



State of New York
Municipal Assistance Corporation
For The City of New York
Two World Trade Center
New York, N. Y. 10047

Board Members

Felix G. Rohatyn
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Francis J. Barry
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Robert C. Weaver

Herbert Elish
Executive Director

M E M O R A N D U M

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

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 SHORT TITLE AND STATEMENT OF PURPOSE

4 SECTION 1. (a) This Act may be cited as the "Volun-
5 tary Municipal Reorganization Act of 1975".

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

1 assistance to State or local governments unable to meet the
2 requirements of section 5.

3 DEFINITIONS

4 SEC. 2. As used in this Act—

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

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

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

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

19 ESTABLISHMENT OF THE BOARD

20 SEC. 3. There is established an Emergency Municipal
21 Fiscal Reform Board composed of the Secretary of the
22 Treasury, as Chairman, the Chairman of the Board of Gov-
23 ernors of the Federal Reserve System, and the Secretary of
24 Labor. Decisions of the Board shall be made by majority
25 vote.

AUTHORITY

1
2 SEC. 4. The Board, on such terms and conditions as it
3 deems appropriate, is authorized—

4 (1) to guarantee or make commitments to guaran-
5 tee the timely payment of principal and interest to hold-
6 ers of obligations to be issued by a State on behalf of
7 an assisted municipality in order to prevent a default
8 and carry out fiscal reform in accordance with section
9 5; or

10 (2) in the event of a default or other inability of an
11 issuer to meet its obligations, to provide emergency
12 guarantees of the timely payment of principal and inter-
13 est to holders of obligations of that issuer or of a trustee
14 or receiver of that issuer or of a State on behalf of an
15 assisted municipality to support the provision by that
16 issuer or assisted municipality of essential services in
17 accordance with section 6.

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

20 STANDARDS AND CONDITIONS FOR GUARANTEES TO
21 PREVENT DEFAULT

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

24 (1) the Board finds that the obligations to be guar-
25 anteed are to be issued by a State for the purpose of

1 financing the credit needs of a municipality subject to
2 its jurisdiction, that the State and the assisted municipal-
3 ity are not able to obtain such credit in the private
4 market, and that the failure to obtain such credit is likely
5 to cause the assisted municipality or State to default on
6 its outstanding obligations;

7 (2) the assisted municipality submits, with the ap-
8 proval of the Governor of the State, in such detail and in
9 accordance with such accounting principles as the Board
10 may prescribe, a financial plan which in the judgment
11 of the Board will bring the assisted municipality's operat-
12 ing expenses (including debt service) into balance with
13 its recurring revenues beginning with its second full
14 fiscal year following the initial application for assistance.
15 Such financial plan shall provide for reductions in the
16 cost of employee pension plans to the assisted municipi-
17 tality through reductions in the level of benefits, limita-
18 tions on the amount of overtime pay which can be
19 counted in computing retirement benefits, increases in
20 the amount of employee contributions, or otherwise.
21 Such financial plan shall also provide for the maximum
22 feasible participation by the employee pension funds
23 of the assisted municipality in supplying the credit
24 needs of the assisted municipality. Such financial plan

1 may be revised from time to time with the approval of
2 the Board;

3 (3) the State demonstrates that it has the au-
4 thority to control the fiscal affairs of the assisted
5 municipality for the entire period during which the Fed-
6 eral guarantee will be outstanding, including the author-
7 ity to determine all revenue estimates, set aggregate
8 expenditures limits, disapprove all expenditures not in
9 compliance with the³ plan required under paragraph (2),
10 approve all borrowing, and authorize all contracts during
11 that period;

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

1 as a result of payments made pursuant to a guarantee
2 under this section;

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

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

21 (7) the State agrees to provide in accordance with
22 this paragraph and at such times as the Board may
23 prescribe a grant to the assisted municipality for each
24 of the municipality's fiscal years during which a guar-

1 antee under this section may be outstanding. Such a
2 grant shall—

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

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

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

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

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

22 (8) the State presents voluntary agreements
23 acceptable to the Board by the holders of obligations
24 issued by or on behalf of the assisted municipality to

1 exchange such obligations as prescribed herein. Such
2 agreements may be conditioned upon the approval of
3 guarantee assistance under this section and shall reduce
4 the financial burden on the assisted municipality in such
5 manner and degree as the Board may determine neces-
6 sary to enable the assisted municipality to meet all its
7 credit needs without further Federal guarantee assistance
8 at the earliest practicable date. Such voluntary agree-
9 ments shall not be accepted by the Board unless—

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

21 (B) the holders representing at least 40 per
22 centum of the aggregate principal amount of the
23 obligations of the assisted municipality maturing
24 prior to June 30, 1976, agree to exchange those
25 obligations for bonds issued by the municipality with

1 serial maturities of not less than five years and
2 bearing interest at such rates as the Board may de-
3 termine are necessary to achieve the purposes of
4 this paragraph.

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

7 (2) The aggregate principal amount of obligations
8 guaranteed by the Board under this section shall not exceed
9 at any time \$4,000,000,000 prior to June 30, 1977;
10 \$3,500,000,000 during the twelve-month period ending
11 June 30, 1978; \$2,500,000,000 during the twelve-month
12 period ending June 30 1979; and \$1,500,000,000 during
13 the twelve-month period ending June 30, 1980.

