

income to shareholders for a period of 3 months or less shall not be treated as a business purpose."

The PRESIDING OFFICER. Under the provision order, the amendment of the Senator from Maine will be considered for 1 hour, to be equally divided.

Who yields time?

Mr. MITCHELL. I yield myself such time as is necessary.

Mr. President, this is an amendment to the portion of the committee bill which provides a new tax credit for investment in the development and preservation of affordable housing for low-income American families.

I thank the chairman of the Finance Committee for his help in developing this amendment. I am pleased that we were able to reach agreement on the amendment's provisions and that I can offer the amendment today with Senator Packwood's support.

The housing crisis facing low-income Americans has reached a level unmatched since the Great Depression. Over half of the 8.4-million renter households with incomes below \$7,000 per year are paying more than one-half their income for rent. Homelessness, overcrowding, and high-rent burdens are all manifestations of the same crisis—too little affordable housing for the very families most in need of it.

The Tax Code has for many years contained incentives to assist in the development and preservation of housing. Tax incentives for homeowners are traditional and massive, favoring upper- and middle-income taxpayers. Tax deductions for mortgage interest, property tax deductions and other provisions favoring homeownership produce revenue losses of \$40 billion to \$50 billion annually. Tax incentives for low-income rental housing produce revenue losses of between \$1 billion and \$2 billion annually.

Congress and successive administrations have long recognized the necessity of using tax incentives to attract private capital to low-income housing development and rehabilitation. These provisions recognize that absent some incentives, investment in low-income housing is a fundamentally uneconomical activity.

The committee bill recognized the need for such investment. It would replace current law tax incentives with a new and innovative tax credit for investment in affordable low-income housing.

The tax credit is highly targeted. The full credit is available only for units which actually serve very low-income families—those with incomes below 50 percent of the area median, adjusted for family size. A lesser credit is available for a limited number of units in any one project which serve families with incomes between 50 and 70 percent of area median income, also adjusted for family size.

The tax credit ensures that rents for low-income renters will be affordable, a protection lacking in current law.

The tax credit insures that units produced or rehabilitated will be available over time for poor renters. Owners are subject to recapture of the credit with penalties if the units are converted to some other use within the first 15 years of the investment. This is a substantial improvement over current law recapture provisions.

Finally, the credit arrangement encourages sponsors to provide the maximum number of units possible for very low-income families. The greater number of very low-income families served, the greater the tax credit available to investors.

I am encouraged by the low-income housing tax credit in the committee bill. I congratulate the chairman for developing and proposing it.

However, the credit needs to be refined to make it workable. My amendment involves three technical changes which will go a long way to ensuring that the credit is actually usable by sponsors of low-income housing.

The first part of my amendment would permit the low-income housing tax credit to be taken with respect to units which are also benefiting from a limited number of other Federal housing and community development programs. These are Community Development Block Grants (CDBG), Urban Development Action Grants (UDAG), Rental Rehabilitation Grants, Housing Development Grants (HoDAG's), and, under limited circumstances, section 8 certificates. All of these programs are administered by HUD. With the exception of section 8 certificates, all of these programs provide funds which are administered by State and local governments to encourage and assist in low-income housing and community development activities.

My amendment would also permit a limited use of the credits in conjunction with direct low interest loans under the section 515 rural rental housing loan program of the Farmers Home Administration [FmHA]. This program is the principal means by which new rental housing is constructed in rural areas. It is an extremely successful and important program in many States, including my own, where rural incomes are low and construction costs are high. Under my amendment, the low-income housing tax credit could only be used in conjunction with units in such projects which serve those below 50 percent of the area median income. No units in these projects could benefit from the lesser credit.

I emphasize that my amendment does not require that these subsidies be made available together with the credit. It merely allows such subsidies to be used to reduce as much as necessary the cost of producing affordable housing for very low-income families.

The committee bill does not offer this flexibility.

The combination of these subsidies with the credits may not always be necessary. But I know in my own State and in many others these other subsidies will be absolutely essential to make realistic real estate investments work as affordable housing for very low-income Americans.

The second part of my amendment is designed to help preserve many hundreds of thousands of housing units which have already received Federal assistance in the past, and which now provide some of the limited affordable housing for poor families in the country. This housing was subsidized by HUD under the sections 236 and 221(d)(3) BMIR programs, and by Farmers Home under the section 515 program. In the next 5 years, many of these units will reach their 20th anniversaries. They need new infusions of capital to carry out routine repairs and maintenance.

