the State."

The last sentence of Section 4 provides that, "to the extent feasible," guaranteed obligations shall be secured by a first lien on all future revenues of the issuer. The section-by-section analysis in the Senate Report relating to the Bill states that "[t]he guaranteed obligations shall be secured by a first lien on the municipality's future revenues", omitting the words "to the extent feasible". Senate Report No. 94-443, November 4, 1975, p. 31. See also the last

*If this suggestion is adopted, conforming changes would be made at the places indicated on Attachment A hereto.
paragraph on page 5 in the Report.

The addition of the words "or a designated portion" would provide greater flexibility in achieving the aim of the Bill and would reflect the means by which New York State has dealt with the problem of financing New York City.

This is because, in the case of MAC, New York law provides two revenue sources for the benefit of the holders of MAC obligations.

One, consisting of a specified portion of the State Sales Tax and the State Stock Transfer Tax, has been pledged by MAC, in accordance with the direction of the New York State Legislature, to secure the presently issued and outstanding MAC Bonds, and no lien prior to that can be created by MAC with respect to those revenues. Municipal Assistance Corporation for the city of New York Act, §3036; New York State Municipal Assistance Corporation Act, §3012(3), and General Bond Resolution, Adopted July 2, 1975, §§601 and 907.

The second source of revenue available under New York law for the benefit of the holders of MAC obligations is the New York per capita state aid funds. State Finance Law, §54(7)(c). This law, as amended in September, 1975, provides an additional source of revenue for MAC. This second source
has not as yet been pledged by MAC to secure its obligations.
For a description of this revenue source, see "Additional
Source of Revenue for Municipal Assistance Tax Fund" at
page 24 in Supplement No. 1, dated September 24, 1975, to the

3. Generally Accepted Accounting Principles
to be Followed by the Municipality.

While we believe no change in the Bill is needed in
this respect, we should like to point out a possible conflict
between the requirement that the assisted municipality follow
such generally accepted accounting principles as the Emergency
Municipal Fiscal Reform Board may prescribe (p. 6, line 10
and p. 12, lines 1 and 20) and the provision of New York law
that the City of New York adopt the accounting principles
set forth in the New York State Comptroller's uniform system
of accounts for municipalities. Municipal Assistance
Corporation for the city of New York Act, §3038(2).

We suggest that conflict might be avoided if it were
acceptable to the Congress to include in the final report
on the Bill a statement that the Emergency Municipal Fiscal
Reform Board should consult with the State Comptroller or
other appropriate state official in prescribing the accounting
principles to be followed by the assisted municipality. We
assume the Board would consult with the Securities and Exchange Commission as to accounting principles if and to the extent that were deemed appropriate by the Board.

4. **Exchange of Securities.**

Page 8.

Line 14.

Change "bonds" to read "obligations".

Section 5(a)(8)(A) provides that, as a condition to obtaining a federal guarantee, 65 percent of the holders of MAC obligations agree to exchange those obligations for MAC bonds of certain maturities and with certain interest rates determined by the Board.

Subparagraph (B) next following contains a similar requirement with respect to City obligations.

In the interest of flexibility, and because the word, "obligation" is generally used elsewhere in the Bill, we suggest this change be made. It also would conform with MAC usage, since §202 of its General Bond Resolution adopted July 2, 1975, contemplates the issuance of both bonds and notes. In fact, a MAC note has been issued (to the State of New York) and we understand that additional notes are scheduled to be issued to other purchasers later this month.
Similar flexibility for the City's refinancing is likewise desirable.*

5. Further as to Exchange of Securities.

Page 8.
Line 25.

Change

"issued by the municipality"
to read

"issued by the State or municipality."

As drafted, Section 5(a)(8)(B), which requires the refinancing of at least 40 percent of the assisted municipality's short-term debt (notes of the City maturing before June 30, 1976), provides that holders of City debt be offered long-term City (not MAC) obligations.

It would seem desirable to permit the State and local officials, should they decide that it is necessary or appropriate to do so, to arrange for the exchange of MAC obligations, or some combination of MAC and City obligations,

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*If this suggestion is adopted, conforming changes would be made at the places indicated in Attachment B hereto.
for the City's short-term notes.

