Calendar No. 63

105TH CONGRESS, *1st Session* | SENATE | REPORT 105–21

THE PUBLIC HOUSING REFORM AND RESPONSIBILITY ACT OF 1997

REPORT

OF THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 462

TOGETHER WITH

ADDITIONAL VIEWS

MAY 23, 1997.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
39–010 WASHINGTON : 1997

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MAY 23, 1997.—Ordered to be printed

Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 462]

INTRODUCTION

The Committee on Banking, Housing, and Urban Affairs, having considered the same, reports favorably a Committee bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal government to States and localities, and for other purposes.

The Senate Committee on Banking, Housing, and Urban Affairs marked up S. 462, the "Public Housing Reform and Responsibility Act of 1997," on May 8, 1997. The Committee considered, as original text for the purposes of amendment, an amendment in the nature of a substitute, which incorporated the principles of S. 462, as originally introduced by Senator Mack, and cosponsored by Senators D'Amato, Bond, Faircloth, and Grams. The substitute also included all or parts of 20 amendments to S. 462 filed by members of the Committee prior to the markup in accordance with Committee rules, as well as technical and other revisions to S. 462 as originally introduced.

During the markup, the Committee approved one amendment by voice vote. An amendment by Senator Reed clarifies the law which permits housing authorities to reduce public and assisted housing

rents of welfare recipients whose benefits have expired due to the expiration of a lifetime time limit on welfare benefits. In addition, the Committee considered an amendment by Senator Boxer, not previously filed, dealing with eradication of cockroaches in public housing. The Committee agreed with the concept of the Boxer amendment and committed to work toward inclusion of the proposal in a manager's amendment. The Committee also rejected, by voice vote, an amendment by Senator Bennett to strike bill provisions regarding pet ownership.

S. 462 as amended was ordered reported by a roll call vote of 18 to 0 with the following Senators voting in the affirmative: D'Amato, Gramm, Shelby, Mack, Faircloth, Bennett, Grams, Allard, Enzi, Hagel, Sarbanes, Dodd, Kerry, Bryan, Boxer, Moseley-Braun, Johnson, and Reed.

PURPOSE AND SUMMARY

S. 462, the Public Housing Reform and Responsibility Act of 1997, represents a major revision of the United States Housing Act of 1937 to make the nation's public and assisted housing programs operate more effectively and efficiently. This bill represents an important first step toward an expected overhaul and restructuring of Federal housing programs and a greater sharing of responsibilities among all participants in the Federal system.

S. 462 consolidates public housing funding and transfers greater responsibility over the operation and management of public housing from the Department of Housing and Urban Development (HUD) to housing authorities. In addition, it merges two similar programs that provide tenant-based rental assistance to low-income families and repeals program requirements in the current tenant-based assistance programs that discourage participation by private sector landlords.

LEGISLATIVE HISTORY OF THE COMMITTEE BILL

S. 462 continues an effort that began in the 104th Congress to reform the nation's public housing system. During the last Congress, the Senate unanimously approved S. 1260, a public and assisted housing reform measure similar to S. 462. However, no conference agreement was reached with the House of Representatives prior to the adjournment of the 104th Congress.

On March 18, 1997, Senator Mack, Chairman of the Subcommittee on Housing Opportunity and Community Development, introduced S. 462 with Senators D'Amato, Bond, Faircloth, and Grams.

On April 9, 1997, the Subcommittee on Housing Opportunity and Community Development held a hearing on S. 462. Testifying before the Subcommittee were: The Honorable Andrew M. Cuomo, Secretary of the Department of Housing and Urban Development; Ms. Cushing Dolbeare, Chair, Policy Committee, National Low Income Housing Coalition; Mr. Ricardo Diaz, representing the Council of Large Public Housing Authorities; Mr. David Bryson, Interim Director, National Housing Law Project; Ms. Deborah Vincent, representing the National Association of Housing and Redevelopment Officials; Mr. Tom Shuler, representing the National Multi-Housing Council; Mr. David Morton, representing the Public Housing Authority Directors Association; Mr. Billy Easton, Executive Director,

New York State Tenants and Neighbors Coalition, accompanied by Judy Smith, Board Member, New York State Tenants and Neighbors Coalition; and Mr. Deepak Bhargava, Director of Public Policy, Center for Community Change.

NEED FOR LEGISLATION

The Public Housing Reform and Responsibility Act of 1997 addresses a public housing system fraught with counterproductive rules and regulations. Over the years, public housing agencies (PHAs) have been saddled with requirements imposed in previous legislation by Congress and through regulation by HUD that make it difficult for even the best PHAs to operate effectively and efficiently to innovate, or to respond to local needs or conditions. Further, the residents of public housing currently face powerful disincentives to achieving economic independence and self-sufficiency.

The Committee realizes that much of public housing is well-run. Nevertheless, many public housing developments have concentrated the poorest households in developments that are havens for crime and drug abuse and islands of welfare dependency. The well-publicized problems in public housing that are so visible in some of the nation's largest cities threaten to discredit an entire public housing system that is home to 1.3 million American families.

Compounding the structural problems of public housing are the dual concerns of budget and HUD capacity. Public housing agencies are facing significant and growing subsidy requirements in an era of diminishing Federal government resources. Given these limited resources, PHAs need the increased flexibility to use their funds in a manner that helps to maintain decent, safe and affordable housing for their residents. In addition, HUD itself faces a potential reduction in overall staffing of almost 40 percent over the next five years. The prospect of diminishing staff resources means that the Department will lack the capacity to maintain the same degree of oversight and control that it has exercised over the public housing system in recent decades. Instead, the Department will be required to focus its efforts on ensuring the accountability of PHAs and addressing problems created in housing authorities that fail to meet performance standards.

Because these circumstances pose an immediate threat to the ability of PHAs and the Federal government to maintain and monitor a public housing program that ensures the provision of decent, safe and affordable housing to residents, the Committee believes it is essential to make public housing reform a high priority and to develop a comprehensive reform proposal that fundamentally alters the historical relationship between HUD, housing authorities, and residents.

Increasing flexibility in the use of Federal resources is critical both to increase the economic viability of public housing developments and to provide a platform from which lower income households can achieve economic self-sufficiency. Subject to strict performance standards and comprehensive planning requirements, the bill allows housing authorities to use their funds in a more cost-effective and creative manner, and returns greater responsibility

over the operation and management of public housing to local housing authorities.

The Committee acknowledges that the Administration considers public housing reform to be a major priority. S. 462 incorporates a number of significant reforms, particularly specific management improvements, contained in comprehensive public housing legislation transmitted to Congress by the Administration on April 17, 1997.

EXPLANATION OF THE LEGISLATION

Overview

S. 462 consolidates public housing programs into two flexible block grants—one for operating expenses and one for capital needs—and requires HUD to establish new funding formulas for these activities through negotiated rulemaking. In addition to providing a more flexible source of funding, the bill also eliminates a series of statutory requirements that have prevented the effective and efficient use of funds. For example, the bill repeals the one-for-one replacement requirement and streamlines and makes flexible the demolition and disposition process to permit PHAs to demolish or dispose of obsolete or vacant housing developments. It also allows housing authorities to participate, via joint ventures or partnerships, in the development of mixed-income, mixed-finance communities.

The bill changes targeting requirements that will allow PHAs to serve residents with a greater range of income, while retaining targeting requirements that assure that very low-income families in public and assisted housing will receive a significant portion of available housing assistance. The bill also repeals Federal preferences and allows PHAs to operate according to locally established preferences consistent with local housing needs.

The underlying principles of the bill are local responsibility and resident empowerment. S. 462 will provide housing authorities with greater flexibility to set their own rents with protections for very low-income families. S. 462 returns the so-called "Brooke Amendment" to its original intent by permitting housing authorities to charge residents up to 30 percent of their adjusted incomes for rent. In addition, the bill permits housing authorities to develop rental policies, such as ceiling rents and exemptions from adjustments to earned income, that will encourage and reward the employment and self-sufficiency of residents. The bill also provides a limited 18-month disallowance of earned income from public housing and section 8 rent determinations for newly employed tenants as a means of encouraging employment. Further, the bill creates a new, more flexible program that links supportive services to residents of public housing. This program includes a set-aside of funds for resident organizations that provide empowerment-related activities for public housing residents.

While allowing well-run housing authorities much more discretion, the bill also requires strong action against those housing authorities that are troubled. Although small in number, these PHAs with severe management problems control a disproportionate share of the nation's public housing stock. It is critical that the manage-

ment and physical problems of these PHAs be addressed with HUD and localities becoming more responsible and proactive. The bill requires HUD to seek a judicial receiver for large PHAs that are unable to make significant improvements in their operations, and requires the appointment of either judicial or administrative receivers in the case of other troubled PHAs. It also gives HUD expanded powers to break up or reconfigure troubled authorities, bring in private management including nonprofit organizations, dispose of their assets, abrogate contracts, or not be bound by State or local laws that significantly impede the correction of the housing authority's problems.

The Committee believes that low-income families who are eligible for Federal housing assistance should have the widest possible choice of available affordable housing units. Thus, while a primary focus of the bill is preserving the nation's significant investment in the public housing stock, it also improves the ability of tenant-based section 8 assistance to work successfully. The bill combines the current section 8 certificate and voucher programs into a single, tenant-based assistance program. The new voucher program will emphasize lease requirements similar to those in the private rental marketplace, and it repeals current program requirements such as "take-one, take-all," Federal preferences, and unique lease requirements that now discourage landlord participation in the section 8 programs.

Over the last two years, the Committee has considered proposals to convert the public housing system to a market-based system of tenant-based assistance. While the Committee strongly supports providing assisted households with the maximum residential choice, it is concerned that an entirely "voucherized" system is not completely practical, given both the wide local variances in the costs of tenant-based versus project-based assistance and the limited availability of affordable housing in many housing markets which limits resident choice. Further, the Committee is concerned about preliminary data showing high initial tenant rent burdens for new admissions to the voucher program. Finally, the Committee recognizes that public housing represents a $90 billion federal investment that should be preserved, when viable, for future generations because of the overall lack of affordable housing.

Nonetheless, the Committee strongly believes that vouchers are an essential part of a broad-based Federally assisted housing strategy that promotes affordable housing and residential choice. Thus, the bill seeks to protect the most vulnerable public housing tenants by requiring that alternative housing including vouchers be provided to residents of distressed and nonviable public housing. It also requires PHAs to conduct development-by-development assessments of the cost of operating their public housing, and gives them the option of "vouchering" out their public housing stock if doing so is more cost-effective than operating developments as public housing, and they have demonstrated support from the community.

Findings and purposes

The Committee believes the public and assisted housing programs are in disrepair. They are inefficient, frequently ineffective, and often fail to meet the needs of the households they were cre-

ated to serve. The Committee also believes that public and assisted housing should be not only sources of affordable, decent, and safe housing, but also the platform from which participating households can achieve economic independence and self-sufficiency and realize the dream of homeownership.

The findings and purposes contained in S. 462 reflect the problems inherent in the current system of public and assisted housing and the solutions that will make the programs work more effectively and efficiently.

The Committee recognizes, for example, that the current inventory of public housing units owned and operated by public housing authorities represents a substantial Federal investment in affordable low-income housing. However, the Committee observes that the current public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives to self-sufficiency. Further, the bill cites complex, top-down bureaucratic rules and regulations as aggravating these problems.

