ADDITIONAL VIEWS

1. Income Disparity Language in Recommendation #2

The Minority Report mistakenly implies that Congress should feel guilty about the imagined correlation between the Mortgage Interest Deduction provided to tax paying homeowners and the amount of money that is allocated to federally-assisted housing for seniors. There was no testimony or evidence presented that would offer any support for this assertion. The mortgage interest deduction is clearly one of the most successful programs Congress has instituted to establish private home ownership in this country. To suggest that tax deductions used by two-thirds of the households of this country to assist in their acquiring home ownership is in shameful disproportion to public housing appropriations is an unfair indictment on the wisdom of Congress.

John Erickson pointed out to the Commission that more than 60% of seniors own their homes free and clear as a direct result of Federal housing policy and therefore have the means to privately pay for most of their health and service needs from their equities accumulated over years of home ownership investment. This private homeowner group which represents almost two-thirds of all seniors will privately pay for all of their aging service needs with current social security, Medicare and their individual pension resources. The large majority of this group will leave an inheritance for their children and grandchildren generally from an accrual of the unused equity in their homes.

Congress should take comfort in the fact that this Mortgage Interest Deduction is the foundation of our senior population's ability to remain independent and privately fund what would otherwise require massive support and subsidies as this population ages. More than two-thirds of America's seniors will manage their entire aging process without requiring support from Medicaid and other subsidy interventions. There are numerous new policy opportunities that can better serve this group such as prescription drug coverage and long-term care benefits. For the one-third of the seniors that do not have the full capacity to support their aging needs, we urge Congress to evaluate the recommendations of this report and to be generous and efficient in its allocation of resources for the special needs of this group.

Signed: John Erickson, Nancy Hooks, M'Liss Solove Houston, Diana McIver, James Swanson

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2. Medicare and Medicaid: Long-Term Care

Among the important topics not addressed in the Commission's report is the system by which the Nation's Medicare and Medicaid funded long-term care services are regulated. This is understandable given the complexity of the topic and the broadness of the Commission's charter.

It should be said, however, that the current system of long-term care regulation is enormously wasteful and undermines the very objective it purports to seek, namely higher quality. By holding individual providers responsible for the consequences of systemic under-funding of long-term care and by holding them accountable for unrealistic operational expectations, policy makers direct attention from the truly important and fundamental issues of a more rational long-term care system and the coordination of that system with housing and other aspects of health care.

Despite all the rhetoric accompanying the OBRA '87 regulatory reforms, the current system of regulation is obsessed with documentation and individual incidents of care rather than overall program outcomes. The Institute of Medicine may have found that, at least for hospitals, "To Err is Human" but heaven help the nursing home operator who staff makes a med error that results in an adverse patient outcome.

This is not to say that there are not providers who place profit ahead of quality and that, for some abuses, stiff penalties are well warranted. Rather, it is to say that a fundamentally unjust system of regulations that oppresses the great majority of providers who are both competent and well meaning is irresponsible and destructive. The current system of regulations will drive good people from the long-term care professions, retard innovation, and rigidify the fragmentation of services. In the name of "quality of care", quality of life is being sacrificed; people don't dislike nursing homes because their badly run but because, as currently organized and used, they're a bad model. A regulatory system redesign that expands the role and control of the consumer, offers the choice of affordable home and community-based services, allows more flexibility in nursing home operations and holds providers responsible for quality outcomes over time and across settings will not be easy but is way overdue.

Congress should act immediately to give responsible providers effective due process protection in order to help re-balance the current regulatory system. Without accountability, regulations will continue to be enforced inconsistently and unfairly. For the longer term, Congress should direct the Surgeon General or an alternative individual or group outside CMS to convene a broad-based group of professionals and consumer representatives for the purpose of developing an alternative, outcome-based system of regulation for all elements of long-term care, using common assessment and performance information. In line with the Commission's recommendations, act expeditiously to expand Medicaid funded home and community based services and help to improve individual access to those services. Finally, until such time that Medicaid becomes a fully Federal program Congress needs to reinstate a Boren Amendment-type protection against Medicaid under-funding by the States for whom Medicaid expenditures pose continuing budget challenges.

Signed: James Introne, James Swanson

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3. American Housing Survey Data

Between now and 2020, it is understood that a substantially increased production of an array of elderly housing alternatives will be necessitated to accommodate the growing number of seniors in America. It is, likewise, imperative to present recommendations that are grounded in existing research and data, rather than being intuitive in source.

The Harvard Joint Center on Housing Studies produced projections on owner/renter household out to 2020 in its "State of the Nation's Housing 2001." The projections paint a clear picture of the continuing trend of toward homeownership. By 2020, almost 84% of householders over the age of 65 will be homeowners, 29.3 million owner-occupied households and the balance, 5.6 million, will be rental households.[1] The number of owner-occupied senior households is projected to increase 61% by 2020 while the number of rental households is expected to increase by 22% during that same period.