Without a continuing tax-based incentive for new investors to put up capital, many of these units will be sold for conversion to some other use—for higher income rentals, or for conversion to nonrental housing. Many other units will simply be allowed to deteriorate, and eventually they will have to be taken over by HUD or FmHA, resulting in tremendous losses to Federal insurance and loan funds.

This will result because the limited rents which can be charged under the HUD and Farmers Home programs will not support additional debt or provide a sufficient return to new investors. Therefore, such investments will not be made, and the properties will be lost as low-income housing.

HUD Secretary Samuel R. Pierce, Jr., has characterized these units as "an important Government investment," in a May 22, 1984, letter to the distinguished ranking minority member of the Subcommittee on Housing and Urban Affairs. His letter states that:

The tax benefits available from resyndication . . . have provided a means of obtaining cash contributions from new owners necessary to cure delinquencies, fund reserves and deferred maintenance, and even fund repairs and replacements . . . boilers, roofs, etc. . . . It is clear to me that the interests of the Department have benefited from many of the resyndications of subsidized limited dividend projects . . .

The committee bill as presently drafted would eliminate these resyndications which Secretary Pierce has praised. My amendment would rectify this problem by permitting the use of the credit in conjunction with the sale or transfer of these properties under very limited circumstances. At least half the units in these properties would have to actually be serving families below 50 percent of the area

median income, very demanding test, and one which greatly exceeds that applied to new construction or substantial rehabilitation. Moreover, these properties would only qualify for the less generous of the two credits offered under the bill. In order to qualify at all, the properties would have to continue serving the same low-income tenancy for the full compliance period of the credit, creating an important new lease on life for these valuable low-income housing resources. They would also have to have been held by their current owners at least 12 years before they could qualify for the credit—an important safeguard against unnecessary turnovers.

Finally, my amendment would provide a very narrow exemption to the at-risk rules governing real estate investment to enable bona fide nonprofit organizations to use seller and related party financing to preserve or develop low-income housing. This exception requires that any such debt be repaid in full, with interest, and includes other stringent requirements.

This exemption is absolutely essential if the committee amendment is to provide the necessary tools with which national nonprofit organizations such as the Enterprise Foundation begun by James W. Rouse, or the Local Initiatives Support Corporation (LISC) sponsored by the Ford Foundation, can continue their important work. Both of these organizations provide financial and technical assistance to community based nonprofit development groups which are working directly with residents of low-income communities to create and preserve affordable housing opportunities. We should be doing everything we can to foster the kinds of public-private partnerships which these and similar organizations make possible. My amendment will do this.

Mr. President, I point out that my amendment does not address a number of other important issues which I hope can be resolved in conference. There are unresolved questions concerning the amount of tax credit a taxpayer may claim; who may take the credit; and how the use of the credit affects the ability of taxpayers to take full advantage of other provisions regarding passive losses. These are important matters which directly bear on the feasibility of the credit and I hope that I will have an opportunity to work with the distinguished chairman to make further progress on these issues during conference deliberations.

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I also want to point out that we have another major outstanding issue, not having to do with the tax credit, which has not been resolved with respect to low-income housing.

We have not yet provided any transition rule for the treatment of passive

losses from existing investments in low-income housing. I am concerned about this matter.

As I believe Senator Packwood is aware, low-income housing is different from other real estate. Low-income housing does not provide cash-flow from rents, or the promise of appreciation on sale. Investors are attracted instead by the return they can receive by offsetting their tax liabilities from other income. This was the understanding they had when they undertook the investment. Many thousands of investors throughout the country are now in the position of having entered into commitments to provide equity payments in limited partnerships for low income housing on which they will not be able to take their anticipated losses under the committee amendment.

These payments are typically due over a 5 or 6 year period and the investors involved in such partnerships expect to receive tax loss benefits during these years when pay-ins are due in order to offset the contributions they make.

Mr. PACKWOOD. Mr. President, will the Senator from Maine yield?

Mr. MITCHELL. Yes; I am happy to yield to the distinguished chairman of the committee.

Mr. PACKWOOD. I want to make sure that I understand the point which the Senator from Maine is making. The committee amendment would restrict all investors' abilities to take passive losses against earned income from existing investments. We have established this as a principal tenet of the committee bill in its entirety in all areas of investment. I know that the Senator from Maine has supported this overall thrust throughout our considerations, both in committee and here on the floor. Is that correct?

Mr. MITCHELL. That is correct. However, Congress has for years followed a conscious policy of providing special tax benefits for investors in low-income housing activities. It has done so with a very clear recognition of the fact that without such incentives, low-income housing does not offer a realistic economic return to investors.