The Committee finds that the interests of low-income persons, and the public interest, will be served by a system that: consolidates public housing programs; streamlines program requirements; vests increased authority, discretion and control, with appropriate accountability, in the hands of public housing agencies that are run well; and rewards employment and economic self-sufficiency. Further, the Committee believes that the tenant-based section 8 voucher and certificate programs can be made more effective and successful in assisting low-income families to obtain affordable housing by consolidating the two existing programs into a single, market-driven program.

Therefore, it is the intent of this legislation: (1) to consolidate the programs and activities under the public housing programs administered by HUD in a manner designed to eliminate Federal overregulation; (2) to redirect the responsibility for a consolidated program to States, localities, and public housing agencies and their tenants; and (3) to focus Federal action on the problems of public housing agencies with severe management problems.

Elimination of regulations

Under the Committee bill, all rules and regulations relating to public housing and tenant-based section 8 are sunsetted one year from the date of enactment. This provision is intended to force HUD to review all of the current regulations to determine those that are obsolete. While the Committee recognizes that many regulations may still be appropriate for reissuance, it also fully expects the Department to conduct a careful review of every regulation and eliminate those that are obsolete, inconsistent with the goals and provisions of this Act, and unnecessarily micromanage the operations of public housing and section 8.

The Committee is aware that the Department contends that it is in the continuing process of reviewing, consolidating, and eliminating burdensome and excessive regulations. Nonetheless, the Committee believes that HUD needs affirmative direction to remove conflicting and sometimes incomprehensible rules which govern the public and assisted housing programs. The Committee also recog-

nizes that this is a significant task and expects HUD to implement an expedited review and publication process for those regulations which are critical and necessary to the well-being and proper management of the public housing and section 8 tenant-based programs.

Annual reports

S. 462 changes the way in which PHA programs are administered and monitored, and the Committee expects that these changes will affect both the demographics of families receiving assistance and the economic viability of PHAs themselves. In addition, changes in public housing rent rules, coupled with reforms in welfare programs, are expected to have a direct impact on the employment activity and earned income of residents. The Committee bill requires HUD to report to Congress not less than annually on the direct impact of the changes in policy contained in this Act.

Title I—Public Housing

Composition of boards of directors of PHA

The Committee bill requires PHAs to have at least one resident or section 8 tenant on their boards of directors. The Committee expects that if a PHA's primary function is the provision of public housing, than the tenant representative will be a resident of public housing rather than section 8. With regard to the selection of the resident, the Committee's expectation is that the resident to serve on the board will represent the interests of all the residents to the greatest extent possible. To this end, the bill allows for the election of resident board members if provided for in the public housing agency plan as developed in consultation with the resident advisory board. The bill creates an exception for PHAs in which the State requires the board of directors to be salaried and to serve on a full-time basis. A second exception is provided for PHAs with fewer than 300 units where there is no demonstrated resident interest in serving on the board. This determination may come only after reasonable notice of the opportunity to serve is provided to the resident advisory board.

The Committee believes that placing a resident on the board is important to promote a greater understanding of resident concerns and foster a working relationship between PHAs and residents. In the view of the Committee, it is important to ensure meaningful participation by residents in the important decisions that affect their lives. The requirement for a resident on the PHA board is inapplicable to PHAs with no board of directors.

Rental payments

The Committee bill amends section 3 of the 1937 Housing Act to revise the method by which PHAs calculate rental payments for public and assisted housing. Under current law, residents must pay a monthly rent equal to the highest of (a) 30 percent of monthly adjusted income, (b) 10 percent of monthly gross income, or (c) the welfare rent. Generally, rent is set at 30 percent of monthly adjusted income, commonly referred to as the "Brooke Amendment."

During the development of this bill, the Committee received extensive comments on the rent provisions. Housing authorities expressed concerns that the legislation did not afford PHAs sufficient flexibility in the area of rent setting. They argued that the only way to generate additional revenues and improve social conditions in public housing is to have flexible rent structures developed according to their respective financial conditions and local circumstances. Further, they warned that many PHAs will face fiscal hardship in these times of decreasing Federal resources for the operation and maintenance of public housing without the ability to set flat rents. Finally, PHAs argued that rent flexibility is essential to develop policies that encourage and reward employment.

On the other hand, advocates for low-income families expressed concerns about the impact that a repeal of the Brooke Amendment (or 30 percent requirement) would have on the poorest of the poor. They argued that a flat rent that requires a family to pay more than 30 percent of its income for rent would impose a harsh and undue burden on poor families, and in some cases, could result in the constructive eviction of existing tenants without the resources to pay higher rents.

The Committee recognized the validity of both of these arguments and, therefore, tried to strike a balanced policy taking into account the opposing concerns. Of particular concern to the Committee was the detrimental effect current rent policies have on the upward mobility of residents and their ability to achieve greater financial independence. Because the current law generally requires residents to pay 30 percent of their adjusted income for rent, a resident's rent automatically goes up in proportion to increases in income. As a result, it is often the case that residents make rational decisions either to remain in the housing and not work, or to leave public housing because their rent after returning to work exceeds the market value of the unit. This, in turn, affects the rent rolls of PHAs and the composition of public housing by removing the working families who represent positive role models. Concentration of very poor families in public housing has directly contributed to the sharp rise in public housing operating subsidies. In addition to discouraging efforts to work, current rent policies also contribute to the break-up of families since the wages of all family members older than 18 years are used to calculate a family's rental payment.

The Committee bill includes changes that begin to address the built-in disincentives in current law by giving PHAs the essential tools to implement a workable system of flat rents, ceiling rents, earned income disregards, and minimum rents.

1. Flat rents

The Committee bill first addresses the work disincentives under current law by allowing PHAs to set flat rents. The Committee bill retains the current rent cap of 30 percent but permits a PHA to charge less than 30 percent or up to 30 percent of a household's adjusted income. This provision is intended to provide PHAs with greater flexibility to develop a system of flat rents designed to retain and attract working families in public housing developments.

2. Ceiling rents

Another way the Committee bill addresses the work disincentive is by establishing a workable system of ceiling rents. Section 3(a)(2)(A) of the 1937 Act currently allows PHAs to establish maximum or ceiling rents. However, the current law is flawed and has had limited use because the formula for establishing ceiling rents includes a calculation of imputed debt service which produces a number that is generally higher than the actual market value of most units.

The Committee bill authorizes PHAs to establish ceiling rents that reflect the reasonable market value of comparable housing, but are not less than 75 percent of the cost to operate the housing. The Committee bill sets the lower floor at 75 percent rather than full operating cost because studies have shown that in certain rental markets, operating costs exceed market values. Where such is the case, many households would be priced out of the public housing market making it more difficult for PHAs to retain or attract working families and create more mixed-income communities. Setting the operating cost floor at 75 percent provides PHAs with greater flexibility to establish a viable system of ceiling rents that reflect true market value.

3. Earned income adjustments

The Committee bill replaces the current income disallowance in section 3(c) of the 1937 Housing Act and replaces it with a bar against any rent increase for public housing or tenant-based section 8 households for 18 months as the result of the employment of a family member who was previously unemployed for 1 or more years. Any household with an income disallowance under present law is grandfathered.

The purpose of this provision is to provide work incentives to facilitate the transition from welfare to work. The Committee bill applies this provision to all members of the household to remove the disincentives in the present rent rules for dependent children or other adult members in the household to work.

Under the Committee bill, any rent increase due to the continued employment of the family member must be phased in over a 3-year period after the 18-month moratorium. Phasing in any rent increase will prevent the newly employed person from experiencing a large increase in rent that could otherwise discourage them from working or staying in public housing. While the Committee hopes that all families will have the opportunity to make the transition to private housing and economic independence, it is also concerned that public housing communities are losing positive role models and stable living environments when working families move out because of adverse rental policies.

In addition to the 18-month income disregard, the Committee bill also provides PHAs the flexibility to disregard any other earned income it deems appropriate. This provision was designed to be simple and flexible to allow PHAs to develop innovative rental policies that reward work and encourage economic self-sufficiency.

4. Minimum rents

The Committee bill allows PHAs to establish a minimum rent not to exceed $25 for each family living in public housing or receiving section 8 tenant-based or project-based assistance administered by PHAs. Under the Committee bill, minimum rents are voluntary for the PHA and can be anywhere from $0 to $25. The purpose of the minimum rent provision is to promote personal responsibility and resident investment in their living space. It is also intended to ensure that families benefiting from housing assistance are making some contribution to support operation of their units at a time when there are far more families eligible for housing assistance for whom no assistance is available who are paying excessive rents in the private marketplace.

This provision is not intended to create excessive hardship for those simply unable to pay a minimum rent. For this reason, the minimum rent provision is voluntary and up to the PHA to apply fairly and appropriately according to the financial circumstances of the PHA and its residents. For example, a PHA could exempt certain classes of people, such as persons with disabilities who have not yet qualified for disability income, from the minimum rent requirement.

The Committee intends that PHAs be allowed to require every family to pay up to $25 for their rent and utilities. The Committee realizes that in some instances residents are reimbursed for the amounts that they pay directly to the utility company. The minimum rent provision is not intended to alter the current treatment of utilities in the calculation of tenant rent contributions.

The Committee believes that the reforms in rental policy made by this legislation will have a positive effect of providing greater incentives for public and assisted housing residents to work and economically improve their lives. This, in turn, will create better role models, more stable families, and a healthier social climate in public and assisted housing communities, as well as reducing financial burdens on PHAs themselves.

Public Housing Agency plan

A major feature of the Committee bill is the creation of the public housing agency plan that is designed to serve as an operations, planning, and management tool for PHAs. The plan is to be developed in consultation with a resident advisory board. The plan must also be consistent with the Comprehensive Housing Affordability Strategy (CHAS) for the PHA's jurisdiction and include a description of how the contents of the plan are consistent with the applicable CHAS.

The Committee bill calls for a 5-year plan and an annual plan. The 5-year plan includes a mission statement for serving the needs of low-income and very low-income families in the PHA's jurisdiction and a statement of goals and objectives of the PHA to serve the needs of those families.

The annual plan must include: a statement of low-income and very low-income housing needs in the community and how the PHA intends to address these needs; a statement of financial resources and their planned uses; the PHA's general policies governing eligibility, selection, admission, assignment, occupancy, and rents; the

PHA's policies for the maintenance and operations of the agency; a statement of the PHA's grievance procedures; a plan describing any capital improvements; a description of any housing to be demolished or disposed of; a description of any developments designated for elderly or disabled; a description of any properties to be converted to tenant-based assistance; a description of any homeownership or self-sufficiency programs; a description of policies for safety and crime prevention; a certification of compliance with fair housing laws; and an annual audit.

In developing the plan, the Committee intends for a PHA to operate in concert with citizens of its jurisdiction to address the housing needs of low and very low-income people. To that end, each PHA plan should reflect the housing needs of the jurisdiction as they are articulated in the CHAS or consolidated plan. Further, each jurisdiction must assure that the public housing agency plan is reflected in its consolidated plan.

The plan must be submitted to HUD for approval 60 days before the start of the PHA's fiscal year. HUD must review the plan to determine whether it: (1) is complete; (2) is consistent with the information and data available to HUD; and (3) does not include material prohibited by, or inconsistent with, applicable law. Insufficient time to review a plan is not a valid reason for HUD to reject a plan. If HUD fails to approve the plan within 60 days (or 75 days the first year), it is deemed approved.