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

20 (4) In approving guarantees under this section subse-
21 quent to June 30, 1976, the Board shall require, to the
22 maximum extent feasible, that investors participate in sup-
23 plying the credit needs of the assisted municipality without
24 Federal guarantee assistance by purchasing bonds issued
25 by the municipality with serial maturities of not less than

1 five years so as to eliminate the need for Federal guarantee
2 assistance at the earliest possible date, but in no event later
3 than June 30, 1979.

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

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

8 (1) the Board finds that—

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

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

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

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

22 (2) the issuer submits a financial plan acceptable
23 to the Board in such detail and in accordance with such
24 accounting principles as the Board may prescribe, for

1 bringing its recurring revenues into balance with its
2 essential cash needs;

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

16 (4) the issuer agrees to—

17 (A) make available to the Board and the
18 Comptroller General of the United States all its ac-
19 counts, books, records, documents, transactions, and
20 any other information bearing on its financial situa-
21 tion which the Board may request prior to and dur-
22 ing the entire period during which a Federal guar-
23 antee is outstanding;

1 (B) follow such generally accepted accounting
2 principles as the Board may prescribe; and

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

5 (5) the issuer agrees to pay to the Board such guar-
6 antee fee as may be prescribed by the Board but not to
7 exceed $3\frac{1}{2}$ per centum per annum of the total principal
8 amount of guaranteed obligations outstanding, except
9 that such fee shall not exceed 1 per centum if the inter-
10 est on the obligations is included in gross income for
11 the purpose of the Federal income tax laws; and

12 (6) in the case of an issuer which is a unit of local
13 government, the State in which such issuer is located
14 agrees to provide from its general tax revenues and at
15 such times as the Board may prescribe, a grant to such
16 unit in an amount equal to one-half of its anticipated
17 operating deficit during any period when a Federal
18 guarantee under this section may be outstanding as
19 determined without regard to the amount of such grant
20 in accordance with accounting principles prescribed by
21 the Board. Such grants shall be in addition to all other
22 grants or similar assistance provided to such issuer by the
23 State pursuant to programs established or commitments
24 made prior to the initial request for guarantee assistance
25 under this section.

1 (b) (1) The maturity of any obligations guaranteed
2 under this section shall not exceed three months.

3 (2) The aggregate principal amount of obligations guar-
4 anteed under this section shall not exceed, at any time,
5 \$500,000,000.

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

10 EMERGENCY MUNICIPAL DEBT GUARANTEE FUND

11 SEC. 7. (a) There is established in the Treasury an
12 emergency municipal debt guarantee fund (hereinafter re-
13 ferred to as the "fund") to be administered by the Board.
14 The fund shall be used for the payment of the expenses of the
15 Board and for the purpose of fulfilling the Board's obligations
16 under this Act. Moneys in the fund not needed for current
17 operations may be invested in direct obligations of, or obliga-
18 tions that are fully guaranteed as to principal and interest by,
19 the United States or any agency thereof. Moneys in the fund
20 not needed for current operations or for any future obligations
21 shall be covered into the general fund of the Treasury.

22 (b) Guarantee fees paid under this Act shall be depos-
23 ited in the fund. Notwithstanding any other provision of law,
24 the Secretary of the Treasury shall deposit in the fund any
25 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 FEDERAL RESERVE BANKS AS FISCAL AGENTS

23 SEC. 8. Any Federal Reserve bank which is requested to
24 do so shall act as fiscal agent for the Board. Each such fiscal
25 agent shall be reimbursed by the Board for all expenses and

1 losses incurred by it in acting as agent on behalf of the
2 Board.

3 PROTECTION OF GOVERNMENT'S INTEREST

4 SEC. 9. (a) The Attorney General shall take such action
5 as may be appropriate to enforce any right accruing to the
6 United States or any officer or agency thereof as a result of
7 the issuance of guarantees under this Act. Any sums re-
8 covered pursuant to this section shall be paid into the fund.

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

15 REPORTS

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

18 TERMINATION

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

1 advanced or paid out in carrying on operations under this
2 Act.

3 STOCK TRANSFER TAX

4 SEC. 12. The first sentence of section 28 (d) of the
5 Securities Exchange Act of 1934 (15 U.S.C. 78bb (d)) is
6 amended to read as follows: "No State or political subdivi-
7 sion thereof shall impose any tax on any change in bene-
8 ficial or record ownership of securities effected through the
9 facilities of—

10 " (1) a registered clearing agency; or

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

16 or any nominee thereof or custodian therefor or upon the
17 delivery or transfer of securities to or through or receipt from
18 such agency or agent or any nominee thereof or custodian
19 therefor, unless such change in beneficial or record ownership
20 or such transfer or delivery or receipt would otherwise be
21 taxable by such State or political subdivision if the facilities
22 of such registered clearing agency, registered transfer agent,
23 or any nominee thereof or custodian therefor were not physi-
24 cally located in the taxing State or political subdivision."