Similar flexibility should be provided to State and local officials under Section 5(b)(4), which relates to purchases by investors of obligations that are not guaranteed. (Page 9, line 25, change "by the municipality" to read "by the State or municipality.")


It is the intent of the Act that guarantees under Section 6 following a municipal default be guarantees of obligations of the municipality itself, a trustee or receiver or an assistance corporation such as MAC. Authority for the Board to provide these post-default guarantees is contained in Section 4(2) at p. 3 of the Bill.

The suggestions set forth on Attachment C hereto would help to clarify the Board's authority under Section 6 to guarantee MAC obligations if it determined to do so. Certain of these suggestions would also conform to language used in Section 5.

7. Subrogation.

Page 15.

Line 14.

Change

"all the rights of the recipient thereof"
"all the rights of the recipient thereof with respect to such obligation."

This language would, we believe, more precisely define the scope of the subrogation rights intended.

8. **Stock Transfer Tax.**

We assume the Congress is aware that the revenues available to MAC for the benefit of the holders of its obligations will be favorably affected by the provisions of Section 12 of the Act. This is of importance to the State and MAC in achieving the objectives of financing the credit needs of New York City.

9. **Other.**

   (a) Page 7, line 14. Change "the applicant or the State" to read "the State". This would conform to other changes made in the mark-up of the Bill.

   (b) Page 10, line 3. "1979" should probably be changed to read "1980" to conform to the date set forth on page 9 at line 13.

**H.R. 10481**

We have the following comments regarding the Bill reported out by the House Committee on Banking,
Currency and Housing, H.R. 10481, and its relationship to the Senate Bill (a mark-up of the House Bill to reflect these suggestions is enclosed for your convenience, with circled numbers corresponding to the paragraph numbers in this memorandum):

10. Generally Accepted Accounting Principles.

The same point as mentioned in paragraph 3 above would apply to accounting principles prescribed by the Intergovernmental Emergency Assistance Board under this Bill. (Page 4, line 24; page 5, line 23.)

11. Use of Defined Term "Applicant State."

The use of the defined term "applicant State" gives rise to some imprecision in the language of the Bill. The Senate Bill has been revised to avoid the use of this term. An example of the problem would be the use in line 14 on page 5, where, if MAC obligations are to be guaranteed, the apparent intention is that the grant or loan be supplied to the assisted municipality by the State, but this is not entirely clear. If clarification is deemed appropriate, Attachment D hereto shows where the changes might be made.
12. MAC is a State Agency and Not a City Agency.

This is the same point as mentioned above in paragraph 1. At page 8, line 7, change

"by, on behalf of, or for the benefit of, the political subdivision for whose benefit such guarantee is intended."

to read

"by the State to finance the credit needs of the assisted municipality or by the assisted municipality."

13. Subrogation.

This is the same point as is made in paragraph 7, above.

14. Other.

Page 10, line 11. Change "is waived by such government" to read "has been offset" to conform to the text at page 11, line 17, and to make it clear that the deposit required by Section 113(b) takes place when a right of offset has been exercised by the United States pursuant to Section 113(c).

11/13/75
R.R.G.
S.G.F.

cc: Mr. Malcolm J. Hood
Vice President
Mr. Frederick H. Sandstrom
Assistant Vice President
Attachment A

Page 3, line 14. Change "on behalf" to read "to finance the credit needs".

Page 7, line 24. Change "or on behalf of" to read "the State or".

Page 8, line 12. Change "on behalf" to read "to finance the credit needs".

Page 13, line 7. Change "on behalf" to read "in respect".
Attachment B

Page 8, line 18. Change "a bond" to read "an obligation".

Page 8, line 25. Change "bonds" to read "obligations".

Page 9, line 24. Change "bonds" to read "obligations".
Attachment C

Page 10:
Line 12. Change "issuer of the obligations" to read "assisted municipality".
Line 18. Change "issuer" to read "assisted municipality".
Line 22. Change "issuer" to read "assisted municipality".

Page 11:
Line 3. Change "issuer" to read "State".*
Line 7. Change "issuer agrees" to read "State and assisted municipality agree".*
Line 8. Change "such issuer" to read "they".*
Line 16. Change "issuer" to read "assisted municipality".**

If these changes are made, it may be determined that subparagraph (3) of Section 6(b) is no longer required. Page 13, lines 6-9.