The intent of the plan is to provide a framework for local accountability in a new era of deregulation, flexibility, and local discretion. In developing this legislation, the authors believed that in removing many of the Federal statutory and regulatory requirements for PHAs and diminishing HUD's oversight function that it was essential to have a mechanism to ensure that decisions are made with accountability to residents, the community, and local government. The intent is for the PHA to consolidate all of its policies, rules, and regulations into a single planning document that is responsive to local needs and allows residents to be instrumental in its development and have open access to its contents.

The Committee intends for PHAs, residents, and local governments to take the planning process very seriously. This legislation represents a very significant departure from current law and practice, and creates a greatly expanded role for the PHAs and its residents. The plan is the blueprint for how the PHA will approach its new responsibilities and serve its community as well as possible.

During the development of this bill, concerns were raised that this new planning requirement was too bureaucratic and its required contents were more excessive than what is currently required of PHAs to submit to HUD. Concerns were also expressed that this requirement might create an excessive burden on small PHAs, particularly those with limited or part-time staff. Finally, PHAs and HUD commented that the Department does not have the capacity to conduct a thorough review of every aspect of the plan in a timely manner.

The Committee does not intend for the plan to create an excessive bureaucratic burden on PHAs or HUD. Rather, it is intended to represent a locally established planning document to replace many of the statutory and regulatory requirements that have con-

strained PHAs from operating more efficiently and effectively in the past. The Committee recognizes that some PHAs may decide to continue operating as they have in the past while others may welcome the opportunity to develop new policies appropriate to local needs and conditions. Therefore, the process for developing a plan will reflect the extent to which a PHA wishes to adopt new policies. If a PHA wants to rewrite all of its current policies it may do so, or it may simply wish to adopt existing policies as part of its plan.

Under the Committee bill, HUD is given the authority to develop a streamlined plan for high-performing PHAs, those with fewer than 250 public housing units, and those that only administer tenant-based assistance. This provision recognizes the difficulties for small PHAs with limited staff to develop comprehensive plans and attempts to reward high-performing PHAs by providing incentives for continued high performance. Final regulations regarding the plan, including what will be required in a streamlined plan, will be developed through negotiated rulemaking. The Committee strongly urges the Department in developing streamlined planning requirements to retain those features of the planning process that maximize resident involvement in the development of the plan.

In order to ease the administrative burden of plan submission to HUD, the Department has indicated its intention of enabling PHAs, to the maximum extent practicable, to submit their responses to all HUD planning and reporting requirements in one annual document. The Department has also indicated its intent to structure these requirements and the HUD system in a manner that allows, and eventually could require, PHAs to submit their responses by computer. The Committee strongly supports and encourages these actions to streamline the planning and reporting system. To ensure that HUD can accomplish the review of the plans in a timely fashion, the bill permits the submission of plans on a staggered basis.

The Committee bill also provides the Department with discretion on what aspects of the plan it deems appropriate to review to ensure that it is complete, truthful, and in legal compliance. This provision recognizes the limited capacity and declining resources at HUD to review every aspect of the plan in great detail. The Committee believes that the main value of the plan is the local process of consultation and review that it engenders. The Committee believes that the upfront review of the plan by HUD is necessary and expects that HUD will examine the plans as thoroughly as possible. But, more important, the Committee believes that HUD's efforts should be focused on the post-audit review to ensure that the PHA is performing well and operating according to what is outlined in its plan. Therefore, the Committee strongly encourages HUD to focus its attention on audits, including audits of PHA performance vis-a-vis their plans, and monitoring troubled or at-risk agencies.

Finally, the Committee bill includes a provision for a General Accounting Office (GAO) audit of the degree of compliance of PHAs with their public housing agency plans. The Committee expects the GAO to review a representative, but limited, sample of PHA plans and to report back to Congress in the time frame specified by the statute with its pending recommendations.

Resident advisory board

One of the primary objectives of this legislation is to return power and decision-making authority from the Federal government to local housing agencies. With the devolvement of authority, however, comes the need for local participation and accountability. The Committee strongly believes that local agencies are better equipped to make decisions and develop policies to address local needs and conditions. It also recognizes, however, the importance of oversight at the local level and involvement by residents and local citizens in the decisions that impact their lives and communities. The Committee believes that one of the keys to a successful housing authority is a meaningful and trusting partnership between the PHA and its residents. Therefore, the Committee bill encourages PHAs to facilitate resident input and involvement to the maximum extent possible and requires the establishment of a resident advisory board or boards to participate in the public housing agency planning process.

The role of resident advisory boards is to make recommendations regarding the development of the plan which the PHA must consider and include in the submission of its plan to HUD. In addition, each resident advisory board must review any significant amendments or modifications to the plan that the PHA submits to HUD. The Committee does not intend for the resident advisory board or boards to have veto power over the public housing agency plan; however, it does expect the PHA to provide the board or boards with a meaningful role in developing the plan and to consider fully the comments and issues raised by the board throughout the process.

The Committee envisions that resident advisory boards will be formally organized with rules of governance and an orderly process for nomination and appointment such that the advisory board is representative of a diversity of perspectives among the residents. It is anticipated that resident advisory boards will establish processes, such as public hearings, town meetings, or other means of acquiring information, to assure that advisory board members are informed of the opinions of other residents. Resident advisory boards are not to be considered ad hoc groups convened solely for the purpose of reviewing public housing agency plans and then disbanded. Rather, they are expected to be permanent organizations that meet on a regular basis as is necessary to carry out their responsibilities. Further, PHAs are expected to operate in good faith with resident advisory boards, providing them with the sufficient notice and complete information about issues the boards are to consider, so that the boards are able to make decisions and recommendations from an informed position. The Committee expects that PHAs will allocate sufficient resources to assure the effective functioning of resident advisory boards.

The Committee received several comments from housing agencies and resident groups that the requirement for the establishment of a new resident advisory board may be redundant in situations where there already exists established resident organizations actively involved in the housing authority decision-making functions. Another concern was raised about the potential cost and difficulty of conducting a PHA-wide election to select residents to participate

on the resident advisory board. The Committee does not intend for the board requirement to create an undue hardship on PHAs, nor does it intend to supersede an already successful resident participation process. Therefore, the Committee bill allows HUD to waive the requirement for the establishment of a new board or boards if the PHA demonstrates that an existing resident council or other resident organization of the PHA adequately represents the interests of the residents of the PHA and can perform the advisory functions under the plan.

Performance measures and accountability

The Committee believes that the Public Housing Management Assessment Program (PHMAP) will provide the critical yardstick for a post-audit review to ensure that PHAs are performing their duties as managers of public and assisted housing. During Committee hearings on public housing reform, concerns were raised about the effectiveness of the PHMAP process. Reports by the HUD Inspector General indicated that in some circumstances information reported by PHAs could be fabricated, and may have been fabricated in the past. Since this legislation places great emphasis on performance reviews and post-audit functions, the Committee expects that HUD will dedicate the appropriate resources to ensuring the integrity of the PHMAP and audit process.

The Committee supports HUD's effort to reevaluate the performance evaluation system and determine how to place more weight on physical inspections and audits. The Committee also supports the Department's intention to seek the advice of industry groups, other real estate management experts and resident groups as part of this effort to yield improvements in the monitoring and evaluation system.

The Committee bill contains four new additions to PHMAP. The new performance indicators include: (1) the extent to which the PHA coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of residents and provides opportunities for residents to be involved in the administration of public housing; (2) the extent to which the PHA implements effective screening and eviction policies and other anti-crime strategies; (3) the extent to which the PHA provides acceptable basic housing conditions; and (4) the extent to which the PHA successfully meets the goals and carries out the activities of the public housing agency plan.

These new indicators of PHA performance reinforce, and are consistent with, some of the primary objectives of this legislation: to empower residents to become more active participants in the decisions that affect their lives and provide them opportunities to break out of the cycle of poverty and achieve economic independence; to provide residents with decent housing in a safe and secure environment; and to place greater emphasis on local decision-making.

The first new indicator involving resident empowerment is intended to strengthen the link between housing assistance and welfare reform by requiring PHAs to coordinate and promote participation by families in self-sufficiency programs. Recognizing that the PHA's primary function is to provide quality housing, this provision

is not intended to require PHAs to initiate or necessarily manage such programs, but to facilitate linkages between residents and programs initiated and managed by appropriate social service agencies.

The Committee bill includes HUD's proposal to add a required PHMAP indicator regarding housing conditions. The Secretary of HUD and HUD's Inspector General pointed out that under the current PHMAP system, a PHA can escape "troubled" designation even though a substantial portion of its units would not meet basic housing quality standards. The Committee shares the Department's concern and, therefore, added this new indicator with the belief that it is critical to evaluate the basic conditions under which residents live when measuring PHA performance.

The Committee bill also directs the Department to assess and rate PHAs based on their performance in developing and implementing screening, eviction and other anti-crime strategies. The Committee is keenly aware that PHAs which have experienced the greatest success in combating crime within their developments have worked closely with local law enforcement officials as well the residents themselves in the formulation and implementation of their anti-crime strategies. Therefore, in conducting its PHMAP assessments of anti-crime efforts, the Department will also assess PHA efforts to coordinate and consult with local government officials and residents in their anti-crime efforts.

The Committee bill also includes a new PHMAP indicator to measure PHA compliance with its plan. During the development of this legislation, concerns were raised about accountability and potential abuses which may occur as a result of the repeal of many Federal requirements governing the public housing program. The Committee carefully considered the comments it received concerning the balance between flexibility and accountability. The Committee bill attempts to achieve that delicate balance by providing PHAs with greater authority to develop policies appropriate to local needs through the public housing agency planning process but adding the new performance indicator to ensure that PHAs actually perform according to the objectives set forth in their plans.

As discussed in the section on the public housing agency plan, given the limited resources and oversight capacity at HUD, the Committee intends for the Department to concentrate its efforts on monitoring performance and program implementation. The Committee believes that the Department's resources will be better utilized by examining results and measuring PHA performance against plan objectives.

Preferences

The Committee bill repeals Federal preferences for public housing and rental assistance programs and allows each PHA to establish its own system of preferences with input of local residents, community members, and government officials through the adoption of a PHA plan.

Under current law, PHAs are required to target 50 percent of new admissions to people with worst case housing needs. By repealing Federal preferences, PHAs will be provided much broader discretion to admit relatively higher income families to the public

housing program or to admit eligible families based on their assessment of local housing needs.

The Committee believes that Federal preferences have been one of the primary causes of concentrating the poorest of the poor and creating unstable public housing communities. This well-intentioned provision was originally designed to guarantee that finite housing resources serve families most in need. However, it has resulted in the unintended consequence of warehousing very low-income families in areas of high concentrations of poverty and despair; for example, PHAs, on average, house families below 20 percent of area median income—a decrease since 1981 before the institution of preferences. Eliminating Federal preferences should result in greater local autonomy, better income mixes, and improved social environments in public housing communities. The Committee hopes that the change in this policy will revitalize those communities and lead to even more opportunities for the creation of affordable housing.