Calendar No. 429

94TH CONGRESS
1ST SESSION

S. 2615

[Report No. 94-443]

A BILL

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

By Mr. PROXMIRE

NOVEMBER 4, 1975

Read twice and ordered to be placed on the calendar

94TH CONGRESS
1ST SESSION

H. R. 10481

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 Representa-*
2 *tives of the United States of America in Congress assembled,*

3 § 1. Short title

4 This Act may be cited as the "Intergovernmental Emer-
5 gency Assistance Act".

1 TITLE I—INTERGOVERNMENTAL EMERGENCY
2 ASSISTANCE

3 § 101. Definitions and rules of construction

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

7 (b) The term "State" means any State, the District of
8 Columbia, the Commonwealth of Puerto Rico, or any terri-
9 tory or possession of the United States.

10 (c) The term "political subdivision" shall have the
11 same meaning as used in section 103 of the Internal Rev-
12 enue Code of 1954.

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

18 § 102. Establishment of the Board

19 There is created an Intergovernmental Emergency As-
20 sistance Board (referred to in this title as the "Board")
21 composed of the Secretary of the Treasury, as Chairman, the
22 Secretary of Housing and Urban Development, the Secretary
23 of Health, Education, and Welfare, the Chairman of the
24 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)) the interest on which is subject to Fed-
8 eral 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

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;"

1 a State where such default has had, or, in the judgment
 2 of the Board, could reasonably be expected to have, a
 3 serious adverse effect on general economic conditions or
 4 on the marketability of obligations of States and their
 5 political subdivisions in general.

6 § 105. Conditions of eligibility

7 (a) Except as provided in subsection (b) of this sec-
 8 tion, the Board may make guarantees under this title to a
 9 State for the benefit of a political subdivision thereof only
 10 if—

11 (1) the Board finds that the State or State agency
 12 whose obligations would be guaranteed (hereinafter
 13 referred to as "the applicant State") and the political
 14 subdivision whose credit needs would be financed by
 15 such obligations (hereinafter referred to as "the assisted
 16 municipality") are effectively unable to obtain credit in
 17 the private market or elsewhere; *Let the ends*
of the

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

1 (3) the applicant State demonstrates that it has
 2 the authority to control the fiscal affairs of the assisted
 3 municipality for the entire period during which the
 4 Federal guarantee will be outstanding including the
 5 authority to determine all revenue estimates, set agree-
 6 gate expenditure limits, disapprove all expenditures not
 7 in compliance with the plan required under paragraph
 8 (2), and approve all borrowing and contracts during
 9 that period; and

10 (4) the applicant State agrees to provide in ac-
 11 cordance with this subsection a grant or loan to the
 12 assisted municipality for each fiscal year of the munici-
 13 pality during which a guarantee under this title may
 14 be outstanding. Such grant or loan shall—

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

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

22 (C) be in addition to all other grant or similar
 23 assistance provided to the assisted municipality by
 24 the applicant State pursuant to programs established

1 or commitments made prior to its initial request for
2 a guarantee under this title;

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

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

8 (b) In the case of a political subdivision which has
9 filed a petition under the Bankruptcy Act or which has actu-
10 ally defaulted on one or more of its obligations, the Board
11 may, for a period of six months following the filing of such
12 petition or the date of such default (as determined by the
13 Board), make guarantees under this title without regard
14 to one or more of the conditions prescribed in subsection (a)
15 of this section to a State for the benefit of such political sub-
16 division if the Board determines that an emergency exists
17 which makes compliance with such condition or conditions
18 impracticable.

19 § 106. Guarantee fees

20 Whenever any obligation is guaranteed under this title,
21 the Board shall assess and collect from the obligor a guaran-
22 tee fee which shall not exceed three-quarters of one percent
23 per annum. Any such fees shall be paid into the Emergency
24 Municipal Debt Guarantee Fund established under section
25 111 of this title.

1 §107. Limitations on amount of guarantees outstanding

2 (a) Except as provided in subsection (b) of this sec-
3 tion, the total amount of all guarantees (exclusive of un-
4 earned interest) which may be outstanding under this title
5 at any one time shall not exceed—

6 (1) \$5,000,000,000 during the period from the
7 date of enactment of this title through September 30,
8 1989, and

9 (2) \$3,000,000,000 during the period from Oc-
10 tober 1, 1989 through September 30, 1999.

11 (b) In addition to the amounts authorized under sub-
12 section (a) of this section, prior to October 1, 1978, there
13 may be outstanding at any one time not exceeding \$2,000,-
14 000,000 in the form of guarantees of obligations having a
15 maturity of eleven months or less from date of issue.

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

18 §108. Obligations callable after three years

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

23 §109. Additional Terms and Conditions

24 (a) As a condition to making any guarantee under this
25 title, the Board shall impose reasonable requirements with

1 respect to the renegotiation or exchange of outstanding obli-
2 gations entered into by, on behalf of, or for the benefit of, the
3 political subdivision for whose benefit such guarantee is in-
4 tended. Where such renegotiation or exchange involves the
5 terms of bonds, notes, or similar obligations previously en-
6 tered into, the Board shall require that a substantial percent-
7 age of such obligations be exchanged for nonguaranteed
8 obligations bearing a substantially longer maturity, a sub-
9 stantially lower interest rate, or both. Where such renegotia-
10 tion involves the terms of contracts of other provisions for
11 compensation (including pensions and other benefits) for
12 personal services rendered or to be rendered, there may be
13 taken under consideration the compensation and other bene-
14 fits provided for similar services by other employers, with
15 particular reference to employers which are political subdivi-
16 sions of the same State or of other States. In any renegotia-
17 tion, there may also be taken into consideration the reduction
18 which the results of such renegotiation may effect in the risk
19 that the political subdivision involved would be unable to
20 fulfill its commitments.