The Commission had an analysis of the 1999 American Housing Survey (AHS) completed, to better understand the present and future housing needs.[2] While the overall report was an interesting compilation of American Housing Survey data, several critical flaws in the rental housing needs projections came to light during the Commission's review, largely the result of the shortcomings of the AHS data.[3]
The key flaws in the projections that make them of more limited value include:

- They do not project or factor for income and wealth changes among the next generation of retirees.[4]
- They do not correct for erroneous information in the American Housing Survey data, particularly with regard to income underreporting.[5]
- While the projections are based on the Harvard projections of household and renter data for 2020, the projections for need for rental housing are based upon a ratio of rental housing units to needy homeowners and renters eliminating the important factor in the difference in growth rates for both populations leading to higher projections of need than otherwise indicated.[6]
- The projection of owners and renters with unmet needs inflates the Harvard growth rates excessively in order to make up for the difference between 1999 and 2000 numbers.[7]

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[1] Joint Center For Housing Studies, The State of the Nation's Housing 2001, Harvard University, (2001): 29.
[2] Stephen Golant, "The Housing Problems of the Future Elderly Population" (January, 2002). In the appendix.
[3]"American Housing Survey for the United States: 1999." U.S. Census Bureau, Current Housing Reports, Series H150/99, (1999) Appendix D. Also left out are 94,000 "Subsidy Not Reported" renters. AHS Table 7-12, line 67.
[4] "This report does not attempt to predict the future income distributions of older Americans." Golant.
[5]The Commission received data from the Current Population Survey that shows significant discrepancies of between 28-35%.
[6] Golant.
[7] Golant uses 33% for rental growth instead of Harvard's 22%, inflating the numbers by 1/3 to make up for a difference between 1999 and 2000. Rental housing grows 11 percent in one year and then grows on 1.1% a year for the next 20.

The commissioned report uses AHS data on self-reported "problems" with both rental and homeownership units to develop the base number of people in need of rental assistance, as opposed to projected need based upon a current number of people who would actually be eligible for assistance or would likely avail themselves of such assistance (i.e., renters who were eligible for rental assistance but not receiving it).[8] Recent research indicates that the AHS base number, 1,216,000, is understated. Andrew Kochera of the AARP Public Policy Institute estimated that 1,721,266 government assisted rental housing units occupied by seniors existed in 1999.[9] This number is widely cited.

Assuming preservation of the present stock, under the commissioned report's most ambitious scenario, establishing a 5 to 1 ratio of rent-assisted units to unassisted renters and homeowners, 545,461 new units would be needed over the next eighteen years or 30,303 units per year.[10] Under this 2020 scenario, there would be rent-assisted units available for more than 40% of all 5,628,000 projected senior rental households.

Under the ratio adopted by the Commission maintaining a 5.82 ratio, the number would be 226,403 or 12,577 units per year. Under this 2020 scenario, there would be rent-assisted units available for more than one-third of all 5,628,000 projected senior rental households.

Therefore, the Minority Report projection of 60,000 units per year is excessive and not supported by careful analysis of the existing data.

Signed: Nancy Hooks, John Erickson, M'Liss Solove Houston, James Introne, James Swanson

4. State Housing Finance Agencies

In recent years, the State Housing Finance Agencies have taken on a larger role in meeting the affordable housing needs of their respective states. In Columbus, Ohio, the Commission was fortunate to have several witnesses who spoke of creative ways in which the states are bringing housing and services together. Sarah Carpenter, Executive Director, Vermont Housing Finance Agency, described a co-sponsorship effort with the Vermont Department of Aging using a three-year Robert Wood Johnson grant to develop models of rural affordable assisted living. Nancy Anderson, Senior Development

A more appropriate number would be 23.1% to correct for the one year difference. The owner number is similarly inflated to 70%, more accurately, it should be 63.5%.

[8] Golant, 42-43. Data from various surveys show that future seniors want to remain in their own homes. See: Fixing to Stay, A National Survey Housing and Home Modification Issues, AARP Public Policy Institute, (May 2000): 25.

[9] Andrew Kochera, A Summary of Federal Rental Housing Programs, Fact Sheet #85, AARP, (May, 2001) 4. Golant Table 15. While Kochera looks at units age 62 and over under HUD eligibility, the vast majority of those units are occupied by seniors 65 and over and the age difference does not account for the discrepancy. The Kochera number, regardless of the age difference, provides insight as to the number of units actually available to seniors presently in the diverse forms of subsidized housing.

[10] Golant, Table 17. 2,266,727 - 1,721,266 = 545,461.

Officer, Massachusetts Housing Finance Agency, described their successful ElderCHOICE assisted living program created nearly 10 years ago.

One of the ways our country will be most effective in serving seniors is through public/private partnerships. The Low-Income Housing Tax Credit – created by the Congress, regulated by the IRS, and administered by state housing agencies – is one of the best examples of successful public/private partnerships this country has to offer. Created as a Federal tax incentive, it marries minimum Federal mandates with maximum local flexibility. It brings private investors and lenders together with for profit and non-profit developers, including public housing agencies, to create affordable communities reflective of local needs.