In fact, the Internal Revenue Service has ruled that investments in low-income housing, which are demonstrably uneconomic, are exempt from the normal test of economic intent under the tax laws. Thus, the IRS has recognized congressional intent to encourage investment in low-income housing through the generation of tax losses. These are the investments for which the strongest and best defense can be made to provide some adequate transition treatment from the passive loss restrictions contained in the committee amendment.

Mr. PACKWOOD. Mr. President, will the Senator yield further?

Mr. MITCHELL. I am pleased to yield further.

Mr. METZENBAUM. Mr. President, would the manager of the bill be good enough to give us who are not familiar with some of the terminology—

Mr. MITCHELL. Will the Senator yield so we can complete this colloquy and then I will be glad to entertain any questions?

Mr. METZENBAUM. Yes.

Mr. MITCHELL. I thank the Senator. I am pleased to yield to the chairman.

Mr. PACKWOOD. Mr. President, I appreciate the point that the Senator from Maine has made today with regard to the need for special transition treatment for existing investment in low-income housing. I must say that I agree with the distinguished Senator that low-income housing investments are indeed different than other investments affected by our committee amendment and that they deserve special treatment. I want to assure both Senators that when we take up this matter of transition rules in the Conference Committee I will do my utmost to ensure that these investments receive special consideration. Although I continue to believe that the changes in the committee amendments which lower rates and broaden our tax base more than offset the passive losses which our amendment would restrict in the future, I agree that investments in low-income housing are different from other investments in real estate and they deserve the most favorable treatment which can be provided.

Mr. MITCHELL. I thank the distinguished chairman for his assurances and the cooperation he and his staff have extended on this important issue.

I also want to express appreciation to the fine work Senator KENNEDY and his staff have provided on this amendment. Their assistance throughout this process has been invaluable.

Mr. President, my amendment also includes further provisions that would raise the necessary offsetting revenue.

The first offsetting revenue amendment would amend the passive loss transition rules to provide that relief from the passive loss limitation is available only to transactions entered into prior to date of enactment of the tax reform bill.

The bill as approved by the Finance Committee would provide transition relief to all investments including those entered into after date of enactment. Such a broad inclusion makes no policy sense and is inconsistent with the intent of the legislation. If relief from the new restrictions on passive losses are provided, such relief should only go to projects which have had no notice of the change in law.

This provision would raise approximately \$500 million over the budget period.

The second revenue provision has to do with an accounting provision relating to partnerships and simply modifies a change to present law already proposed by the committee bill. Under present law, as is pointed out in the committee report, partners in a partnership can defer income when the taxable years of the partner and the partnership differ. Under the bill, the taxable year of the partnership must conform to the taxable year of the partners owning a majority interest in the partnership profits and capital, unless a business purpose for a different taxable year can be demonstrated to the Secretary of the Treasury. Where different taxable years exist among the partners, the bill establishes the calendar year as the taxable year for the partnership. The bill also establishes a safe harbor test which would result in up to 3 months of deferral of income, meaning a taxable year ending on September 30 could be utilized.

My amendment simply deletes the 3-month deferral of income provision of the bill and requires that the taxable year of the partnership must be the calendar year, thus assuring that there can be no deferral of income. As under present law, however, a partnership could establish a different taxable year if it can demonstrate a business purpose therefor to the satisfaction of the Secretary. This portion of the amendment raises the necessary additional revenue.

Mr. President, I ask unanimous consent to have printed in the RECORD material with regard to the housing rehabilitation programs and a letter, dated June 11, 1986, from the Banking Committee to the Finance Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHY OTHER FORMS OF ASSISTANCE MAY BE NEEDED IN CONJUNCTION WITH THE CREDIT USING THE CREDIT IN LOW COST/VERY LOW INCOME COMMUNITIES

The Enterprise Foundation is working closely with the Cleveland Housing Network ("CHN") on lowest cost housing rehabilitation using a lease-purchase self-help program with tenants. CHN is a coalition of nine non-profit neighborhood groups working in the poorest neighborhoods of Cleveland. Their programs reach out to the working poor, individuals making under \$10,000 per year (full-time at minimum wage is under \$8,000 per year). CHN has a Board of Directors drawn from and representative of the neighborhoods it serves, uses extensive volunteer and *pro bono* services from the community, and raises operating funds from charitable private sector sources.