Leases

The Committee bill replaces the current statutory provision requiring specific minimum and maximum time frames, which PHAs must comply with when providing written notice of lease termination, with a provision requiring that notice requirements be consistent with State or local law. However, the bill provides that in cases of lease terminations for serious cases, the PHA may provide a notice within a period, which is determined by HUD to be reasonable, that is shorter than that provided for under State or local law. This shortened notice period could be utilized by a PHA when the health or safety of residents, the employees of the PHA, or members of the surrounding community are threatened, or where drug-related crimes, violent crimes, or any other crimes resulting in a felony conviction are involved.

Troubled public housing authorities

Although the Committee bill generally devolves greater authority to well-performing PHAs, the Committee believes that one clearly appropriate role for HUD is dealing with the problems of so-called "troubled" housing authorities that suffer from chronic and severe management problems. Thus, the Committee bill provides HUD with expanded powers to deal with PHAs that default on their contractual obligations.

The Committee believes that a more aggressive approach to troubled authorities is essential to protect the interests of the residents and the government's substantial investment in the housing stock. S. 462 provides the maximum amount of flexibility for the Department to ensure the timely resolution of the problems of troubled agencies, and protect the interests of the residents in projects operated by those authorities. HUD already possesses numerous tools and administrative authorities to help address the problems of troubled PHAs, including technical assistance, entering into memoranda of agreement to force corrective action, and the ability to seek a court-ordered receivership. HUD has recently intervened to take over several large, troubled PHAs. However, the current tools frequently have been employed unevenly and inconsistently, and in

some cases they are insufficient to ensure that the problems of troubled authorities can or will be corrected in a timely fashion.

The Committee bill gives PHAs designated as troubled a one-year period, beginning on the later of the date on which the agency receives notification of its troubled status or the date of enactment of this Act within which to leave the troubled list. If this does not occur, then HUD shall declare the PHA in substantial default of its annual contributions contract and take over the PHA or place it in receivership.

The Committee believes that this approach is absolutely necessary to ensure that decisive action will be taken to address the problems of chronically troubled agencies. It helps ensure that appropriate actions will be taken whether or not HUD has the political will to act. In the Committee's view, HUD should not have the discretion to avoid imposing what is, in effect, a "death penalty" on any housing authority that fails to meet basic performance standards, and it points out that HUD supports the Committee's position.

The Committee bill requires, in the case of housing authorities with more than 1,250 units—large PHAs—that have been in troubled status for at least one year (or one year from date of enactment), that HUD seek the appointment of a judicial receiver to assume responsibility for the management of the authority. Historically, the appointment of a judicial receiver has frequently been a time-consuming process. Therefore, to assure that immediate action can be taken to correct management deficiencies in the troubled agency, the bill permits HUD to assume administrative authority over the operations of the housing authority during the period prior to the assumption of responsibility by the judicial receiver. In the case of a housing authority smaller than 1,250 units, the bill requires the Department to either petition for the appointment of a receiver or assume receivership administratively.

If a receiver is appointed, the receiver shall have powers accorded by the appointing court and, in addition, may abrogate contracts that substantially impede correction of the default after taking certain specified steps; demolish or dispose of the assets of the agency subject to applicable law; require the establishment of one or more new public housing agencies; and be exempt from certain State or local laws that substantially impede the correction of the substantial default. If HUD takes possession of the PHA, HUD will have the same powers that could be conferred on a court-appointed receiver.

The Committee's decision to establish an administrative procedure for HUD's takeover of a PHA that is parallel to that of a court-appointed receiver is intended to give HUD the maximum flexibility to deal with troubled housing authorities. However, the Committee also realizes that HUD's capacity to assume direct control over a substantial number of troubled agencies may be limited, which is one reason why judicial, versus administrative, receivership is mandated for large, troubled authorities. The Committee expects HUD, where it has the option in the case of smaller PHAs, to continue to rely on the court-ordered receivership process to the greatest extent feasible, or in the alternative, to use its authority

to appoint an administrative receiver to assume the responsibilities of HUD, as S. 462 permits.

Finally, the Committee stresses that it expects HUD to use judiciously its authority to abrogate contracts and preempt State or local laws concerning civil service requirements, employee rights, procurement, or financial or administrative controls. Such expanded authorities should be used only where such laws or contracts have substantially contributed to the default and impede its correction.

Site-based waiting lists

The Committee bill allows PHAs to establish procedures to maintain site-based waiting lists for admissions to public housing developments. In the view of the Committee, site-based waiting lists will provide residents with the maximum amount of choice as to where they want to live and, therefore, help foster a sense of community in public housing neighborhoods by strengthening existing ties to family, school, work, and neighborhood institutions. The Committee is mindful that HUD's prohibition against site-based waiting lists in the past was based on a concern about racial steering and a desire to prevent housing discrimination. The Committee bill clearly states that any procedures used to establish site-based waiting lists must comply with civil rights and fair housing laws and further requires full disclosure of all housing choices available to all applicants. The Committee anticipates that PHAs will assure that all applicants are aware of their rights under the fair housing and civil rights laws. The Committee also encourages the Department to monitor the implementation of site-based waiting lists to assure that steering does not occur.

Capital and operating funds

The Committee bill consolidates and streamlines the existing public housing funding system by establishing one Capital Fund and one Operating Fund for providing financial assistance to PHAs. In the view of the Committee, consolidating the existing public housing programs and making them eligible activities under the two block grants will provide PHAs greater flexibility to make decisions that reflect local priorities and needs. It also recognizes the limited capacity and inability of HUD in an era of downsizing to administer effectively numerous categorical programs each with its own set of complex rules and regulations.

Prohibition on new construction of public housing

The Committee bill contains a provision prohibiting the construction of any new public housing except for replacement purposes with certain exceptions. The exception allows a PHA to use its Capital and Operating Funds for the construction and operation of new units, but would not have the increased number of units reflected in its formula allocation. In other words, it is permissible for a PHA to develop new housing opportunities if it is efficient and can use its regular formula allocation for such purposes. However, the formula will not provide additional funding to develop and operate the new units. This provision reflects a concern by the Committee that PHAs should not be taking on the responsibility for admin-

istering new units at a time when there are insufficient subsidies to operate and maintain the current housing stock.

During the development of S. 462, concerns were raised that such a prohibition would negatively impact a PHA's ability to invest and leverage its funds in mixed-income and mixed-finance housing projects with other public and private partners—an activity that the Committee generally supports and believes should be encouraged. Therefore, the provision was amended in Committee mark-up to clarify that operating and capital funds could be allocated for operating expenses and modernization of new units as long as they were part of a mixed-finance project and the estimated cost over the useful life of the project is less than the estimated cost of providing tenant-based assistance.

Operation Safe Home initiative

The Committee bill would make permanent the authorization for the use and appropriation of vouchers in connection with witness relocation. Effective witness protection for law-abiding citizens who have the courage to offer testimony against dangerous criminals is essential in the nation's efforts to build safe and secure communities.

The Operation Safe Home initiative, currently administered by HUD's Office of Inspector General (OIG), will be funded as a set-aside from HUD's Headquarters Reserve. The Committee is firmly convinced that the practice of funding this initiative as a set-aside from the Drug Elimination Grant program should be discontinued. This practice, which provided necessary support for the initiative in its early stages, has ironically resulted in a decrease in funding for local anti-drug efforts and is counter-productive to the nation's efforts to combat the scourge of drugs and crime in public and assisted housing. In addition, this practice resulted in a diversion of funds originally intended to address drug-related crime to the Inspector General to combat fraud and equity skimming in public housing and the section 8 program. The Committee believes these laudable goals should be met with separate funding accounts. Therefore, the Operation Safe Home initiative will be provided funding from the HUD Headquarters Reserve.

While the Committee believes that the Operation Safe Home initiative has produced heartening results in confiscating guns and drugs from public housing, significant questions concerning the initiative remain. The Committee is skeptical of the desirability of program administration under the auspices of the OIG. This practice raises significant concerns regarding effective program evaluation and oversight and the Committee urges the Department to evaluate alternatives. The Department is also urged to define the mission of the OIG more clearly and to differentiate between those functions which are inherent within the day-to-day operations of the OIG and those requiring separate program funding.

Repeal of energy conservation

The Committee bill repeals the current section 13 of the 1937 Housing Act. Section 13 currently directs the Secretary to require that newly constructed or substantially rehabilitated projects be

equipped with heating and cooling systems selected on the basis of criteria which include a life-cycle cost analysis of such systems.

Repeal of this free-standing requirement is consistent with the Committee's goals of reducing Federal micromanagement of PHAs and delegating, to the maximum extent feasible, decision-making authority to the PHAs. Given the severe budgetary constraints under which PHAs are likely to be operating in the future, the Committee expects that housing authorities will be conscious of the need for energy conservation measures. Nonetheless, the bill allows the new Operating Fund formula to take energy conservation into account.

Consortia and joint ventures

The Committee bill expands the authority of PHAs to establish consortia with other PHAs to administer all or some of their housing programs. Under this section, PHAs will have great flexibility in determining the scope of responsibility of any consortia they may form. For example, two PHAs may form a consortia for the purpose of sharing managerial responsibilities, administering a joint section 8 program, or effecting a complete merger.

The Committee bill expands the authority of PHAs to form wholly-owned or -operated subsidiaries and other affiliates. Members of the PHA governing board or other PHA employees would be allowed to direct, manage, or otherwise control these subsidiaries. In addition, the Committee bill allows PHAs to enter into joint ventures, partnerships, or other business arrangements or otherwise contract with persons, organizations, entities, or units of government for the purpose of administering the programs of the PHA.

The purpose of this section is to provide PHAs with the maximum amount of flexibility feasible to engage in entrepreneurial endeavors in order to reduce costs and generate income which must be used for the provision of low-income housing or to otherwise benefit the residents of the PHA. This section allows PHAs to undertake business arrangements for the purposes of facilitating access to alternative sources of financing (including use of the low-income housing tax credit), developing mixed-finance projects, instituting innovative managerial improvements, and contracting with other entities in order to reduce administrative costs, generate revenues, and empower residents. Resident empowerment could take the form of the creation of employment opportunities, expansion of services, or development of mixed-income projects.

The Committee believes that in an era of shrinking resources, PHAs should have the authority to undertake business ventures for the purposes of providing financial stability. To this end, the Committee bill includes a provision which abolishes the operating subsidy penalty contained in the current Performance Funding System. This penalty has served as a disincentive for PHAs to engage in joint ventures and other entrepreneurial efforts. Instead, PHAs will be able to retain amounts generated through activities carried out under this section without sustaining a loss in funding through the Operating and Capital Funds or other funding sources provided under the 1937 Housing Act. However, PHAs will be required to utilize such amounts for the provision of low-income housing or to otherwise benefit the residents of the PHA. It is the Committee's

firm intention that PHAs should be granted wide discretion in choosing how best to utilize these proceeds. For instance, PHAs can use these funds to provide additional low-income housing by providing capital for mixed-finance developments. Also, PHAs could benefit residents through economic development by providing employment opportunities or by supporting service programs. It is not the Committee's intention to see this provision stifled by a requirement that PHAs receive prior approval by HUD, beyond that provided in the PHA plan requirements, before embarking on business ventures—a situation that would amount to micromanagement.