21 (b) In addition to the terms and conditions otherwise
22 required by or under this title, the Board may impose such
23 terms and conditions, not inconsistent with the general pur-
24 poses of this title, as it deems appropriate with respect to the
25 making of any guarantee under this title.

1 § 110. Audits

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

12 § 111. Emergency Municipal Debt Guarantee Fund

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

22 (b) Sums realized from the guarantee fee required
23 under this Act shall be deposited in the fund. Notwithstand-
24 ing any other provision of law, the Secretary of the Treasury
25 shall deposit in the fund any payment, or portion thereof,

1 which a State government or unit of local government would
2 otherwise be entitled to receive under the State and Local
3 Fiscal Assistance Act of 1972, or any comparable program
4 of fiscal assistance to State and local government, and which
5 is waived by such government pursuant to this Act.

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

16 § 112. Federal Reserve banks as fiscal agents

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

21 § 113. Protection of Government's interest

22 (a) The Attorney General shall take such action as
23 may be appropriate to enforce any right accruing to the
24 United States or any officer or agency thereof as a result
25 of the issuance of guarantees under this title. Any sums

1 recovered pursuant to this section shall be paid into the
2 emergency loan guarantee fund.

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

9 (c) There is hereby reserved to the United States the
10 right to offset against any sums otherwise due for any reason
11 from the United States (including but not limited to any
12 sums which may be due under the State and Local Fiscal
13 Assistance Act of 1972, or other comparable general purpose
14 financial assistance) to any State whose obligations are guar-
15 anteed under this title, or to any political subdivision for
16 whose benefit any guarantee is made under this title, the
17 amount in whole or part of any payment actually made by
18 the United States pursuant to any such guarantee. Such right
19 of offset shall be exercised only with respect to such sources
20 of Federal revenue, and at such rate, as the Board may deter-
21 mine to be appropriate with a view to reimbursing the United
22 States as expeditiously as may be practicable under the cir-
23 cumstances as they exist at the time.

24 (d) Whenever any guarantee under this title is out-
25 standing, and there is a failure on the part of the obligor

1 or on the part of the political subdivision for whose benefit
2 such assistance was extended to fulfill any commitment or
3 undertaking which it agreed to fulfill in consideration of
4 such assistance, the Board may, in its discretion, for any
5 period during which such failure continues, assess an addi-
6 tional guarantee fee in any amount such that the total of
7 the original guarantee fee and any such additional fees for
8 such period does not produce a total which is at a rate in
9 excess of three times the rate otherwise authorized under
10 section 106.

11 § 114. Reports

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

14 § 115. Termination

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

1 TITLE II—AMENDMENT TO INTERNAL REVENUE
2 CODE OF 1954

3 § 201. Taxability of certain federally guaranteed obliga-
4 tions

5 Section 103 (a) (1) of the Internal Revenue Code of
6 1954 (relating to interest on certain governmental obliga-
7 tions) is amended by inserting immediately before the semi-
8 colon at the end thereof the following: “, except in the case
9 of an obligation whose payment is guaranteed in whole or
10 part under authority of section 103 of the Intergovernmental
11 Emergency Assistance Act”.

12 TITLE III AMENDMENT TO THE
13 BANKRUPTCY ACT

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CABLE ADDRESS
"LEDYARD" NEW YORK

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

RRG: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

212-425-4500

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,



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

UNITED STATES TRUST COMPANY

OF NEW YORK

45 WALL STREET NEW YORK, N. Y. 10005

212-425-4500

J. SINCLAIR ARMSTRONG
Executive Vice President

November 14, 1975

Dear Mr. Reuss:

Re: H. R. 10481, Proposed Intergovern-
mental 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,



Honorable Henry S. Reuss
Chairman
Committee on Banking, Currency
and Housing
2186 Rayburn House Office Building
Washington, D. C. 20515

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CABLE ADDRESS
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MEMORANDUM FOR
MR. J. SINCLAIR ARMSTRONG,
Executive Vice President
United States Trust Company
of New York
45 Wall Street
New York, New York 10005

November 13, 1975

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

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 MAC Official Statement, dated August 15, 1975.

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,

*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.")

6. Post-default Guarantees.

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"

to read

"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."

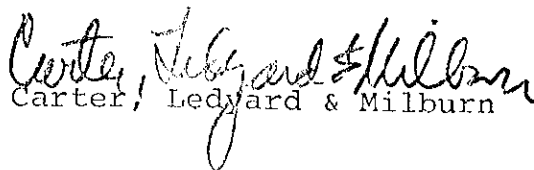
13. Subrogation.

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 111(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.


Carter, Ledyard & Milburn

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".