Until recently, its housing rehabilitation programs have been entirely funded by CDBG funds from the city, but these funds are being cut back and the need of the neighborhoods have grown. Enterprise has worked to keep housing rehabilitation costs low and to use private sector resources in

conjunction with CDBG funds to expand production from 30 houses a year to 100 houses a year.

This example is indicative of the lowest cost rehabilitation scenario Enterprise finds in its 26 city, 63 group network across the country.

Income Level Served: \$8,000-10,000 per year; 30 percent of income in rent: \$200-\$250 per month.

Operating Costs including utilities (Maintenance, heat, light, water & sewer, taxes, insurance, management): \$175-\$200 per month.

Available for Principal & Interest: \$25-\$50 per month

Average Rehabilitation Cost: \$24,300 per unit. Net Syndication Proceeds (30% of total cost, assures full use of tax credit net of legal, accounting, marketing expenses): \$7,290 per unit.

Net Amount to be Financed: \$17,010 per unit

Maximum monthly P&I Payment: \$50/month per unit. Mortgage Supported (20 years, 11 percent): \$4,844 per unit. Gap Financing Needed: \$12,166 per unit.

In Cleveland, to meet the needs of the poorest neighborhoods, \$12,166 per unit on average is needed from CDBG funds from the city and private charitable sources, to allow one of the lowest cost rehabilitation programs in the country to proceed. Using the Credit in Higher Cost/Higher Income Communities

Our experience in numerous substantial rehabilitation projects in these types of cities shows an average unit cost including acquisition and rehab exceed \$40,000 per unit, a more typical example for moderate cost larger cities. New construction is substantially higher. For example, we have designed with a national modular homebuilder, a lowest cost 3 bedroom townhouse at a cost of \$48,000 per unit for 170 infill townhouse units proposed in Baltimore. Even though The Enterprise Foundation serves families in the \$10,000 income level, let us look at the maximum rent levels permitted under the tax credit proposal.

Income Level Served: \$15,000 (Maximum level permitted in Baltimore, Denver or Philadelphia) Maximum Rent: \$375 per month.

Lowest Operating Costs: \$225 per month.

Available for Principle and Interest: \$150 per month.

Average Rehabilitation Cost: \$40,000 per unit.

Net Syndication proceeds: \$12,000 per unit.

Net Amount to be financed: \$28,000 per unit.

Maximum available for P&I: \$150 per month. Mortgage Supported (20 years, 11 percent) \$14,532. Gap Financing Needed: \$13,468.

At the maximum income level and rent, \$13,468 per unit must be found from CDBG and private charitable funds to make the projects viable under the tax credit proposals. For new construction and higher cost cities, the gap financing needed merely gets progressively higher. Furthermore, to reach the income levels of minimum wage earners, substantially more gap financing is needed.

Quite simply, without CDBG or other federal funds, few if any new houses will be produced under the tax credit proposal for low-income families.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

June 11, 1986.

Hon. BOB PACKWOOD,
Chairman, Senate Committee on Finance,
U.S. Senate, Washington, DC.

DEAR BOB: We are writing to express our concern about a provision of the Finance Committee tax bill designed to provide a low-income housing tax credit. As members of the Housing Subcommittee, we have analyzed this provision and found as currently written, it could have disastrous results in the current and future supply of low-income units by not providing adequate incentives for investors to remain in the low-income housing market.

Low-income housing incentives serve prudent public policy by providing a return on investment which is competitive with conventional investment opportunities. Due to the limitations on rents as provided in certain housing laws, the credit currently provided in the Finance Committee bill is insufficient for the development and maintenance of low-income housing stock in America. Without modifications to this section of the bill, over 900,000 existing units would be jeopardized and future development would be difficult at best. This provision could significantly raise the financial exposure of the federal government through increased insurance claims and greater direct subsidies.

The Finance Committee has acknowledged the need for a low-income housing credit as evidenced by the inclusion of this provision in the Committee reported bill. As members of the Housing and Urban Affairs Subcommittee, we would like to work with you and your staff in developing an alternative solution. We feel that it is necessary to establish a more effective credit mechanism with an equitable transitional period, provide a more appropriate application of the passive loss provisions, and remedy concerns we have about the treatment of existing projects which serve low-income tenants.

We appreciate your taking the time to consider our concerns and look forward to working with you towards an equitable resolution.

Sincerely,
Chic Hecht, Chairman, Subcommittee on Housing and Urban Affairs; Jake Garn, Chairman, Committee on Banking, Housing and Urban Affairs; Alfonso M. D'Amato, Donald W. Riegle, Jr., Alan J. Dixon, Paul S. Sarbanes, James R. Sasser, Alan Cranston, Christopher J. Dodd, Slade Gorton, Mack Mattingly, John Heinz.