Community service and self-sufficiency

A central theme of the Committee bill is to promote self-sufficiency and personal responsibility for families that receive housing benefits. The Committee strongly believes that housing policy should encourage assisted families to move into activities that improve their economic situations and to assume a greater degree of responsibility for their living conditions. In recognition of the historic welfare reform law passed by the Congress last year, the Committee bill contains a number of features that aims to further promote work over welfare and personal responsibility over public dependency.

First, the legislation requires able-bodied adult residents of public housing to contribute not less than 8 hours a month through participation in community service activities (except for any political activity) or self-sufficiency activities. Residents could perform community service through a variety of maintenance activities such as grounds keeping or volunteer activities that help their neighbors, such as a neighborhood watch program. In addition, PHAs and residents could consider the benefits of community gardening. Residents could also fulfill the 8 hour requirement by participating in a self-sufficiency activity, such as literacy or job training courses.

The Committee does not intend the community service and self-sufficiency requirement to be perceived as a punitive or demeaning activity. Rather, the Committee expects the requirement to be a rewarding activity that will assist residents in improving their own and their neighbors' economic and social well-being and give residents a greater stake in their communities.

To ensure that the community service and self-sufficiency requirement does not impose an undue hardship on public housing residents, the Committee bill provides a number of exemptions from the requirement. Elderly and disabled residents or residents that act as the primary caretaker of someone who is disabled would be exempted from the requirement. The Committee recognizes that a substantial population of public housing residents and assisted families also receive welfare assistance and will generally be required to meet the work participation requirements prescribed under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or under a State funded only program. Accordingly, these families and those families who are not receiving welfare assistance that fulfill the State or locality's work participation requirements would be exempted from the 8-hour requirement. Under the welfare reform law, to be counted as engaged in work,

a welfare recipient would have to be participating in an eligible work activity for a minimum number of hours. In addition, residents who meet the State welfare agency exemption requirements would also be exempted. For example, the welfare reform law prohibits States from penalizing a single parent caring for a child under 6 for refusal to work if the parent is able to prove that child care was unobtainable. States can also exempt single parents who are caring for a child under 12 months of age. Lastly, State funded only programs could have additional exemption requirements.

The Committee bill's exemptions would not only make the community service and self-sufficiency requirement consistent with State and local welfare program requirements, but simplify the administrative task in identifying the exemptions.

The Committee bill allows maximum flexibility on how the community service and self-sufficiency requirement can be administered. PHAs and their resident advisory boards should work together in devising a structure, including the option of using residents, to administer this requirement.

It is critical to note that the community service requirement contained in the bill is in no way intended to result in the direct or indirect displacement of public housing employees or to supplant job opportunities within PHAs. The Committee continues to believe that the PHAs themselves are an important source of employment opportunities for the residents of public and assisted housing and others in the community. The Committee commends those PHAs which currently employ persons residing within public and assisted housing. It is vital to stress that the community service requirement contained in the bill vests the ultimate authority for selecting appropriate service with the residents themselves—the PHAs will not have the authority to demand specific work activities in order to fulfill the requirement. The Committee also notes that the community service requirement may be complied with through activities located within the community at large, and not on public housing premises or grounds alone.

The second provision in the Committee bill that promotes personal responsibility relates to the interaction of housing assistance and welfare assistance benefits. Under welfare reform, a significant number of public housing and assisted families will be required to meet State welfare requirements and any change in welfare benefits will affect the family's adjusted income and thus, the amount of resident contribution to rent. This will, therefore, affect the amount of housing benefit provided. Under current housing law, a family's share of rent is reduced when its income declines, including instances where the decline is due to reductions or termination of means-tested benefit programs, such as welfare or public assistance.

To support the States' welfare reform efforts, the bill contains a number of reforms to the current federal rent policy to reward work but to also ensure residents comply with welfare and public assistance requirements. The Committee recognizes that the current rent structure, which generally requires that a family contribute 30 percent of its adjusted income for rent, has created disincentives for residents to work. As discussed previously, the bill would allow residents who obtain employment to keep their earnings by

phasing in rent increases on a gradual basis. But, for cases where residents who have committed fraud or who have not complied with welfare or public assistance program requirements, their housing benefits would not be increased to make up for the reduction in cash benefits. In other words, PHAs would not be required to reduce a sanctioned family's share of rent. This policy will facilitate State welfare reform efforts to ensure that sanctions have real meaning.

The Committee strongly believes that welfare recipients who receive housing assistance should not receive different treatment from welfare recipients who do not receive housing assistance. Further, housing assistance is a significant benefit since only one in four who needs housing assistance actually receives it. Therefore, the Committee believes that those who are receiving such a benefit should assume personal responsibility.

The Committee bill's sanction policy also mirrors what is in the welfare reform law. For example, families are prohibited from obtaining an increase in benefits from a means-tested public assistance program (such as Food Stamps or housing assistance) in cases where a welfare recipient's benefits were reduced due to fraud. The welfare reform law also prohibits an increase in Food Stamps benefits due to noncompliance with a means-tested public assistance program. The Committee bill clarifies that the changes to rental policy due to sanctions for noncompliance and fraud do not apply in cases where welfare benefits are terminated due to the expiration of their benefits under the State's lifetime time limits.

Lastly, the Committee bill encourages greater coordination between housing providers and welfare agencies by requiring PHAs, to the maximum extent possible, to establish cooperation agreements with welfare agencies. The Committee believes that it is important for the PHAs to perform outreach efforts to the State and local welfare agencies so that residents obtain the necessary services and resources recognized under the welfare reform law for self-sufficiency efforts and so that PHAs can focus their efforts and resources on managing their inventory. The Committee also believes that a coordinated approach toward welfare reform could benefit both the welfare agency's efforts in moving people from welfare to work and, thus, improving the economic condition of public housing residents, and the PHA's efforts to stretch operating subsidies as far as possible and to improve living conditions. The cooperation agreements could also facilitate the development of job training and child care centers located in or around public housing developments with PHAs and welfare agencies sharing costs and resources.

Further, the cooperation agreements could be used to transfer information to welfare agencies on rents, income, and assistance to assist the welfare agencies in carrying out their functions such as fulfilling reporting requirements under the welfare reform law. For example, State welfare agencies are required to report to the Secretary of Health and Human Services on what sources of public assistance, including housing assistance, welfare recipients receive.

Eligibility for public and assisted housing

The Committee bill changes the current income eligibility standards for public housing and section 8 assistance. For any public housing units or project-based section 8 units made available for occupancy each fiscal year: (1) not less than 40 percent must be occupied by families whose incomes do not exceed 30 percent of the area median; (2) not less than 75 percent must be occupied by those whose incomes do not exceed 60 percent of the area median; and (3) any remaining units may be made available for families whose incomes do not exceed 80 percent of the area median. For vouchers made available each year: (1) not less than 50 percent must be provided to families whose incomes do not exceed 30 percent of the area median and (2) any remaining assistance must be provided to families whose incomes do not exceed 80 percent of the area median. These provisions apply to new admissions on turnover and to incremental units.

The issue of income targeting raised great concerns by the public housing industry, low-income housing advocates, and HUD. Currently, the income of the average public and assisted housing resident is below 20 percent of local area median, and the vast majority of all public housing residents have incomes below 50 percent. There is widespread agreement that the public housing program needs to serve families with a broader range of incomes both for social and fiscal reasons, but there are significant disagreements on how to achieve the proper mix.

Those representing the public housing industry argued that PHAs should have greater flexibility to make income targeting determinations. The PHAs pointed out that given the imminent cuts in Federal funds for public housing, PHAs will need less stringent income targeting rules to generate more revenues for operation and to achieve greater income diversity.

Both HUD and low-income housing advocacy groups, on the other hand, argued that loosening income targeting rules too much, coupled with the repeal of Federal preferences, will alter the fundamental mission of public housing—to serve low-income families unable to find decent and affordable housing in the private housing market. While the Department also recognized the need to mix working families with those on welfare, it held the position that income targeting rules should allocate 40 percent of the units to families below 30 percent of the area median income, and 90 percent below 60 percent of the area median income. Additionally, it claimed that the revenue earned from rents for families at 60 percent of the median will be substantially the same as revenue earned from households between 60 and 80 percent due to the likely implementation of ceiling rents. The Department was also concerned that the upper limit of 80 percent in the Committee bill was too high for the section 8 tenant-based program and argued that 75 percent of the vouchers should be targeted to those below 30 percent of the area median income while the remainder should be made available only to households with incomes up to 50 percent of the area median.

The Committee believes that the income targeting provisions combined with the repeal of Federal preferences in S. 462 will provide PHAs with adequate flexibility to attract higher income ten-

ants and, at the same time, ensure that a fair portion of the units be made available to the very poorest families in our nation.

The Committee bill also requires PHAs to achieve a diverse mix of incomes in each development including scattered-site public housing and prohibits the concentration of very low-income families in certain public housing developments. The Committee included these provisions to ensure that PHAs strive to create better income mixes in each development rather than continuing to concentrate the poorest of poor in particular public housing developments. At the same time, the Committee does not intend for PHAs to use the more flexible targeting provisions to house only eligible families with higher incomes in the scattered-site projects or the most marketable developments. The Committee bill does not prescribe, and intends for the Department not to prescribe, specific percentages or number of families at each income level that should occupy each project, in order to maximize a PHA's flexibility in achieving income mixes according to local conditions. The Committee intends for the PHA to have maximum discretion to establish its policies and requirements for a diverse income mix according to local needs under the public housing agency plan.

Demolition and disposition of public housing units

The Committee bill modifies the standards in section 18 for demolition and sales of public housing units to enhance the ability of PHAs to remove obsolete, distressed and excessively costly developments. Under the bill, HUD must approve an application for demolition or disposition within 60 days of receipt if the PHA certifies: (1) in the case of a demolition, that the project is obsolete and unsuitable for housing purposes and cannot be made useful for housing by any reasonable, cost-effective program; and (2) in the case of disposition that the conditions in the area adversely affect the health or safety of the residents or the feasible operation of the project; or the disposition allows the acquisition, development or rehabilitation of other properties that will work better as low-income housing; or that the non-dwelling property is in excess of the PHA's needs.

In addition to streamlining the approval process, the Committee bill removes the counterproductive requirement that any units demolished or sold be replaced on a one-for-one basis. The one-for-one replacement requirement has been one of the major impediments to eliminating the most distressed public housing and revitalizing public housing communities. Because there typically have been no funds to fulfill the requirement, as well as an insufficient number of suitable sites for replacement housing, the one-for-one replacement requirement has simply prevented the demolition of obsolete and dangerous projects.

In order to safeguard the interests of residents living in developments proposed for demolition or disposition, the Committee bill includes provisions that ensure that displaced residents receive payment for relocation expenses, are offered comparable housing, and are provided with necessary counseling to find such housing. The Committee bill also requires that an application be developed in consultation with residents affected by the demolition or disposition.

The Committee bill also provides any eligible resident organization, or nonprofit organization acting on behalf of residents, a right of first refusal in appropriate circumstances if a PHA proposes to sell a public housing project or portion of a project. If a resident organization expresses written interest in purchasing a property, no sale may occur for 60 days in order to give the organization the opportunity to obtain a firm commitment for financing the purchase of the property. While the Committee believes it is important to give residents a fair opportunity to purchase properties for their future use, it is also not the intent of this provision to be used to slow down or obstruct the sale of a property where its retention is not in the best interests of the residents or public housing agency.