MARKED TO REFLECT CL&M
SUGGESTIONS. 11/13/75

Calendar No. 429

94TH CONGRESS
1ST SESSION

S. 2615

[Report No. 94-443]

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 1975

Mr. PROXMIER, 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 SHORT TITLE AND STATEMENT OF PURPOSE

4 SECTION 1. (a) This Act may be cited as the "Volun-

5 tary Municipal Reorganization Act of 1975".

6 (b) The Congress finds that it is in the national interest

7 to prevent the default by State or local governments on

8 their outstanding obligations in a manner consistent with

9 sound fiscal reform, as required under section 5 of this Act,

10 and to establish a temporary program of emergency credit

1 assistance to State or local governments unable to meet the
2 requirements of section 5.

3

DEFINITIONS

4

SEC. 2. As used in this Act—

5

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

7

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

14

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

17

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

19

ESTABLISHMENT OF THE BOARD

20

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

1 financing the credit needs of a municipality subject to
2 its jurisdiction, that the State and the assisted municipal-
3 ity are not able to obtain such credit in the private
4 market, and that the failure to obtain such credit is likely
5 to cause the assisted municipality or State to default on
6 its outstanding obligations;

7 (2) the assisted municipality submits, with the ap-
8 proval of the Governor of the State, in such detail and in
9 accordance with such accounting principles as the Board
10 may prescribe, a financial plan which in the judgment
11 of the Board will bring the assisted municipality's operat-
12 ing expenses (including debt service) into balance with
13 its recurring revenues beginning with its second full
14 fiscal year following the initial application for assistance.
15 Such financial plan shall provide for reductions in the
16 cost of employee pension plans to the assisted munic-
17 ipality through reductions in the level of benefits, limita-
18 tions on the amount of overtime pay which can be
19 counted in computing retirement benefits, increases in
20 the amount of employee contributions, or otherwise.
21 Such financial plan shall also provide for the maximum
22 feasible participation by the employee pension funds
23 of the assisted municipality in supplying the credit
24 needs of the assisted municipality. Such financial plan

1 may be revised from time to time with the approval of
2 the Board;

3 (3) the State demonstrates that it has the au-
4 thority to control the fiscal affairs of the assisted
5 municipality for the entire period during which the Fed-
6 eral guarantee will be outstanding, including the author-
7 ity to determine all revenue estimates, set aggregate
8 expenditures limits, disapprove all expenditures not in
9 compliance with the³ plan required under paragraph (2),
10 approve all borrowing, and authorize all contracts during
11 that period;

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

1 as a result of payments made pursuant to a guarantee
2 under this section;

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

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

21 (7) the State agrees to provide in accordance with
22 this paragraph and at such times as the Board may
23 prescribe a grant to the assisted municipality for each
24 of the municipality's fiscal years during which a guar-

1 exchange such obligations as prescribed herein. Such
2 agreements may be conditioned upon the approval of
3 guarantee assistance under this section and shall reduce
4 the financial burden on the assisted municipality in such
5 manner and degree as the Board may determine neces-
6 sary to enable the assisted municipality to meet all its
7 credit needs without further Federal guarantee assistance
8 at the earliest practicable date. Such voluntary agree-
9 ments shall not be accepted by the Board unless—

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

21 (B) the holders representing at least 40 per
22 centum of the aggregate principal amount of the
23 obligations of the assisted municipality maturing
24 prior to June 30, 1976, agree to exchange those
25 obligations for ~~bonds~~ issued by the ~~municipality~~ with

①

to finance
the credit
needs

obligations

④

④

an obligation

State or

⑤

1 serial maturities of not less than five years and
 2 bearing interest at such rates as the Board may de-
 3 termine are necessary to achieve the purposes of
 4 this paragraph.

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

7 (2) The aggregate principal amount of obligations
 8 guaranteed by the Board under this section shall not exceed
 9 at any time \$4,000,000,000 prior to June 30, 1977;
 10 \$3,500,000,000 during the twelve-month period ending
 11 June 30, 1978; \$2,500,000,000 during the twelve-month
 12 period ending June 30 1979; and \$1,500,000,000 during
 13 the twelve-month period ending June 30, 1980.

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

20 (4) In approving guarantees under this section subse-
 21 quent to June 30, 1976, the Board shall require, to the
 22 maximum extent feasible, that investors participate in sup-
 23 plying the credit needs of the assisted municipality without

24 Federal guarantee assistance by purchasing bonds issued
 25 by the municipality with serial maturities of not less than

⑤
 State or

④
 obligations

1 five years so as to eliminate the need for Federal guarantee
 2 assistance at the earliest possible date, but in no event later
 3 than June 30, ~~1979.~~ 1980 (9b)

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

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

8 (1) the Board finds that—

9 (A) assistance under section 5 cannot be pro-
 10 vided because of a failure to meet the requirements
 11 of that section; (6)

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

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

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

22 (2) the ~~issuer~~ assisted municipality submits a financial plan acceptable
 23 to the Board in such detail and in accordance with such
 24 accounting principles as the Board may prescribe, for

1 bringing its recurring revenues into balance with its
2 essential cash needs;