Mr. MITCHELL. I now yield 3 minutes to the chairman of the committee.

Mr. PACKWOOD. Mr. President, I support the amendment of the Senator from Maine and the other cosponsors.

We have stood firm against passive losses, and by that we simply mean people investing in real estate or oil and gas or other areas and offsetting losses, sometimes artificial losses, against other income. This is how millionaires escape taxation, and it results in many, many buildings being built that we do not need, many investments being made that do not need to be made. In the instance of low-income housing, it indeed does not appreciate in value and indeed the rents are fixed. And if we are going to

have low-income housing in this Nation for the very poor or those close to very poor, we might as well realize the marketplace itself cannot afford to provide it.

Therefore, if we do not have some incentive, whether it is a Government appropriation program or a Government tax incentive, there will be no low-income housing, and that is why I am delighted to support the amendment of the Senator from Maine.

Mr. HEINZ. Mr. President, will the Senator from Oregon yield?

Mr. PACKWOOD. I yield.

Mr. HEINZ. I associate myself with his comments. I am a cosponsor of the amendment of the Senator from Maine. I think it is a very important amendment as the Senator from Maine and I expressed to the chairman many times in committee.

I want to express my appreciation, Mr. President, to the Senator from Oregon for his in-depth understanding of the problem that faces the production of low-income housing. I think he has stated the special problems and the special needs of low-income housing production and of low-income people.

So I commend him and thank him for this statement. I look forward with him and other members of the conference to having an appropriate further step forward in this area.

Mr. PACKWOOD. I thank my good friend, and I hope in conference we can work out a satisfactory solution where we can guarantee there will be low-income housing for the poor and still there is a way to do it to make sure that somehow millionaires did not escape taxation.

Mr. MITCHELL. Mr. President, I now yield 4 minutes to my distinguished colleague from Maine.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, I will try to be brief and not be duplicative of the statements made by the chairman of the Finance Committee Senator Packwood, and my friend and colleague, the junior Senator from Maine, Senator MITCHELL.

I had the opportunity last year to travel with Senator DOLE to the Far East and as part of that trip we visited with Prime Minister Nakasone of Japan. I tried to do in Rome what the Romans do. During the course of my stay in Japan, I opened one of the drawers in the hotel room and found the teachings of Buddha, much as we might find the Gideon Bible in any hotel in this country. Fortunately it was bilingual in its translation. I was leafing through it and I came across the quote that said that, "The strength of a nation is derived from the integrity of its homes." I used that particular quote, again in English, the following day with the Prime Minister, suggesting to him that as a result of

Japanese trading practices we are losing the integrity of our homes: farmers are losing their farms, men and women are losing their jobs, and people throughout this country are losing their homes. We in this country place a very high priority on owning a home not only for the wealthy and the middle class, but for the poor as well.

I believe it was the author Brett Harte Gary that said that "No one shoulders a rifle in defense of a boarding house because we place a very high priority on home ownership and what that represents."

Mr. President, I think this value should carryover to our tax policies, as well.

My friend Senator MITCHELL, from Maine, indicated that we have tried to abolish tax shelters in this particular bill. But we have preserved some tax shelters. We have preserved some tax shelters for the rich. We have preserved the tax shelter for middle-income people by retaining the deduction for mortgage interest payments. The only people we have not preserved a shelter for are the poor people, the people in the country.

Unless we maintain some sort of balance in our programs, then we are going to find poor people of this country without any hope of any opportunity of ever engaging in the joy and pride of owning their own homes.

A lot of the Members of the Senate have taken to making up charts. If we look to the rear of the room, we will see a chart for an amendment that is undoubtedly going to follow. I suspect my colleague from Pennsylvania who sits in front of me, is about to erect a music stand, not to play the fiddle as housing burns, but to make a point later in the debate. In the interest of Gramm-Rudman, I am not going to offer any charts, but if I did, I could use this chart back here and point to the high mark with that red arrow going down to show what is happening to housing programs in this country. They are going straight downhill.

They are going straight downhill, not only as a result of tax policies but as budgetary cuts as well.

Last year the rural housing program took a 40-percent reduction in budget cuts, more than any other program. As a result of those budgetary cuts and, indeed, the tax proposals currently before the Senate, we can expect the housing in this country to plummet just like that chart shows.