The Committee believes that these new provisions will go a long way toward improving public housing communities by giving PHAs greater flexibility in removing obsolete housing that has been a financial drain and threat to the health, safety, and welfare of public housing residents.

The Committee also urges HUD to enter into partnerships with PHAs and nonprofit organizations in disposing of the HUD-owned or held multifamily housing stock for use as affordable housing. The sale of this housing at a nominal cost or for free will help ensure the continuing availability of affordable, low-income housing at little cost to the Federal government.

Voucher system for public housing

The Committee seriously considered proposals to convert the public housing system to a market-based system of tenant-based assistance. The Committee strongly supports the concept of residential choice embodied in the voucher program, and this legislation is committed to ensuring that tenant-based section 8 assistance is effective in meeting the housing needs of lower income households. In addition, the Committee is committed to safeguarding the Federal taxpayers' $90 billion investment in the nation's public housing inventory and assuring its continued availability for helping to meet the affordable housing needs of low-income households.

The Committee believes that a total conversion to a voucher system is a "one-size-fits-all" approach that is not appropriate or will not work in all markets or in all circumstances. For example, a June 1995 study by the General Accounting Office determined that while nationwide the cost of vouchers versus the cost of operating public housing is similar, the averages conceal wide differences in these two options in different market areas. Further, while voucher success rates are generally high, the Committee is concerned that voucher utilization rates also vary widely around the country, which calls into question the viability of converting the entire stock of public housing to vouchers. The Committee has attempted to provide a framework for assessing the relative costs of tenant-based assistance and public housing so that PHAs can make informed judgements about their policies.

The Committee bill generally requires all PHAs to conduct an assessment comparing the costs of continuing to operate each of the projects as public housing with the costs of converting to and operating a system of tenant-based assistance. The required assess-

ments include: (1) a comparison of the costs of continuing operation of the units in question for their remaining useful life as public housing to the costs of providing tenant-based assistance in substantially similar units over the same period of time; (2) an analysis of the market value of the project both before and after rehabilitation and before and after conversion to a system of tenant-based assistance; (3) an analysis of local rental market conditions and the likely success and feasibility of providing tenant-based assistance for the specific residents of the project in question, including an assessment of the availability of decent and safe dwellings rented at or below the payment standard established by the entity administering tenant-based assistance in the local area; and (4) an assessment of the impact of a conversion on the neighborhood where the project is located (taking into account such circumstances where projects act as anchors of their communities).

HUD may provide a waiver of the assessment requirement as a result of a request by a PHA or HUD's own authority. In addition to the waiver authority, HUD may allow PHAs, in certain circumstances, to perform a streamlined assessment, either as a result of a request by the PHA or HUD's own authority. HUD may provide a waiver or otherwise provide for a streamlined assessment for specific projects or classes of projects such as those designated as elderly housing, disabled housing, or elderly and disabled housing, scattered-site, or mixed-finance projects. HUD may provide a waiver or provide a streamlined assessment to PHAs that are not planning to convert, are small PHAs, or are large PHAs where conducting an assessment for each of its projects would constitute an unnecessary burden. In these cases, HUD may provide for a streamlined assessment which may include less detail, or allow for a single PHA-wide assessment or allow for consolidated assessments for multiple substantially similar projects.

The broad authority granted to HUD to waive or provide for a streamlined assessment is based on the Committee's intent to avoid placing a burdensome and unfunded mandate on PHAs. It is the Committee's intent that the assessments conducted under this section may be based on existing data and shall not require expensive new appraisals. Nevertheless, the Committee feels that the assessments conducted under this section will provide a useful and invaluable source of data on which the Congress, HUD, and the PHA will be able to draw upon in order to make informed decisions concerning the future of the public housing portfolio. HUD is urged to develop a mechanism for collecting, aggregating, and analyzing the data in the conversion assessments.

The Committee bill provides an option to PHAs which conduct a conversion assessment to develop a plan to convert a public housing project or portion of a project to a system of tenant-based assistance. In order to implement such a plan, the PHA must demonstrate that the conversion would principally benefit the residents, the PHA, and the community and that the costs of providing families occupying the units in question with vouchers would not be more expensive than continuing to operate the units as public housing. HUD may disapprove a plan where it is plainly inconsistent with the findings of the assessment or with reliable data and information known to HUD.

The Committee bill requires the assessments and plans conducted under this section to be made in consultation with public officials and with the significant participation of the affected residents. In addition, the assessments and plans must be submitted as part of the applicable public housing agency plan and must comply with the requirements of the plan including timing, notice, hearing, opportunity for public comment, review by the resident advisory board, consistency with the local CHAS, and review and approval by HUD.

The Committee feels that providing an option to convert to tenant-based assistance will provide an added incentive for PHAs to perform well and maintain safe and decent living conditions, particularly in light of the possibility that residents and local governments may bring added pressure on PHAs to improve their operations or exercise the option to voucher out.

Repeal of family investment centers

The Committee bill repeals the current section 22 of the 1937 Housing Act which provides for the creation of Family Investment Centers. Consistent with the Committee's goal of program consolidation, the establishment of similar programs for the benefit of residents becomes an eligible activity under a new section 33 supportive services program.

Repeal of Family Self-Sufficiency Program

The Committee bill repeals the requirement for PHAs to develop a family self-sufficiency program. While the Committee strongly supports the goals and concept of the Family Self-Sufficiency Program and encourages PHAs to adopt such programs, where feasible, the Committee was concerned that the program became an unfunded mandate on PHAs with no separate appropriation available for program administration. Therefore, the Committee bill repeals the program and makes it an eligible activity under the new block grants. In addition, self-sufficiency activities may be funded under the new program for supportive services and resident empowerment activities in section 33. Existing family self-sufficiency programs are maintained to the extent that there are any existing contracts or agreements made under this program.

Homeownership opportunities

The Committee bill repeals section 5(h) of the 1937 Housing Act but adds a new, more flexible provision in section 23. Section 23 authorizes a PHA to sell any of its units to its low-income residents or to a conduit organization for sale to residents. The sales price is determined by the PHA in accordance with its plan, and the proceeds must be used by the PHA for purposes related to low-income housing. The legislation also contains a resale restriction to prevent purchasing residents from gaining a windfall if they resell the property within one year. The Committee patterned the new homeownership provision according to the section 5(h) program which has proven to be a highly successful program for assisting public housing residents in becoming homeowners.

In order to expand the opportunities for resident homeownership, the Committee includes a provision that allows a PHA to use its

operating or capital funds as well as any other sources of income to provide assistance to residents to purchase a home. Such assistance is intended to help low-income families who are financially capable of becoming homeowners, but lack adequate savings to purchase a home. Assistance is intended to include downpayment assistance, below market interest rate loans, closing cost assistance and other financial assistance to bridge the gap to homeownership. Residents may receive such assistance to help them purchase either a public housing unit or a single family house, condominium or cooperative unit owned by a public or private entity.

The Committee strongly supports the expansion of homeownership opportunities for residents of public and assisted housing to provide incentives for upward mobility and economic self-sufficiency.

Severely distressed public housing

The Committee recognizes the value of retaining a severely distressed public housing program, similar to HOPE VI, for two additional years. HOPE VI provides grants to public housing authorities for the demolition and replacement of severely distressed public housing. The National Commission on Severely Distressed Public Housing estimates that 86,000 out of a total inventory of 1.4 million units nationwide are severely distressed. This program provides local authorities with the flexibility they need when determining which developments need to come down and where they are located. HOPE VI represents efforts to remake public housing into the type of housing envisioned throughout this bill. The new developments will be less dense, include greater income mix and integrate services for low-income residents. Extending this program two more years will enable housing authorities with projects in progress to finish the work in progress. This program provides necessary and large capital grants to tear down obsolete public housing which would normally be too costly under the Capital Fund.

Mixed-finance projects

The Committee bill addresses many of the issues faced by PHAs that are working with private partners to create mixed-income and mixed-finance developments, often in HOPE VI or in other endeavors to replace or reconfigure obsolete developments. The Committee has broadened significantly the ways in which a PHA can develop housing to replace its obsolete stock or to respond to needs identified in its public housing agency plan. The bill authorizes PHAs to form public-private partnerships with private for-profit or nonprofit entities to develop affordable housing that serves residents with a broad range of incomes and avoids concentrations of poverty. A PHA can invest its capital funds and deploy its operating subsidies in such mixed-income developments to provide opportunities to those it serves to live in more socially diverse, stable housing communities. For example, the Committee bill allows a PHA to form a public-private partnership, to transfer some of its operating subsidies to fund public housing units in a building owned by that partnership, and to convert the previously subsidized units owned by the PHA to market rate units (so long as the number of subsidized public housing units remains the same). The Committee in-

tends this provision to include partnerships that could also include State or local public partners.

Under the Committee bill, a PHA can also elect to remove itself from day-to-day real estate management by turning that task over to its private partners or other contractors, thus enabling the PHA to be an asset manager for the community's low-income housing needs. These arrangements will bring into play resources beyond those of public housing, such as private investment, low-income housing tax credit proceeds, HOME funds, CDBG funds, and State and local programs. With the decline in Federal funds dedicated to the operation and maintenance of public housing, these added resources will assist in removing old, obsolete public housing and creating additional housing opportunities for low-income families in more stable environments.

The Committee bill also seeks to encourage public-private partnerships and simplify the creation of mixed-finance developments by allowing a PHA to elect to exempt the units assisted by it from the often cumbersome requirements of section 6(d) of the 1937 Housing Act relating to cooperation agreements and payments in lieu of taxes. Instead, the units could be made subject to the same real estate taxes as apply to the rest of the development where such a choice facilitates the mixed-finance development.

Conversion of distressed public housing to tenant-based assistance

The Committee believes that a high priority of public housing reform should be to protect tenants who are currently trapped in non-viable or seriously substandard public housing developments.

The Committee bill requires PHAs to identify developments in their inventory that are distressed and remove them from the public housing inventory. Distressed housing is defined according to criteria in the Final Report of the National Commission on Severely Distressed Public Housing. It includes developments where the PHA cannot assure the long-term viability as public housing and where the cost of continued operation and modernization of the property exceeds the cost of providing section 8 vouchers for all families in the development. The Committee intends that HUD have reasonable discretion to determine which criteria are applicable. PHAs are required to develop a five-year plan to remove all such distressed housing from their inventory. If a PHA fails to develop the required plans and implement them appropriately, HUD is given the authority to step in. The Committee stresses, however, that most decisions concerning public housing conversions are local decisions and that HUD should get involved only in circumstances where it is obvious that the PHA is acting incompetently, in bad faith, or making decisions that are detrimental to residents.

While the Committee fully expects PHAs to eliminate the most distressed public housing stock that currently traps people in dangerous situations, it also recognizes the current budgetary, relocation, rental market, and redevelopment scheduling constraints that may make it difficult to dispose of such housing immediately and provide replacement housing for families in occupancy. Therefore, the Committee bill allows HUD to extend the 5-year deadline but only if the 5-year deadline is impracticable.

In order to safeguard the interests of residents living in developments identified for conversion, the Committee bill includes provisions that ensure that displaced residents receive payment for relocation expenses, are offered comparable housing, and are provided with necessary counseling to fund such housing.