⑥
State

3 (3) the ~~issuer~~ provides assurances satisfactory to
4 the Board that it will repay any losses the United States
5 Government may sustain as a result of payments made
6 pursuant to a guarantee under this section, and in further-

⑥
State and
assisted
municipality
agree

7 ance of such assurances the ~~issuer~~ agrees to waive the
8 right to all payments which such ~~issuer~~ would otherwise
9 be entitled to receive under the State and Local Fiscal
10 Assistance Act of 1972, or other comparable general
11 purpose financial assistance from the Federal Govern-
12 ment, at such time and in such amounts as the Board
13 may determine to be necessary to reimburse the United
14 States for any losses sustained as a result of payments
15 made pursuant to a guarantee under this section;

they

⑥

16 (4) the ~~issuer~~ agrees to— assisted municipality

17 (A) make available to the Board and the
18 Comptroller General of the United States all its ac-
19 counts, books, records, documents, transactions, and
20 any other information bearing on its financial situa-
21 tion which the Board may request prior to and dur-
22 ing the entire period during which a Federal guar-
23 antee is outstanding:

⑥

1 (B) follow such generally accepted accounting
2 principles as the Board may prescribe; and

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

5 (5) the issuer agrees to pay to the Board such guar-
6 antee fee as may be prescribed by the Board but not to
7 exceed $3\frac{1}{2}$ per centum per annum of the total principal
8 amount of guaranteed obligations outstanding, except
9 that such fee shall not exceed 1 per centum if the inter-
10 est on the obligations is included in gross income for
11 the purpose of the Federal income tax laws; and

12 (6) in the case of an issuer which is a unit of local
13 government, the State in which such issuer is located
14 agrees to provide from its general tax revenues and at
15 such times as the Board may prescribe, a grant to such
16 unit in an amount equal to one-half of its anticipated
17 operating deficit during any period when a Federal
18 guarantee under this section may be outstanding as
19 determined without regard to the amount of such grant
20 in accordance with accounting principles prescribed by
21 the Board. Such grants shall be in addition to all other
22 grants or similar assistance provided to such issuer by the
23 State pursuant to programs established or commitments
24 made prior to the initial request for guarantee assistance
25 under this section.

1 (b) (1) The maturity of any obligations guaranteed
2 under this section shall not exceed three months.

3 (2) The aggregate principal amount of obligations guar-
4 anteed under this section shall not exceed, at any time,
5 \$500,000,000.

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

in respect

①

10 EMERGENCY MUNICIPAL DEBT GUARANTEE FUND

11 SEC. 7. (a) There is established in the Treasury an
12 emergency municipal debt guarantee fund (hereinafter re-
13 ferred to as the "fund") to be administered by the Board.
14 The fund shall be used for the payment of the expenses of the
15 Board and for the purpose of fulfilling the Board's obligations
16 under this Act. Moneys in the fund not needed for current
17 operations may be invested in direct obligations of, or obliga-
18 tions that are fully guaranteed as to principal and interest by,
19 the United States or any agency thereof. Moneys in the fund
20 not needed for current operations or for any future obligations
21 shall be covered into the general fund of the Treasury.

22 (b) Guarantee fees paid under this Act shall be depos-
23 ited in the fund. Notwithstanding any other provision of law,
24 the Secretary of the Treasury shall deposit in the fund any
25 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 FEDERAL RESERVE BANKS AS FISCAL AGENTS

23 SEC. 8. Any Federal Reserve bank which is requested to
24 do so shall act as fiscal agent for the Board. Each such fiscal
25 agent shall be reimbursed by the Board for all expenses and

1 losses incurred by it in acting as agent on behalf of the
2 Board.

3 PROTECTION OF GOVERNMENT'S INTEREST

4 SEC. 9. (a) The Attorney General shall take such action
5 as may be appropriate to enforce any right accruing to the
6 United States or any officer or agency thereof as a result of
7 the issuance of guarantees under this Act. Any sums re-
8 covered pursuant to this section shall be paid into the fund.

9 (b) The Board shall be entitled to recover from any
10 issuer of an obligation guaranteed under this Act or any
11 other person liable therefor, the amount of any payments
12 made pursuant to any guarantee made under this Act, and
13 upon making such payments, the Board shall be subrogated

14 to all the rights of the recipient thereof.

with respect to such obligation

7

15 REPORTS

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

18 TERMINATION

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

1 advanced or paid out in carrying on operations under this
2 Act.

3 STOCK TRANSFER TAX

4 SEC. 12. The first sentence of section 28(d) of the
5 Securities Exchange Act of 1934 (15 U.S.C. 78bb(d)) is
6 amended to read as follows: "No State or political subdivi-
7 sion thereof shall impose any tax on any change in bene-
8 ficial or record ownership of securities effected through the
9 facilities of—

10 " (1) a registered clearing agency; or

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

16 or any nominee thereof or custodian therefor or upon the
17 delivery or transfer of securities to or through or receipt from
18 such agency or agent or any nominee thereof or custodian
19 therefor, unless such change in beneficial or record ownership
20 or such transfer or delivery or receipt would otherwise be
21 taxable by such State or political subdivision if the facilities
22 of such registered clearing agency, registered transfer agent,
23 or any nominee thereof or custodian therefor were not physi-
24 cally located in the taxing State or political subdivision."