Mr. President, while the tax reform bill before us today is one that I strongly support and one that contains many necessary reforms to make our tax laws fairer and simpler, the bill would have disastrous consequences for existing and future low-income housing projects, on which thousands of very poor families depend for decent housing. The amendment I am cosponsoring with

the junior Senator from Maine will go far in ensuring that reasonable incentives to invest in these important low-income housing projects will continue to exist in our tax laws.

The Senate Finance Committee bill repeals the existing tax provisions that encourage the construction of low-income housing such as accelerated depreciation and the ability to deduct interest and taxes during the construction period. The bill would replace these provisions with a tax credit that is highly targeted to low-income housing projects.

As now written in the bill, the tax credit would be available for investors in newly constructed or substantially rehabilitated properties in which at least 20 percent of the units are occupied by households with incomes below 50 percent of the area medium income, adjusted for family size. All units which meet this income qualification would be eligible for an annual tax credit of 8 percent against the depreciable basis of the qualifying units for 10 years. In addition, up to 30 percent of the units that are occupied by families with higher income levels would qualify for a 4-percent tax credit. The committee bill specifies that rent that is charged for any unit qualifying for the tax credit cannot exceed 30 percent of the household's income.

By adopting a tax credit approach for low-income housing, I believe that the Finance Committee is moving in the right direction. Tax credits can be a more efficient and progressive way to attract equity investment to low-income housing than current tax incentives because tax credits can be better targeted and more finely turned to ensure that only truly low-income housing projects reap the tax benefits.

While the intent of the committee is laudable, there is an essential flaw in the bill: the tax credits are unworkable because low-income housing projects receiving assistance from any Federal subsidy program are ineligible for the credit. The bill would deny the credit to any low-income housing project that receives section 515 loans from the Farmers Home Administration for rural housing development, section 8 subsidies, or funds from Federal mortgage insurance programs, or even tax-exempt multifamily housing bonds. It would also mean that if a city decides to use some of its Federal CDBG funds or UDAG grants to fund a low-income housing project, that project would not qualify for the new tax credits.

In addition, the bill severely limits the amount of credit that an investor can take, and denies the credit to investors above certain income limitations. Finally, the bill would phase out the ability of all real estate investors to deduct passive losses against other

types of income over the next 4 years. Although this rule causes many problems for real estate investors in general, the consequences are devastating for existing and future investment in low-income housing.

While the prohibition against "double-dipping" and these other restrictions may sound attractive, they ignore the reality of investing in low-income housing. In practice, there is virtually no production of low-income housing without the use of one, or several, of these Federal programs. I do not believe that this is simply because investors are greedy and want to take advantage of the Government. Rather, it is because there are few market incentives to make investment in low-income housing attractive.

Consider, for a moment, trying to convince someone to invest in a low-income housing project without offering Federal subsidies or tax incentives: you first tell him or her that there may not be enough cash flow to cover actual costs of debt and operations, let alone to provide a return on investment. Add to that the fact that rents are often limited by Government regulation. Third, you must remember to tell the investor that the property is unlikely to appreciate, so that he or she can just about forget about making a profit when selling the development. Given this picture, I think many investors would say that, "Thank you very much, but I think I will invest my money elsewhere."

It is precisely because the economics of low-income housing are so unattractive that the Congress has, since 1949, encouraged the goal of low-income housing for poor people through direct spending programs and tax incentives.

Recently, however, low-income housing, and rural housing in particular, has suffered greatly on the spending side of the budget. Last year, the Farmers Home section 515 rural housing program suffered the deepest cuts of any domestic spending program. If the amendment we are now offering is not accepted, we will have effectively killed the incentives for these projects from a tax side as well.

I am particularly concerned about the effects of these provisions of the tax bill on the Farmers Home rental rural housing program, which is widely depended upon by families in my State of Maine and other States with large rural populations. The demand for rural housing is demonstrated time and time again across the Nation. The 1980 census data shows that there are more than 2.1 million rural families still living in substandard housing. Almost half of these families are below the poverty level. Over 2.6 million rural households with incomes under \$10,000 annually pay more than 35 percent of their incomes for shelter. These are the families—

the ones who live in areas with no other affordable housing available—who will be hurt by these tax changes.

Ironically, the low-income housing provisions of the bill will hurt the very people we are trying to help, with tax reform; namely, poor Americans. A major objective of the Finance Committee's tax bill is to give tax relief to the very poor. By removing approximately 6 million low-income persons from the tax rolls and by ensuring that people below the poverty line do not have to pay Federal income taxes, this bill goes far in bringing tax relief to the very poor. In our zeal to go after abusive tax shelters, however, we are hurting these very same poor Americans who depend on low-income housing for their basic housing needs.