Linking services to public housing residents

The Committee bill authorizes a new program in section 33 to allow HUD to make grants to PHAs, resident management corporations, resident councils, or resident organizations for supportive services and resident empowerment activities to assist public housing residents in becoming economically self-sufficient. Except for funds provided directly to resident councils, funds may be allocated on the basis of either a competition or a formula. The intent of this provision is to consolidate the numerous existing set-asides, demonstration programs, and categorical grants involving resident empowerment into a single program that emphasizes services and self-sufficiency on behalf of residents.

Resident management corporations and resident councils have been funded in the past for the purpose of exploring the feasibility of resident management of public housing and for developing resident capacity so that such management might be possible. Resident management has been quite successful in many public housing developments throughout the country and should be encouraged to continue and expand wherever possible. Evaluations of resident management programs have shown, however, that the program has worked most effectively when focused on the broader goal of self-sufficiency and economic up-lift rather than just resident management of public housing.

Therefore, the expanded program gives PHAs, RMCs, RCs, and other resident organizations financial assistance for: physical improvements to a public housing project to provide space for supportive services; the provision of service coordinators; the provision of services related to work readiness; resident management and participation activities; economic and job development; and other activities designed to enhance the self-sufficiency of residents. The Committee intended to allow a broad range of eligible activities in order to give grant recipients the opportunity and flexibility to design innovative programs to enhance the economic independence and self-sufficiency of residents.

The Committee bill requires that for funds appropriated under this section, a certain amount be provided directly to resident organizations to ensure that they are actively involved in the development and implementation of these programs.

The Committee is concerned by recent reports of misuse of funds in the current Tenant Opportunity Program, and urges HUD to take prudent steps to ensure the accountability of funds provided under this program.

Pet ownership

For many years, residents of federally assisted housing designated for the elderly and disabled persons have been allowed to own "common household pets," such as dogs, cats and birds, according to regulations issued pursuant to Section 227 of Public Law 98-

181. It has been demonstrated, particularly with respect to the elderly, that pet ownership can add to the quality of life of individuals, families and communities. This bill extends this privilege of pet ownership to residents of other federally assisted rental housing (i.e., public housing and federally assisted, project-based rental housing), subject to reasonable requirements of the owners, if the resident maintains each pet responsibly and in accordance with applicable laws and regulations.

The Committee recognizes that owners and managers of federally assisted rental housing have an enormous responsibility to provide safe and clean living environments for their residents, and they are legitimately entitled to regulate the conditions of pet ownership. S. 462 permits owners to establish pet policies appropriate for their properties. For example, residents wishing to keep pets may be charged a nominal monthly fee, a reasonable pet deposit, or both. In addition, the bill establishes as a condition of ownership compliance with applicable State and local public health, animal control and animal anti-cruelty rules and regulations.

Further, it is fair to ask pet owners to comply with other reasonable pet ownership requirements of their housing developments as practiced by private market rate owners. These may include appropriate limits on the number, size and type of animals any one resident may own or keep. In the Committee's view, it is also appropriate for owners to require the spaying or neutering of dogs and cats, to limit pet density, and to establish appropriate standards of veterinary care as conditions for ownership.

The Committee intends that the pet ownership provisions of S. 462 shall take effect after notice and comment rulemaking by HUD, and expects that such rulemaking will be forthcoming in a timely manner. In addition, the Committee expects that public housing agency plans will address the conditions of pet ownership.

Title II—Section 8 Rental Assistance

Overview

Tenant-based section 8 rental assistance has become a very effective and powerful means of meeting the housing needs of low-income families. To date, the programs have successfully assisted well over a million families in obtaining affordable, quality housing in the private market. Unlike public housing, the flexibility and portability of these programs have empowered families to choose where they live based on personal and economic needs. According to a recent congressionally mandated study, about 87 percent of tenant-based section 8 subsidy holders (excluding New York) successfully obtain housing, and success rates have steadily increased in recent studies. Studies have also found that recipients of tenant-based rental assistance were less likely than public housing residents or unassisted low-income families to live in concentrated poor urban communities; however, the Committee is concerned that concentration of poor and minority households has also occurred in the tenant-based program.

Despite the success of the section 8 certificate and voucher program, the process in obtaining housing has been often demanding and difficult, and landlord acceptance of section 8 has been limited

in some areas. Also, tenant-based section 8 has been less well-accepted in tight housing markets. The Committee recognizes that reforms are critical to address these deficiencies and intends that the bill's reforms will make the program operate so that low-income families can use section 8 to rent affordable housing more widely in the private market. These reforms are especially important as the Congress considers measures that expand the use of tenant-based assistance as an alternative means of providing affordable quality housing. For example, the public housing reforms of the Committee bill will provide some public housing residents with tenant-based assistance in cases where distressed public housing is sold or demolished. The Committee also believes the section 8 reforms are necessary to assist residents in multifamily properties insured by the Federal Housing Administration where owners prepay their mortgages and convert their properties to market rate. As the Committee considers broader reforms to HUD's assisted housing programs including the conversion of certain project-based assistance to tenant-based assistance, this bill's reforms will allow vouchers to work more effectively.

In the Committee's view, the administrative reforms to tenant-based section 8 programs contained in S. 462 are critical to the effectiveness and efficiency of the program. By combining the best features of the section 8 voucher and certificate programs into a single voucher program, the reforms provide housing agencies the flexibility to design their programs tailored to local needs while ensuring an adequate level of accountability to residents, local governments, and the Federal government. A more streamlined program will encourage more private owners to participate, provide section 8 families with a greater selection of housing choices, and increase the success rate in obtaining quality affordable housing. The Committee urges HUD to collect the appropriate data to monitor the effects of the reforms in this bill on the success rate for section 8.

The section 8 certificate and voucher programs were created separately in 1974 and 1983, respectively. The programs currently serve about 1.4 million low-income families. About 2,500 State and local housing agencies administer the section 8 programs. HUD has entered into about 30,000 multi-year contracts with these housing agencies to operate these programs. Housing agencies are responsible for determining household eligibility, selecting families and individuals to receive subsidies, contracting with landlords whose rental units have been selected by the subsidy holders, and determining that units meet rent and housing quality standards.

Housing agencies and HUD have been administering two separate programs with similar statutory requirements, rules, regulations, and funding notices. While most requirements are the same for both programs, significant differences still exist. For example, except in limited circumstances, certificate holders cannot pay more than 30 percent of their income for rent. Under the voucher program, however, assisted households can pay more or less than 30 percent of their income for rent, and voucher holders have a "shopping incentive" to seek lower-cost apartments. The Committee bill merges the existing certificate and voucher programs into a single, market-driven, streamlined program that embraces the best fea-

tures of both programs. Many reforms are modeled after S. 2281, which the Committee approved in 1994. Other changes are based on studies by and discussions with HUD, PHAs, the General Accounting Office, and low-income housing providers and advocates.

Merger of certificates and couchers

Under the Committee bill, the existing certificate and voucher programs are merged into a single voucher program under a revised section 8(o) of the 1937 Housing Act. The new voucher program retains the current program administrative system used under the existing certificate and voucher programs since the current administrators (public housing agencies and state agencies) understand the intricacies of the programs, the local market they operate in, and the clientele they serve. Using the existing administrative structures will ease the transition to a merged program.

The new voucher program also retains certain features of the current certificate and voucher programs while providing additional flexibility to housing agencies to respond to local market conditions with minimal Federal involvement. For example, the Committee bill allows housing agencies to set a payment standard between 90 percent and 110 percent of HUD's fair market rents (FMR). This flexibility will allow housing agencies to react more quickly to changing real estate markets than is possible under the current certificate program's FMR system.

In general, the value of the subsidy is the difference between the payment standard and 30 percent of a tenant's adjusted income. An assisted family's monthly rent is the highest of 30 percent of adjusted income, 10 percent of gross income, or if a family is receiving welfare assistance designated for housing, the portion of those payments that is so designated. If the initial rent on a unit exceeds the payment standard, the assisted family is responsible for paying the difference up to 40 percent of income. However, this provision only applies to the initial rent, and an assisted family can pay more than 40 percent of income towards rent when rents are increased.

Eligibility

Eligibility for tenant-based assistance remains essentially the same as current law and includes very low-income families, previously assisted families, low-income families, families that qualify under a homeownership program, and eligible families under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA). The new voucher program recognizes that certain low-income families, such as working families that need temporary housing assistance, deserve to participate in the section 8 program. The Committee, however, intends that housing agencies will continue to serve a significant number of very low-income families in response to local housing needs. Accordingly, the bill establishes minimum targeting requirements where 50 percent of new vouchers, both incremental and turnover, would be dedicated to families with incomes at or below 30 percent of area median income and the rest to families below 80 percent of area median. These targeting standards are established under a revised section 16 of the 1937 Housing Act found under Title I of this Act.

Rent burden

The new voucher program retains the feature of the current voucher program that allows assisted families to pay rent levels of more than 30 percent of adjusted income while setting reasonable parameters on initial rent burdens. Assisted families are allowed to rent a unit above the payment standard. The tenant rent contribution, therefore, could be higher than 30 percent of adjusted income. However, the Committee bill limits the rent burden upon move-in at 40 percent of adjusted income. This would prevent assisted families from paying excessive rent burdens, which has occurred under the current voucher program. The Committee is very concerned that a considerable number of current voucher holders that have moved or been newly admitted to housing units are paying excessive amounts of income for rent. This may be due to artificially low payment standards which do not reflect local rental rates, improper monitoring of rent levels by PHAs, or other factors. The Committee expects HUD to evaluate why this has occurred and to monitor the rent burdens under the new voucher program.

To balance the Committee's concern of excessive rent burdens with local flexibility, the Committee bill gives housing agencies the discretion to set payment standards between 90 and 110 percent of the FMR without HUD's approval. Current law for vouchers restricts the payment standard between 80 and 100 percent of the FMR, with some exceptions up to 120 percent with HUD approval. The bill also gives HUD the discretion to require housing agencies to submit their proposed payment standard for approval if the housing agencies propose to set payment standards below 90 percent of the FMR or above 110 percent of the FMR. The Committee believes that it is important to allow some flexibility in setting the payment standard above the FMR so that voucher holders will have more housing choices. Further, the Committee recognizes that recent changes to the calculation of the FMR have lowered the FMR value, which have restricted housing choices for section 8 families.

The Committee bill also requires HUD to monitor rent burdens and to review any payment standard that results in a significant percentage of assisted families paying more than 30 percent of adjusted income for rent. Housing agencies are required to modify the payment standard if the results of the review establishes that the payment standard is too low for a particular market and that too many voucher holders will have to pay an excessive percentage of their income for rent.

Preferences

The Committee bill repeals preferences for all project-based and tenant-based section 8 programs and allows housing agencies to establish local preferences consistent with their public housing agency plan. Local flexibility in establishing preferences for housing assistance has the benefit of allowing local housing agencies to respond to their community needs. The Committee believes that locally established preferences would be determined after a comprehensive and careful review of the locality's housing needs, which would include the needs of vulnerable populations such as the elderly, disabled, homeless, and very low-income families.