OFFICE OF THE CLERK
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20541

NOV 11 1975

94TH CONGRESS
1ST SESSION

H. R. 10481

MARKED TO REFLECT
CL&M SUGGESTIONS
11/13/75

[Report No. 94-632, Part I]

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 *italic*]

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 Representa-*
2 *tives of the United States of America in Congress assembled,*

3 § 1. Short title

4 This Act may be cited as the "Intergovernmental Emer-
5 gency Assistance Act".

1 TITLE I—INTERGOVERNMENTAL EMERGENCY
2 ASSISTANCE

3 § 101. Definitions and rules of construction

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

7 (b) The term "State" means any State, the District of
8 Columbia, the Commonwealth of Puerto Rico, or any terri-
9 tory or possession of the United States.

10 (c) The term "political subdivision" shall have the
11 same meaning as used in section 103 of the Internal Rev-
12 enue Code of 1954.

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

18 § 102. Establishment of the Board

19 There is created an Intergovernmental Emergency As-
20 sistance Board (referred to in this title as the "Board")
21 composed of the Secretary of the Treasury, as Chairman, the
22 Secretary of Housing and Urban Development, the Secretary
23 of Health, Education, and Welfare, the Chairman of the
24 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 ~~1024~~ 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

1 a State where such default has had, or, in the judgment
2 of the Board, could reasonably be expected to have, a
3 serious adverse effect on general economic conditions or
4 on the marketability of obligations of States and their
5 political subdivisions in general.

6 § 105. Conditions of eligibility

7 (a) Except as provided in subsection (b) of this sec-
8 tion, the Board may make guarantees under this title to a
9 State for the benefit of a political subdivision thereof only
10 if—

11 (11)
of which

11 (1) the Board finds that the issuer, the (11) State or State agency
12 whose obligations would be guaranteed (hereinafter
13 referred to as "the applicant State") and the political
14 subdivision whose credit needs would be financed by
15 such obligations (hereinafter referred to as "the assisted
16 municipality") are effectively unable to obtain credit in
17 the private market or elsewhere; elsewhere in amounts
18 and terms sufficient to meet the municipality's financing
19 needs during the period covered by the plan required
20 to be submitted pursuant to section 105(a)(2) of this
21 title;

22 (2) the assisted municipality submits, with the
23 approval of the Governor of the applicant State, (11) in such
24 detail and in accordance with such accounting principles
25 as the Board may prescribe, a plan for bringing its

1 operating expenses into balance with its recurring reve-
2 nues for its second full fiscal year following the initial
3 application for assistance, and thereafter for as long as
4 any such assistance remains outstanding;

5 (3) the ~~applicant~~⁽¹¹⁾ State demonstrates that it has
6 the authority to control the fiscal affairs of the assisted
7 municipality for the entire period during which the
8 Federal guarantee will be outstanding including the
9 authority to determine all revenue estimates, set aggregate
10 expenditure limits, disapprove all expenditures not
11 in compliance with the plan required under paragraph
12 (2), and approve all borrowing and contracts during
13 that period; and

14 (4) the ~~applicant~~⁽¹¹⁾ State agrees to provide in ac-
15 cordance with this subsection a grant or loan to the
16 assisted municipality for each fiscal year of the munici-
17 pality during which a guarantee under this title may
18 be outstanding. Such grant or loan shall—

19 (A) be in an amount determined by the Board
20 but not exceeding one-third of the anticipated oper-
21 ating deficit of the assisted municipality for that fis-
22 cal year or portion thereof as determined in accord-
23 ance with accounting principles prescribed by the
24 Board;

1 (B) be derived from the general tax revenues
2 of the applicant State;⁽¹¹⁾

3 (C) be in addition to all other grant or similar
4 assistance provided to the assisted municipality by
5 the applicant State⁽¹¹⁾ pursuant to programs established
6 or commitments made prior to its initial request for
7 a guarantee under this title;

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

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

13 (b) In the case of a political subdivision which has
14 filed a petition under the Bankruptcy Act or which has actu-
15 ally defaulted on one or more of its obligations, the Board
16 may, for a period of six months following the filing of such
17 petition or the date of such default (as determined by the
18 Board), make guarantees under this title without regard
19 to one or more of the conditions prescribed in subsection (a)
20 of this section to a State for the benefit of such political sub-
21 division if the Board determines that an emergency exists
22 which makes compliance with such condition or conditions
23 impracticable.

24 § 106. Guarantee fees

25 Whenever any obligation is guaranteed under this title,

1 the Board shall assess and collect from the obligor a guaran-
2 tee fee which shall not exceed three-quarters of one percent
3 per annum. Any such fees shall be paid into the Emergency
4 Municipal Debt Guarantee Fund established under section
5 111 of this title.

6 **§ 107. Limitations on amount of guarantees outstanding**

7 (a) Except as provided in subsection (b) of this sec-
8 tion, the total amount of all guarantees (exclusive of un-
9 earned interest) which may be outstanding under this title
10 at any one time shall not exceed—

11 (1) \$5,000,000,000 during the period from the
12 date of enactment of this title through September 30,
13 1989, and

14 (2) \$3,000,000,000 during the period from Oc-
15 tober 1, 1989 through September 30, 1999.