Mr. President, tax incentives for low-income housing investments do more than just give tax shelters to the rich; they provide necessary, physical shelters for our Nation's poor. If these incentives are removed, investors may find other methods of shielding their income from taxes, but the poor beneficiaries of these projects have nowhere else to go.

If the tax bill is not amended, there will be no incentive for investors to put their money in future, low-income housing projects. This comes at a time when there are more families in poverty, less housing available for them to occupy, and less support from the Federal Government to assist them.

If unchanged, the tax bill will endanger even existing low-income housing projects. Investors may default on the existing capital contributions that are still owed. Some developers of section 515 rural housing units, for example, have told me that they expect a 40-percent default rate on outstanding commitments. Such defaults could trigger foreclosures and claims against the Federal Housing Administration and the Farmers Home Administration insurance funds. Thus, not only would the tenants of these housing projects suffer, but the Federal Government would also be having to pick up the tab for these defaults.

The amendment I am cosponsoring with my fellow Senator from Maine, Mr. MITCHELL, would make the tax credit more workable by allowing new construction and substantially rehabilitated housing projects to be eligible for the new tax credit regardless of whether they receive Federal assistance. The amendment would also allow a credit to be available for transfers of existing properties which are partially or wholly financed or operated by the section 515 Farmers Home Administration rural housing program, and other Federal low-income housing programs. The amendment continues to target the benefits of these credits to only low-income housing projects.

While this amendment will fix some of the most egregious problems facing low-income housing in the bill, much more needs to be done to assure housing for our poorest citizens. The bill's unrealistic limits on the amount of tax credits that can be claimed and the income limitations on investors who can claim the credit in the bill continue to discourage low-income housing investments. Further, the passive loss changes in the bill will continue to jeopardize existing projects and be unfair to investors who responded to the low-income housing incentives provided by the Congress.

I do, however, recognize the limits of what can be changed in this bill on the Senate floor. Over the past few weeks, Senator MITCHELL, Senator KENNEDY, and I—and other strong supporters of low-income housing—have advocated changes to the low-income housing provisions of the bill, but no agreement could be reached on many of these issues. I shall continue to press for these changes during the conference on the bill and urge the Senator conferees to seek further modifications of the low-income housing provisions in their negotiations with the House on this bill.

Mr. President, the Government and the private sector must work together to achieve the goal of decent, affordable housing for families with very low incomes. Adoption of these changes is crucial to ensure that the private sector will participate in this partnership and that we do not unfairly change the rules in the middle of the game for those persons who have already responded to the incentives that the Congress has provided in the past for investments in low-income housing.

Mr. MITCHELL. Mr. President, I thank my colleague for his kind words and for the tremendous effort he has made in connection with this amendment.

I now yield 2 minutes to the distinguished Senator from Maryland.

Mr. SARBANES. Mr. President, I commend the able Senator from Maine for his very skillful work with respect to this amendment involving low-income housing. I am hopeful that certain aspects of it that have not been fully resolved can be addressed in conference. I know of no other issue that is more important.

When we contrast how our economic system works with how the economic systems of other countries work, particularly behind the iron curtain, we always want to point to how successful we have been in housing our people. The context of these programs is perhaps the only way we can successfully address the low-income housing situation and provide decent and affordable housing for the poorest in our society.

I think the Senator from Maine has been aware of that. The chairman of the committee has reflected his sensitivity to it. I am hopeful that this amendment will be adopted and that the conference will be able to address other aspects of this problem in such a way as to ensure that, in a reasonable way, consistent with the tax revision that is before us, we will be able to provide low-income housing for our people and meet a very pressing need.

The other Senator from Maine was absolutely right in saying that the strength of our society rests upon our homes and that this effort to provide low-income housing is a reflection of that.

I commend the Senator from Maine for his work in framing and offering this amendment. I very strongly support it.

I yield back what remaining time I may have to the Senator from Maine.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I wish to thank the distinguished Senator from Maryland for the effort he has made in behalf of this amendment and in providing affordable low-income housing for all Americans.

I now suggest the absence of a quorum.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the quorum call being requested by the Senator from Maine not be charged against either side in order that there may be sufficient time left to debate this issue, because I am afraid the quorum call is going to run out the time.