*These changes would also conform to the text of Section 5(a)(4).

**This change would also conform to the text of Section 5(a)(5).
Attachment D

Page 4:

Line 11. Change

"the State or State agency whose obligations would be guaranteed (hereinafter referred to as 'the applicant State)"

to read

"the issuer, the obligations of which would be guaranteed,"

Line 23. Strike "applicant".

Page 5:

Line 5. Strike "applicant".*

Line 14. Strike "applicant".*

Page 6:

Line 2. Strike "applicant".

Line 5. Strike "applicant".*

*An alternative, depending upon the intention, would be to change "applicant State" to read "State or issuer".

-15-
A BILL

To provide for a voluntary reorganization of municipal debt under conditions of fiscal reform, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND STATEMENT OF PURPOSE

SECTION 1. (a) This Act may be cited as the "Voluntary Municipal Reorganization Act of 1975".

(b) The Congress finds that it is in the national interest to prevent the default by State or local governments on their outstanding obligations in a manner consistent with sound fiscal reform, as required under section 5 of this Act, and to establish a temporary program of emergency credit
assistance to State or local governments unable to meet the
requirements of section 5.

DEFINITIONS

Sec. 2. As used in this Act—

(1) "Board" means the Emergency Municipal
Fiscal Reform Board;

(2) "assisted municipality" means a city incorpo-
rated under the laws of a State and any governmental
agency, public authority, or public benefit corporation
which receives or may receive moneys directly, indi-
directly, or contingently (other than moneys received
for the sale of goods or the rendering of services or the
loan of moneys to the city) from that city;

(3) "State" means the State of the United States
which has jurisdiction of the assisted municipality, in-
cluding an agency of that State; and

(4) "Governor" means the chief executive officer
of a State.

ESTABLISHMENT OF THE BOARD

Sec. 3. There is established an Emergency Municipal
Fiscal Reform Board composed of the Secretary of the
Treasury, as Chairman, the Chairman of the Board of Gov-
ernors of the Federal Reserve System, and the Secretary of
Labor. Decisions of the Board shall be made by majority
vote.
financing the credit needs of a municipality subject to
its jurisdiction, that the State and the assisted municipali-
ity are not able to obtain such credit in the private
market, and that the failure to obtain such credit is likely
to cause the assisted municipality or State to default on
its outstanding obligations;

(2) the assisted municipality submits, with the ap-
proval of the Governor of the State, in such detail and in
accordance with such accounting principles as the Board
may prescribe, a financial plan which in the judgment
of the Board will bring the assisted municipality’s operat-
ing expenses (including debt service) into balance with
its recurring revenues beginning with its second full
fiscal year following the initial application for assistance.
Such financial plan shall provide for reductions in the
cost of employee pension plans to the assisted munici-
pality through reductions in the level of benefits, limita-
tions on the amount of overtime pay which can be
counted in computing retirement benefits, increases in
the amount of employee contributions, or otherwise.
Such financial plan shall also provide for the maximum
feasible participation by the employee pension funds
of the assisted municipality in supplying the credit
needs of the assisted municipality. Such financial plan
may be revised from time to time with the approval of the Board;

(3) the State demonstrates 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 expenditures limits, disapprove all expenditures not in compliance with the plan required under paragraph (2), approve all borrowing, and authorize all contracts during that period;

(4) the State provides assurances satisfactory to the Board that it will repay any losses the United States Government may sustain as a result of payments made pursuant to a guarantee under this section, and in furtherance of such assurances, the State and assisted municipality agree to waive the right to all payments which they would otherwise be entitled to receive under the State and Local Fiscal Assistance Act of 1972, or other comparable general purpose financial assistance from the Federal Government, at such time and in such amounts as the Board may determine to be necessary to reimburse the United States for any losses sustained
as a result of payments made pursuant to a guarantee under this section;

(5) the assisted municipality agrees (i) to make available to the Board, the Comptroller General of the United States, and any certified public accountant designated by the Board all its accounts, books, records, documents, or other information which the Board may request bearing on its financial situation prior to, and during, the entire period in which the Federal guarantee is outstanding; (ii) to follow such generally accepted accounting principles as the Board may prescribe; and (iii) to provide such periodic reports as the Board may require;