Part of the testimony the Commission received recommended "block granting" the Section 202 program to the State Housing Finance Agencies. In the words of James Logue, Executive Director, Michigan State Housing Development Authority, and formerly Deputy Assistant Secretary for Multifamily Housing Programs at HUD, "HFAs have demonstrated an ability to develop innovative housing solutions. Block granting the Section 202 program will provide an opportunity for states to leverage the program with other funding and financing resources."

As part of the Commission's recommendations, we encourage the facilitated use of the housing tax credit for senior housing by providing a "credit boost" for service-enriched senior housing. We also recommended improvements to its coordinated use with the Section 202 program. However, we stopped short of recommendations relating to the oversight and administration of the Section 202 program, particularly as it relates to combining Section 202 funding and tax credit financing as part of the same senior housing development.

I believe that where Section 202 capital advance funds and LIHTC are combined, it would be prudent for HUD to delegate its processing and asset management roles to the state housing agencies, provided a mechanism is available to pay for the costs associated with such services. Alternatively, the processing role could be delegated to the construction and permanent lenders, since this is the level at which the project is underwritten, and asset management could be undertaken by the agencies. As a restricted grant, the 202 funds will be subordinate to all other debt.

As to whether the entire program should be block granted to state agencies, this merits additional consideration by the Congress. If indeed the Section 202 program is expanded, then the Congress may want to allocate this funding among the state housing agencies and HUD. As it stands today, the program is too miniscule and the allocation of units too fragmented to be run by more than one agency.

I also believe that in senior housing developments combining Section 202 and tax credits the Congress should consider bifurcating the Project Rental Assistance Contract (PRAC) from the 202 Capital Advance so that, where appropriate, rental assistance could be used in the tax credit units. The rent on a "tax credit unit" will always be higher than a "202 unit", because it has to cover both debt repayment and operating costs, whereas the 202

rent need only cover operating costs. In some situations, a senior could afford the 202 rent without rental subsidy, and this ability for the rental assistance to follow *need* rather than *units* in a combined 202/LIHTC project would provide added flexibility to the project owner.

Signed: Diana McIver, John Erickson

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5. Funding Commission Recommendations

From the first meeting of the Commission, members wondered about the extent to which Commission recommendations would receive favorable attention by the Congress. We noted that outlays for HUD have been flat for more than two decades. We understood that the oldest residents of subsidized housing, already among the poorest citizens, are unable, in most projects, to receive the support they need to continue to live in their apartments. We know residents face eviction when they lost the ability to live independently and a move for many residents is to a nursing home.

Testimony and reports received the Commission emphasized the value of enabling older residents to continue to live in affordable housing with access to the services they require. Residents of federally assisted housing reported they had nearly ideal places to grow old, with security, dignity and access to services. Unfortunately, we also heard about long waiting lists and the reality that many eligible persons would become too frail, or die, before they could find affordable housing. We heard about the pivotal role service coordinators provide to frail residents; we were dismayed to note that many projects simply cannot provide even this minimal service. We examined the data available and found that the number of very poor, vulnerable citizens who needed assistance — or soon would — was large and increasing rapidly. We acknowledged that the shortage of subsidized units was huge and growing; we studied projections that showed that soon today's gap will become tomorrow's crisis for the Nation's elders.

As responsible citizens we looked for efficiencies, ways to utilize limited resources effectively, for modest improvements in programs to meet serious and growing needs, however some Commissioners concluded that without substantial increases in budget outlays this Nation would not only deny affordable housing to those elders most in need, but also increase the probability that elders will literally be forced into far more costly living arrangements such as nursing homes. We discussed asking states to shoulder, with Medicaid monies, a larger share of the cost of enabling elders to remain in the community; however, we recognized that most states struggle to meet current costs of Medicaid. While we urged partnerships and cooperation among agencies, many Commissioners worried that without financial resources, partnership could not achieve the goal of increasing the supply of affordable housing, nor could cooperating agencies deliver the services frail residents require.

It was within this context that several members of the Commission suggested that we consider affordable housing in a larger context. We studied documents that showed that for every dollar passing through HUD for elderly poor residents, the Nation's homeowners received about five dollars of subsidy. And while we all agree that homeownership is a value worth retaining, we suggested reallocating Federal resources from homeownership tax subsidies to budget outlays to fund additional affordable housing for elders. Affordable housing for the poor is clearly a national value at least as important as homeownership. We proposed limiting homeowners' mortgage interest deduction to $8,000 and to allocate revenues recaptured from the cap on homeowners' subsidies to fund additional housing units for those who so clearly need help.

The Commission chose simply to note the disparity between subsidies going to homeowners and those available for vulnerable elders. We Commissioners (listed below) believe the Congress should consider a more balanced allocation between subsidies for homeowners and subsidies for poor elders who need affordable housing and services that will enable them to live their final years in dignity.

Signed: James T. Sykes, Rita Poundstone