16 (b) In addition to the amounts authorized under sub-
17 section (a) of this section, prior to October 1, 1978, there
18 may be outstanding at any one time not exceeding \$2,000,-
19 000,000 in the form of guarantees of obligations having a
20 maturity of eleven months or less from date of issue.

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

23 **§ 108. Obligations callable after three years**

24 Any obligation guaranteed under this title may be called
25 for redemption at the option of the issuer and without the

1 payment of a call premium at any time more than three
2 years after the date of issue.

3 § 109. Additional terms and conditions

4 (a) As a condition to making any guarantee under this
5 title, the Board shall impose reasonable requirements with
6 respect to the renegotiation or exchange of outstanding obli-

12

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

7 gations entered into by ~~on behalf of, or for the benefit of, the~~
8 ~~political subdivision for whose benefit such guarantee is in-~~
9 ~~tended.~~ Where such renegotiation or exchange involves the
10 terms of bonds, notes, or similar obligations previously en-
11 tered into, the Board shall require that a substantial percent-
12 age of such obligations be exchanged for nonguaranteed
13 obligations bearing a substantially longer maturity, a sub-
14 stantially lower interest rate, or both. Where such renegotia-
15 tion involves the terms of contracts of other provisions for
16 compensation (including pensions and other benefits) for
17 personal services rendered or to be rendered, there may be
18 taken under consideration the compensation and other bene-
19 fits provided for similar services by other employers, with
20 particular reference to employers which are political subdivi-
21 sions of the same State or of other States. In any renegotia-
22 tion, there may also be taken into consideration the reduction
23 which the results of such renegotiation may effect in the risk
24 that the political subdivision involved would be unable to
25 fulfill its commitments.

1 (b) In addition to the terms and conditions otherwise
2 required by or under this title, the Board may impose such
3 terms and conditions, not inconsistent with the general pur-
4 poses of this title, as it deems appropriate with respect to the
5 making of any guarantee under this title.

6 **§ 110. Audits**

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

17 **§ 111. Emergency Municipal Debt Guarantee Fund**

18 (a) There is established in the Treasury an emergency
19 municipal debt guarantee fund (hereinafter referred to as the
20 "fund") to be administered by the Board. The fund shall
21 be used for the payment of the expenses of the Board and
22 for the purpose of fulfilling the Board's obligations under
23 this Act. Moneys in the fund not needed for current oper-
24 ations may be invested in direct obligations of, or obligations

1 that are fully guaranteed as to principal and interest by, the
2 United States or any agency thereof.

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

14

has been
offset

11 ~~is waived by such government~~ pursuant to this Act.

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

22 **§ 112. Federal Reserve banks as fiscal agents**

23 Any Federal Reserve bank which is requested to do so
24 shall act as fiscal agent for the Board. Each such fiscal agent

1 shall be reimbursed by the Board for all expenses and losses
2 incurred by it in acting as agent on behalf of the Board.

3 **§ 113. Protection of Government's interest**

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

10 (b) The Board shall be entitled to recover from the
11 borrower, or any other person liable therefor, the amount
12 of any payments made pursuant to any guarantee agree-
13 ment entered into under this title, and upon making any
14 such payment, the Board shall be subrogated to all the
15 rights of the recipient thereof with respect to such obligation. 13

16 (c) There is hereby reserved to the United States the
17 right to offset against any sums otherwise due for any reason
18 from the United States (including but not limited to any
19 sums which may be due under the State and Local Fiscal
20 Assistance Act of 1972, or other comparable general purpose
21 financial assistance) to any State whose obligations are guar-
22 anteed under this title, or to any political subdivision for
23 whose benefit any guarantee is made under this title, the
24 amount in whole or part of any payment actually made by

1 the United States pursuant to any such guarantee. Such right
2 of offset shall be exercised only with respect to such sources
3 of Federal revenue, and at such rate, as the Board may deter-
4 mine to be appropriate with a view to reimbursing the United
5 States as expeditiously as may be practicable under the cir-
6 cumstances as they exist at the time.

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

19 **§ 114. Reports**

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

22 **§ 115. Termination**

23 The authority of the Board to make guarantees under
24 this title terminates on September 30, 1979. Such termina-
25 tion does not affect the carrying out of any contract, guaran-

1 tee, commitment, or other obligation entered into pursuant
2 to this title prior to that date, or the taking of any action
3 necessary to preserve or protect the interests of the United
4 States in any amounts advanced or paid out in carrying on
5 operations under this title.

6 TITLE II—AMENDMENT TO INTERNAL REVENUE

7 CODE OF 1954

8 § 201. Taxability of certain federally guaranteed obliga-
9 tions

10 Section 103 (a) (1) of the Internal Revenue Code of
11 1954 (relating to interest on certain governmental obliga-
12 tions) is amended by inserting immediately before the semi-
13 colon at the end thereof the following: “, except in the case
14 of an obligation whose payment is guaranteed in whole or
15 part under authority of section 103 of the Intergovernmental
16 Emergency Assistance Act”.

17 TITLE III AMENDMENT TO THE
18 BANKRUPTCY ACT