(6) the State agrees to pay to the Board such guarantee fee as may be prescribed by the Board but not to exceed 3½ per centum per annum of the total principal amount of guaranteed obligations outstanding, except that such fee shall not exceed 1 per centum if the interest on the obligations is included in gross income for the purpose of the Federal income tax laws;

(7) the State agrees to provide in accordance with this paragraph and at such times as the Board may prescribe a grant to the assisted municipality for each of the municipality's fiscal years during which a guar-
antee under this section may be outstanding. Such a
grant shall—

(A) be in an amount equal to at least one-half
of the anticipated operating deficit of the assisted
municipality for the fiscal year or portion thereof
during which a guarantee under this section is out-
standing as determined without regard to the
amount of the grant in accordance with accounting
principles prescribed by the Board;

(B) be derived from the general tax revenues
of the State;

(C) be in addition to all other grant or similar
assistance provided to the assisted municipality by
the applicant or the State pursuant to programs es-
established or commitments made prior to its initial
request for a guarantee under this section;

(D) be provided at such times as the Board
may prescribe; and

(E) be used by the assisted municipality to
meet its operating expenses in accordance with the
financial plan under paragraph (2); and

(8) the State presents voluntary agreements
acceptable to the Board by the holders of obligations
issued by or on behalf of the assisted municipality to
exchange such obligations as prescribed herein. Such
agreements may be conditioned upon the approval of
guarantee assistance under this section and shall reduce
the financial burden on the assisted municipality in such
manner and degree as the Board may determine neces-
sary to enable the assisted municipality to meet all its
credit needs without further Federal guarantee assistance
at the earliest practicable date. Such voluntary agree-
ments shall not be accepted by the Board unless—

(A) the holders representing at least 65 per
centum of the aggregate principal amount of the
obligations issued by a State agency or on behalf of the
assisted municipality agree to exchange those obliga-
tions for bonds issued by that agency with serial
maturities of not less than five years and bearing
interest at such rates as the Board may determine
are necessary to achieve the purposes of this par-
graph, but in no case may a holder receive a bond
with an earlier maturity than the obligation ex-
changed; and

(B) the holders representing at least 40 per
centum of the aggregate principal amount of the
obligations of the assisted municipality maturing
prior to June 30, 1976, agree to exchange those
obligations for bonds issued by the municipality with
serial maturities of not less than five years and
bearing interest at such rates as the Board may de-
determine are necessary to achieve the purposes of
this paragraph.

(b) (1) The maturity of any obligations guaranteed
under this section may not exceed one year.

(2) The aggregate principal amount of obligations
guaranteed by the Board under this section shall not exceed
at any time $4,000,000,000 prior to June 30, 1977;
$3,500,000,000 during the twelve-month period ending
June 30, 1978; $2,500,000,000 during the twelve-month
period ending June 30 1979; and $1,500,000,000 during
the twelve-month period ending June 30, 1980.

(3) The Board may not make any commitment to
guarantee any obligations under this section during any
period when it determines the State or the assisted munici-
pality is not meeting its obligations under this section or that
the plan required under paragraph (2) of subsection (a) is
not being achieved on schedule.

(4) In approving guarantees under this section subse-
quent to June 30, 1976, the Board shall require, to the
maximum extent feasible, that investors participate in sup-
plying the credit needs of the assisted municipality without
Federal guarantee assistance by purchasing bonds issued
by the municipality with serial maturities of not less than
S. 2615—2
five years so as to eliminate the need for Federal guarantee
assistance at the earliest possible date, but in no event later
than June 30, 1979. [1980] (9b)

STANDARDS AND CONDITIONS FOR GUARANTEE OF OBLIGA-
TIONS OF ISSUERS IN DEFAULT

SEC. 6. (a) The Board may not guarantee obligations
under this section unless—

(1) the Board finds that—

(A) assistance under section 5 cannot be pro-
vided because of a failure to meet the requirements
of that section;

(B) the issuer of the obligations (i) has de-
faulted on its outstanding obligations, or (ii) has
filed a petition under the Bankruptcy Act;

(C) the issuer is unable to obtain credit in the
private market; and

(D) a guarantee under this section is neces-
sary to permit the issuer to carry on essential serv-
ices or programs the interruption of which would
endanger the health, safety, or welfare of the resi-
dents of the affected area;