Mr. HEINZ. Mr. President, reserving the right to object, the Senator from Pennsylvania wonders if, rather than putting in a quorum call, we might transact some other business. Therefore, the Senator from Pennsylvania would ask unanimous consent that the amendment of the Senator from Maine be temporarily laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, and I do not know that I will, but I might ask my friend from Pennsylvania, did he have an amendment he wanted to now offer?

Mr. HEINZ. Yes.

Mr. DOMENICI. The Senator from New Mexico is in the same position, and I have been waiting for about an hour. If we are going to do that, I would have asked that we proceed with an amendment that I was going to offer.

Is there some way, perhaps, that you and I could work that out?

Mr. HEINZ. I am certain we can find a way to work that out.

Does the Senator anticipate his amendment will take a considerable amount of time?

Mr. DOMENICI. I do not think that it should. It may. I have been working on it with many Senators. It is the amendment that would equalize, not as a matter of substantive law, but as a matter of budget considerations, some of the revenue fluctuations that may evolve when this bill finally comes out of conference. That is basically what the amendment would be that this Senator would be offering on behalf of himself and Senator GRAMM.

I have discussed my amendment with the majority leader, with the chairman of the committee, and with various Members who are interested in the issue.

Mr. HEINZ. Mr. President, maybe we could have an informal understanding that, since obviously we all have a lot of things that we want to do and we would like to achieve some order to it, if we could reach the informal understanding that the Senator from New Mexico would proceed and then I would have the opportunity, although nothing is guaranteed on the floor, to proceed after him.

Mr. MITCHELL. Mr. President, reserving the right to object, is all this discussion occurring on my time?

The PRESIDING OFFICER. No, it is not.

Mr. MITCHELL. Thank you.

I believe that it may take just a few moments to resolve the issue that is holding us up dealing finally with the amendment which I have offered. I do not want to impede the business of the Senate, but I would be reluctant to agree to have this amendment set aside indefinitely without any understanding as to when it may come back.

Mr. METZENBAUM. Might I suggest to the Senator from Maine, in the absence of setting it aside indefinitely, that it be set aside until such time as the amendment is disposed of?

Mr. MITCHELL. Is there any way of estimating or knowing how long that would be?

Mr. DOLE. Mr. President, maybe I could be helpful here.

I ask unanimous consent that the time on the Domenici amendment be 30 minutes, equally divided.

Mr. DOMENICI. I have no objection. I really do not know anybody that is opposing it, but I assume we ought to assign that to someone.

Mr. MELCHER. Mr. President, will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. MELCHER. Would it be possible to get in on this lineup, too?

Mr. DOLE. I was just trying to get some time agreement.

Mr. MELCHER. I already have a time agreement of 30 minutes, equally divided, on my amendment.

Mr. LONG. Mr. President, I would like to notify the minority leader, Mr.

BYRD, that we are considering a unanimous-consent agreement. I believe he might want to be here and participate in discussion about the time limitations. I suggest that he be notified.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I say to the distinguished majority leader, frankly, it is satisfactory to the Senator from New Mexico if you just arrange that the Domenici amendment go next. You do not have to set the other amendment aside. Perhaps you would want to accommodate the other two Senators. We do not need a time agreement, unless you do, Mr. Leader.

Mr. DOLE. Mr. President, I am wondering, while we are still on the Mitchell amendment, if I might get 5 or 3 minutes from the Senator from Oregon, the chairman.

Mr. PACKWOOD. I would be happy to do that. The time limit we have at the moment is the time limit of the Senator from Maine. We need, without charging the time, a little bit of time to just confer and I think we could solve it.

So, I ask unanimous consent to temporarily lay the amendment aside so that the majority leader could have 5 minutes, without the time being charged against the Senator from Maine, and when he is finished we could go back to his amendment.

Mr. DOLE. Fine.

Mr. PACKWOOD. I ask that unanimous consent.

The PRESIDING OFFICER. Is there objections? Without objection, it is so ordered.

The majority leader.

Mr. DOLE. Mr. President, first let me indicate that I am going to support the Mitchell amendment, but I do believe it raises the emphasis in the wrong place. It spends additional revenue to make a new tax credit not yet even in the Tax Code more generous, rather than being concerned about the passive loss transition rules which may put developers out of business before they have a chance to use these new credits.

I have talked with a number of developers of low-income housing. I have received a number of letters from developers. They are uniformly more concerned about transition rules being insufficient than they are about whether or not the new housing credit is generous enough.

That stands to reason. If investors decide not to make additional promised payments over the next few years, these developers may go bankrupt. If they lose their ability to survive in the short run, it will not matter how generous a credit we may have enacted.