(2) the issuer submits a financial plan acceptable
to the Board in such detail and in accordance with such
accounting principles as the Board may prescribe, for
bringing its recurring revenues into balance with its essential cash needs;

(3) the issuer provides assurances satisfactory to the Board that it will repay any losses the United States Government may sustain as a result of payments made pursuant to a guarantee under this section, and in furtherance of such assurances the issuer agrees to waive the right to all payments which such issuer would otherwise be entitled to receive under the State and Local Fiscal Assistance Act of 1972, or other comparable general purpose financial assistance from the Federal Government, at such time and in such amounts as the Board may determine to be necessary to reimburse the United States for any losses sustained as a result of payments made pursuant to a guarantee under this section;

(4) the issuer agrees to---

(A) make available to the Board and the Comptroller General of the United States all its accounts, books, records, documents, transactions, and any other information bearing on its financial situation which the Board may request prior to and during the entire period during which a Federal guarantee is outstanding:
(B) follow such generally accepted accounting principles as the Board may prescribe; and

(C) provide such periodic reports as the Board may require;

(5) the issuer agrees to pay to the Board such guarantee fee as may be prescribed by the Board but not to exceed 3\(\frac{1}{2}\) per centum per annum of the total principal amount of guaranteed obligations outstanding, except that such fee shall not exceed 1 per centum if the interest on the obligations is included in gross income for the purpose of the Federal income tax laws; and

(6) in the case of an issuer which is a unit of local government, the State in which such issuer is located agrees to provide from its general tax revenues and at such times as the Board may prescribe, a grant to such unit in an amount equal to one-half of its anticipated operating deficit during any period when a Federal guarantee under this section may be outstanding as determined without regard to the amount of such grant in accordance with accounting principles prescribed by the Board. Such grants shall be in addition to all other grants or similar assistance provided to such issuer by the State pursuant to programs established or commitments made prior to the initial request for guarantee assistance under this section.
(b) (1) The maturity of any obligations guaranteed under this section shall not exceed three months.

(2) The aggregate principal amount of obligations guaranteed under this section shall not exceed, at any time, $500,000,000.

(3) For the purpose of this section, the term "issuer" includes any municipality on behalf of which an obligation under this section is issued for the purpose of assisting such municipality in meeting its credit needs.

EMERGENCY MUNICIPAL DEBT GUARANTEE FUND

Sec. 7. (a) There is established in the Treasury an emergency municipal debt guarantee fund (hereinafter referred to as the "fund") to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this Act. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof. Moneys in the fund not needed for current operations or for any future obligations shall be covered into the general fund of the Treasury.

(b) Guarantee fees paid under this Act shall be deposited in the fund. Notwithstanding any other provision of law, the Secretary of the Treasury shall deposit in the fund any payment, or portion thereof, which a State government or
1 unit of local government would otherwise be entitled to re-
2 ceive under the State and Local Fiscal Assistance Act of
3 1972, or any other comparable program of general purpose
4 financial assistance from the Federal Government, and which
5 is waived by such Government pursuant to this Act. Any
6 other sums received by the Board under this Act shall be paid
7 into the fund.
8 (c) Payments required to be made as a consequence of
9 any guarantee by the Board shall be made from the fund. In
10 the event and to the extent that the moneys in the fund are
11 insufficient to make such payments, the Secretary of the
12 Treasury is authorized and directed to make such payments
13 on behalf of the Board and for that purpose he is authorized to
14 use as a public debt transaction the proceeds from the sale of
15 any securities issued under the Second Liberty Bond Act, as
16 amended, and the purposes for which securities may be issued
17 under that Act are extended to include any such payments.
18 (d) The Federal Financing Bank shall purchase all
19 obligations guaranteed under this Act the interest on which
20 is excluded from gross income for the purposes of the Fed-
21 eral income tax laws.
22
23 FEDERAL RESERVE BANKS AS FISCAL AGENTS
24
25 Sec. 8. Any Federal Reserve bank which is requested to
26 do so shall act as fiscal agent for the Board. Each such fiscal
27 agent shall be reimbursed by the Board for all expenses and
losses incurred by it in acting as agent on behalf of the Board.

PROTECTION OF GOVERNMENT'S INTEREST

Sec. 9. (a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this Act. Any sums recovered pursuant to this section shall be paid into the fund.

(b) The Board shall be entitled to recover from any issuer of an obligation guaranteed under this Act or any other person liable therefor, the amount of any payments made pursuant to any guarantee made under this Act, and upon making such payments, the Board shall be subrogated to all the rights of the recipient thereof.

REPORTS

Sec. 10. The Board shall submit a quarterly report to the Congress as to its operations under this Act.

TERMINATION

Sec. 11. The authority of the Board to make any guarantee under section 5 terminates on June 30, 1979, and under section 6 on March 31, 1976. Such termination does not affect the carrying out of any contract, guarantee, or other obligation entered into pursuant to this Act prior to that date, or the taking of any action necessary to preserve or protect the interest of the United States in any amounts.
advanced or paid out in carrying on operations under this Act.

STOCK TRANSFER TAX

SEC. 12. The first sentence of section 28(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(d)) is amended to read as follows: "No State or political subdivision thereof shall impose any tax on any change in beneficial or record ownership of securities effected through the facilities of—

"(1) a registered clearing agency; or

"(2) a registered transfer agent when performing the function described in section 3(a) (25) (E) of this title or, in connection with such function, any functions described in section 3(a) (25) (B) through (D) of this title,

or any nominee thereof or custodian thereof or upon the delivery or transfer of securities to or through or receipt from such agency or agent or any nominee thereof or custodian thereof, unless such change in beneficial or record ownership or such transfer or delivery or receipt would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency, registered transfer agent, or any nominee thereof or custodian thereof were not physically located in the taxing State or political subdivision."
IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 1975

Mr. Ashley (for himself, Mrs. Sullivan, Mr. Rees, Mr. Patterson of California, Mrs. Spellman, Mr. Tsongas, Mr. St Germain, and Mr. McKinney) introduced the following bill; which was referred to the Committee on Banking, Currency and Housing

November 6, 1975

Reported from the Committee on Banking, Currency and Housing with amendments, and referred to the Committee on Ways and Means for a period ending not later than November 13, 1975, for consideration of title II; and ordered to be printed

[Omit the part struck through and insert the part printed in italics]

A BILL

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.

1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2. § 1. Short title

3. This Act may be cited as the “Intergovernmental Emergency Assistance Act.”
§ 101. Definitions and rules of construction

(a) The definitions and rules of construction set forth in this section shall be applicable for the purposes of this title.

(b) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(c) The term "political subdivision" shall have the same meaning as used in section 103 of the Internal Revenue Code of 1954.

(d) Any action authorized or required under this title by or with respect to a State may be taken by or with respect to any agency or instrumentality thereof approved by the Board for that purpose, having regard to the purposes of the State law creating any such agency or instrumentality.

§ 102. Establishment of the Board

There is created an Intergovernmental Emergency Assistance Board (referred to in this title as the "Board") 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
1 Chairman of the Securities and Exchange Commission. Deci-
2 sions of the Board shall be made by majority vote.
3 § 103. Authority for guarantees
4 The Board may guarantee the payment, in whole or
5 part, of interest, principal, or both, of obligations of States
6 (including agencies and instrumentalities thereof as described
7 in section 102d 101(d)) the interest on which is subject to
8 Federal taxation, in accordance with this title. The Board shall
9 give prompt consideration to any application for a guarantee
10 under this title and shall, in the event such guarantee is
11 denied, set forth the reasons for such denial in a written
12 statement copies of which shall be furnished to the Governor
13 of the State concerned, the Committee on Banking, Housing
14 and Urban Affairs of the Senate, and the Committee on
15 Banking, Currency and Housing of the House of Repre-
16 sentatives.
17 § 104. Purpose
18 The Board may make guarantees under this title only for
19 the purpose of—
20 (1) enabling a political subdivision of a State to
21 continue to provide essential public services and facili-
22 ties; or
23 (2) preventing, or mitigating the effects of, default
24 in the payment of obligations of a political subdivision of
a State where such default has had, or, in the judgment
of the Board, could reasonably be expected to have, a
serious adverse effect on general economic conditions or
on the marketability of obligations of States and their
political subdivisions in general.

§ 105. Conditions of eligibility
(a) Except as provided in subsection (b) of this sec-
tion, the Board may make guarantees under this title to a
State for the benefit of a political subdivision thereof only
if—
(1) the Board finds that the State or State agency
whose obligations would be guaranteed (hereinafter
referred to as "the applicant State") and the political
subdivision whose credit needs would be financed by
such obligations (hereinafter referred to as "the assisted
municipality") are effectively unable to obtain credit in
the private market or elsewhere; elsewhere in amounts
and terms sufficient to meet the municipality's financing
needs during the period covered by the plan required
to be submitted pursuant to section 105(a)(2) of this
title;

(2) the assisted municipality submits, with the
approval of the Governor of the applicant State, in such
detail and in accordance with such accounting principles
as the Board may prescribe, a plan for bringing its
operating expenses into balance with its recurring revenues for its second full fiscal year following the initial application for assistance, and thereafter for as long as any such assistance remains outstanding;

(3) the State demonstrates 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 required under paragraph (2), and approve all borrowing and contracts during that period; and

(4) the State agrees to provide in accordance with this subsection a grant or loan to the assisted municipality for each fiscal year of the municipality during which a guarantee under this title may be outstanding. Such grant or loan shall—

(A) be in an amount determined by the Board but not exceeding one-third of the anticipated operating deficit of the assisted municipality for that fiscal year or portion thereof as determined in accordance with accounting principles prescribed by the Board;
(B) be derived from the general tax revenues of the applicant State;

(C) be in addition to all other grant or similar assistance provided to the assisted municipality by the applicant State pursuant to programs established or commitments made prior to its initial request for a guarantee under this title;

(D) be provided at such times as the Board may prescribe; and

(E) be used by the assisted municipality to meet its operating expenses in accordance with the financial plan required under paragraph (2)

(b) In the case of a political subdivision which has filed a petition under the Bankruptcy Act or which has actually defaulted on one or more of its obligations, the Board may, for a period of six months following the filing of such petition or the date of such default (as determined by the Board), make guarantees under this title without regard to one or more of the conditions prescribed in subsection (a) of this section to a State for the benefit of such political subdivision if the Board determines that an emergency exists which makes compliance with such condition or conditions impracticable.

§ 106. Guarantee fees

Whenever any obligation is guaranteed under this title,
the Board shall assess and collect from the obligor a guarantee fee which shall not exceed three-quarters of one percent per annum. Any such fees shall be paid into the Emergency Municipal Debt Guarantee Fund established under section 111 of this title.

§ 107. Limitations on amount of guarantees outstanding

(a) Except as provided in subsection (b) of this section, the total amount of all guarantees (exclusive of unearned interest) which may be outstanding under this title at any one time shall not exceed—

(1) $5,000,000,000 during the period from the date of enactment of this title through September 30, 1989, and

(2) $3,000,000,000 during the period from October 1, 1989 through September 30, 1999.

(b) In addition to the amounts authorized under subsection (a) of this section, prior to October 1, 1978, there may be outstanding at any one time not exceeding $2,000,-000,000 in the form of guarantees of obligations having a maturity of eleven months or less from date of issue.

(c) No obligation may be guaranteed under this title which has a maturity beyond September 30, 1999.

§ 108. Obligations callable after three years

Any obligation guaranteed under this title may be called for redemption at the option of the issuer and without the
payment of a call premium at any time more than three
years after the date of issue.

§ 109. Additional terms and conditions

(a) As a condition to making any guarantee under this
title, the Board shall impose reasonable requirements with
respect to the renegotiation or exchange of outstanding obliga-
gations entered into by or on behalf of, or for the benefit of, the
political subdivision for whose benefit such guarantee is in-
tended. Where such renegotiation or exchange involves the
terms of bonds, notes, or similar obligations previously en-
tered into, the Board shall require that a substantial percent-
age of such obligations be exchanged for nonguaranteed
obligations bearing a substantially longer maturity, a sub-
stantially lower interest rate, or both. Where such renegotia-
tion involves the terms 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 bene-
fits provided for similar services by other employers, with
particular reference to employers which are political subdivi-
sions of the same State or of other States. In any renegotia-
tion, there may also be taken into consideration the reduction
which the results of such renegotiation may effect in the risk
that the political subdivision involved would be unable to
fulfill its commitments.
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(b) In addition to the terms and conditions otherwise required by or under this title, the Board may impose such terms and conditions, not inconsistent with the general purposes of this title, as it deems appropriate with respect to the making of any guarantee under this title.

§ 110. Audits

(a) No guarantee may be made under this title for the benefit of any State or political subdivision thereof unless the General Accounting Office is authorized to make such audits as may be deemed appropriate by either the Board or the General Accounting Office of all accounts, books, records, and transactions of the State, the political subdivision, if any, involved, and any agency or instrumentality of such State or political subdivision. The General Accounting Office shall report the results of any such audit to the Board and to the Congress.

§ 111. Emergency Municipal Debt Guarantee Fund

(a) There is established in the Treasury an emergency municipal debt guarantee fund (hereinafter referred to as the "fund") to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this Act. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations
that are fully guaranteed as to principal and interest by, the
United States or any agency thereof.

(b) Sums realized from the guarantee fee required
under this Act shall be deposited in the fund. Notwithstand-
ing any other provision of law, the Secretary of the Treasury
shall deposit in the fund any payment, or portion thereof,
which a State government or unit of local government would
otherwise be entitled to receive under the State and Local
Fiscal Assistance Act of 1972, or any comparable program
of fiscal assistance to State and local government, and which
is waived by such government pursuant to this Act.

c) Payments required to be made as a consequence of
any guarantee by the Board shall be made from the fund. In
the event and to the extent that the moneys in the fund are
insufficient to make such payments the Secretary of the Treas-
ury is authorized and directed to make such payments on
behalf of the Board and for that purpose he is authorized to
use as a public debt transaction the proceeds from the sale of
any securities issued under the Second Liberty Bond Act, as
amended, and the purposes for which securities may be issued
under that Act are extended to include any such payments.

§ 112. Federal Reserve banks as fiscal agents

Any Federal Reserve bank which is requested to do so
shall act as fiscal agent for the Board. Each such fiscal agent
shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

§ 113. Protection of Government’s interest

(a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this title. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund.

(b) The Board shall be entitled to recover from the borrower, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this title, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof with respect to such obligation.

(c) There is hereby reserved to the United States the right to offset against any sums otherwise due for any reason from the United States (including but not limited to any sums which may be due under the State and Local Fiscal Assistance Act of 1972, or other comparable general purpose financial assistance) to any State whose obligations are guaranteed under this title, or to any 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 guarantee. Such right
of offset shall be exercised only with respect to such sources
of Federal revenue, and at such rate, as the Board may deter-
nine to be appropriate with a view to reimbursing the United
States as expeditiously as may be practicable under the cir-
cumstances as they exist at the time.

(d) Whenever any guarantee under this title is out-
standing, and there is a failure on the part of the obligor
or on the part of the political subdivision for whose benefit
such assistance was extended to fulfill any commitment or
undertaking which it agreed to fulfill in consideration of
such assistance, the Board may, in its discretion, for any
period during which such failure continues, assess an addi-
tional guarantee fee in any amount such that the total of
the original guarantee fee and any such additional fees for
such period does not produce a total which is at a rate in
excess of three times the rate otherwise authorized under
section 106.

§ 114. Reports

The Board shall submit to the Congress quarterly a full
report of its operations under this title.

§ 115. Termination

The authority of the Board to make guarantees under
this title terminates on September 30, 1979. Such termina-
tion does not affect the carrying out of any contract, guaran-
tee, commitment, or other obligation entered into pursuant
to this title prior to that date, or the taking of any action
necessary to preserve or protect the interests of the United
States in any amounts advanced or paid out in carrying on
operations under this title.

TITLE II—AMENDMENT TO INTERNAL REVENUE
CODE OF 1954

§ 201. Taxability of certain federally guaranteed obliga-
tions

Section 103 (a) (1) of the Internal Revenue Code of
1954 (relating to interest on certain governmental obliga-
tions) is amended by inserting immediately before the semi-
colon at the end thereof the following: “, except in the case
of an obligation whose payment is guaranteed in whole or
part under authority of section 103 of the Intergovernmental
Emergency Assistance Act”.

TITLE III AMENDMENT TO THE
BANKRUPTCY ACT