Increasing owner participation

One of the key factors to the success of the tenant-based rental assistance program is the ability to attract property owners and managers to participate in the program. Owner participation plays a significant role in providing a broad range of housing choices for assisted families. The history of section 8 has shown, however, that private owners and managers have been reluctant to participate, in large part because of time-consuming and costly program requirements which conflict with normal market practices. In fact, a recent survey found that owners and managers representing about 53 percent of private multifamily housing properties would accept section 8 subsidies. Some program requirements have constrained the ability of owners to make rational business decisions. For example, the "take one, take all" rule requires landlords who rent to one section 8 recipient to rent to all otherwise qualified section 8 recipients and not refuse to lease to such recipients because they receive section 8 assistance. Further, section 8 leases have no set terms and section 8 landlords are required to renew leases for section 8 tenants (the "endless lease" rule).

The Committee bill reforms section 8 to make the program operate like the unassisted market as much as possible while maintaining the program goals of providing low-income families with decent and affordable housing. The Committee expects that these changes, combined with landlord outreach efforts conducted by housing agencies as part of their program administration, will greatly expand the choice and availability of housing units.

The key reforms that encourage greater owner participation include providing flexibility in resident screening and selection, minimizing housing agency involvement in tenant-owner relations, eliminating the "take one, take all" and "endless lease" rules, and conforming section 8 leases to generally accepted leasing practices. These reforms streamline and simplify the program by reducing the involvement of the Federal government and housing agencies. The Committee recognizes that rules such as "take one, take all" and the "endless lease" were created to protect assisted households from owner discrimination. The Committee, however, does not anticipate that the repeal of these rules will adversely affect assisted households because protections will be continued under State, and local tenant laws as well as Federal protections under the Fair Housing Act and the Americans with Disabilities Act. The intent of the repeals is not to excuse discrimination against section 8 holders but to remove disincentives for owner participation and to expand the number of housing choices available to section 8 families. These provisions in this bill are predicated, in part, on representations by assisted housing owners and associations that these changes will, in fact, expand the supply of affordable housing.

Lease conditions

The Committee bill recognizes that the lease conditions under the current section 8 programs have deterred private owners from participating in the programs because they require owners to treat assisted residents differently from unassisted residents. The Committee bill reforms the lease conditions to make the new voucher program operate as much like the unassisted market as possible.

The most significant change is the elimination of the "endless lease" rule, which has prevented an owner from terminating a section 8 tenancy unless the owner instituted court action. The new voucher program permits the use of section 8 leases that are similar to a standard market lease. The Committee bill specifies that the use of standard market leases be the same as those used in the locality, contain terms and conditions that are consistent with State, and local law, and are also applicable to unassisted residents.

Lease terms of one year are permitted under the Committee bill and shorter term leases in cases where housing choices would be expanded for section 8 holders and if such shorter terms are considered to be acceptable local market practice. The Committee does not expect that the use of lease terms shorter than one year would be used frequently and safeguards against this by requiring the approval of the housing agency. The Committee recognizes that some small private owners use six month term leases as standard practice and that assisted families should be allowed access to such housing. However, the Committee intends that rental assistance under the new section 8 voucher program be used only as a permanent housing resource and not be diverted for temporary housing purposes.

The Committee bill also allows owners to terminate the tenancy on the same basis and in the same manner as they would for unassisted tenants in the property. Lease terminations would have to comply with applicable State, and local law. Further, owners are required to provide written notice to the tenant, which would specify the reasons for terminating the lease.

Repeal of the 90-day notice requirement

The new voucher program will no longer require that a participating owner provide a 90-day notice to HUD when it intends to terminate a section 8 contract. This requirement has been a meaningless paperwork burden on HUD and owners by involving HUD in the owner's termination of section 8 contracts. This has discouraged owner participation and hurt the program's effectiveness. Where an owner terminates a contract, section 8 assistance will ordinarily continue to be provided to families.

Housing inspection procedures

The new voucher program retains current requirements for a housing agency to inspect units to assure that they meet housing quality standards (HQS). The Committee bill, however, makes inspection procedures more flexible by allowing inspectors to use local housing codes or housing codes adopted by public housing agencies instead of HUD's HQS. These two optional codes may only be used if they equal or exceed HUD's HQS and do not severely restrict housing choice. The Committee recognizes that in some cases the optional codes may have excessive housing requirements and, therefore, may limit housing choices. In these cases, the optional codes should not be used.

The Committee bill also requires that the Secretary designate another entity to make inspections and rent determinations for units that are owned by PHAs. The intent is to prevent a conflict

of interest for PHAs. The Committee expects that HUD would consider a variety of entities in addition to local government agencies, such as nonprofit and private sector contractors, to perform this function.

Housing quality inspections would be required before lease-up and at least annually thereafter during the section 8 contract term. The intent is to provide some flexibility for housing agencies in performing inspections in response to different housing circumstances. The Committee emphasizes the importance of ensuring that the government is subsidizing quality housing units, and this provision is not intended to compromise this goal. Further, this provision does not preclude housing agencies from performing inspections more frequently than annually for certain circumstances where the unit's physical condition has been damaged due to vandalism, disasters, or other special circumstances. The Committee expects that housing agencies will develop policies and procedures to ensure that timely inspections are performed to safeguard the physical condition of units occupied by section 8 residents without overburdening owners.

Late payments

Housing agencies are required to make timely payments of rent to owners or they will be subject to penalties in cases where they are responsible. To ensure that late payments are not funded out of subsidy allocations, the Committee bill requires that late payments be paid from the housing agency's administrative fees. The Committee recognizes, however, that in some instances, late payments are not due to the housing agency but to factors beyond their control. If HUD determines that late payments are due to factors beyond the control of the housing authority, no penalty would be assessed.

The Committee believes that HUD should closely monitor the frequency of late payment penalties for housing agencies and consider strong sanctions for such housing agencies that repeatedly and consistently fail in making timely payments. One possible sanction is to contract the administration of the program to another entity.

Assistance for manufactured housing

Tenant-based rental assistance will continue to be provided to families who own a manufactured home and rent the property on which it is located. Housing agencies would establish a payment standard which could not exceed an amount established or approved by HUD. The Committee encourages HUD to rely more on local rental cost data for manufactured home properties in lieu of establishing separate FMRs.

The calculation for the subsidy payment to manufactured homeowners who rent their property is revised to provide a more generous subsidy amount based on a less complicated formula. This calculation uses the same subsidy determination like that used for housing assistance payment for other tenant-based units in the new voucher program by basing the subsidy on the real property rented, plus an allowance for any tenant-paid utilities. The mort-

gage payment would be excluded from the original formula calculation.

Shopping incentive

The existing voucher program contains a "shopping incentive," whereas the certificate program does not. The purpose of the shopping incentive was to provide assisted households the monetary incentive to seek the lowest possible rent by allowing the tenant to keep the difference between the rent and the payment standard. If tenants could lower their housing costs, they would then have additional money available for other uses, such as food, health care, or transportation. Also, the shopping incentive was expected to prevent inflation in rents.

The Committee bill eliminates the shopping incentive. The Committee believes that this will reduce Federal costs for the tenant-based programs since about one-third of voucher holders in fact do not shop for the best buys but actually remain in the units that they already occupied prior to receiving assistance. If the shopping incentive were continued, the average shopping incentive for those that receive it would be about $1,100 per year. Some have argued that eliminating the incentive would persuade assisted families to move to more expensive units. However, a 1990 study by Abt Associates found that more than one-third of all certificate holders, who do not receive a shopping incentive, rented units below the FMR. Therefore, the comparison between the certificate and voucher programs have found that the shopping incentive did not appear to persuade families to select the best buys. Furthermore, HUD has not found any evidence that the shopping incentive helps to prevent inflation in rents. Excess subsidy saved from eliminating the shopping incentive could be used to assist more families.

The Committee recognizes that whether families receive housing assistance or not, they do not make housing choices based on cost alone. Other factors such as distance to work and families, crime activity, and transportation play a role in where a family elects to live.

Portability

One of the most distinctive features of the tenant-based program is the ability to use the rental assistance in a variety of communities and neighborhoods. The Committee believes that assisted families should have the maximum flexibility in choosing where to live. The new voucher program promotes portability for assisted families to fully explore and select from a multitude of housing options.

The portability feature under the new voucher program allows assisted families to move anywhere within and outside a PHA's jurisdiction. The Committee bill recognizes that the section 8 program is a national program and therefore reforms the program to allow portability anywhere in the country where the program is being administered. National portability will also permit voucher holders to respond to job and educational opportunities and other significant changes in their lives without loss of subsidy.

The Committee recognizes that when assisted families leave their jurisdictions, an enormous administrative burden for PHAs is

created. Therefore, in order to make the portability feature work more effectively and efficiently, the Committee bill authorizes HUD to establish procedures and reserve funds for compensating PHAs that issue vouchers to families that move into or out of another PHA jurisdiction. This provision should resolve these administrative difficulties created by billing receiving jurisdictions.

The Committee expects that these changes combined with intensive counseling for voucher holders will make mobility easier for families while addressing the PHAs' concerns in administering the portability feature. The Committee is aware that some metropolitan-wide jurisdictions have dealt with the administrative problems effectively, but in other locations PHAs have discouraged families from exercising their portability rights. The Committee expects that PHAs will develop procedures to make the portability feature work effectively.

Homeownership option

Section 8 currently requires PHAs to make the homeownership option available to tenant-based assisted families through cooperative housing. The present law allows assisted families to use this option if they meet certain employment and income criteria such as being a first-time homeowner and participant in the PHA's Family Self-Sufficiency (FSS) program. However, the current section 8 homeownership program has significant statutory limitations that make it an ineffective tool for achieving homeownership.

The Committee believes that the homeownership option has the potential to serve as an effective tool for expanding housing choices and residential mobility for assisted families. The bill amends section 8 in several ways to make the program more flexible and operable for housing agencies to administer. First, it allows a family to receive section 8 assistance for homeownership through shares in a cooperative housing development or through lease-purchase arrangements, whether or not the family is a first-time homeowner. Second, the assistance formula for families receiving assistance for homeownership is modified to make it similar to the tenant-based rental assistance formula. Third, the bill removes a complicated provision for recapturing the reduction in the household's share of housing cost resulting from the exclusion of home equity from income. Finally, the requirement that at least 80 percent of the downpayment amount must come from the homebuyer's own resources is eliminated.

The reforms to the homeownership option will help in making the program easier to implement and administer. Since the program is optional for PHAs to administer, the Committee bill allows PHAs to contract with nonprofit organizations to administer the program. The Committee provides this option because some PHAs may not be interested in or capable of running a section 8 homeownership program. The Committee encourages PHAs to inform assisted families of this homeownership option and foster the implementation of this program whether the PHA administers or contracts out the program.

Repeal related to single room occupancy (SRO) facilities

In an effort to streamline the 1937 Housing Act, many obsolete or unnecessary provisions are repealed, including one which allows tenant-based assistance to be used for housing units without a kitchen and/or bathroom. These units are often in SRO facilities and are an important permanent housing resource for single people who have been homeless. HUD's Office of General Counsel has determined that no special legislative authority is required to allow tenant-based assistance to be used for SROs. The repeal of this provision is intended in no way to prohibit or inhibit tenant-based assistance in SROs.

Repeal of Moving to Opportunity Program

The Committee bill repeals the Moving to Opportunity Demonstration program (MTO), which was created in the Housing and Community Development Act of 1992. The goal of the program, which was modeled after the Gautreaux experiment in Chicago, was to provide counseling and tenant-based section 8 assistance for low-income households to move from poverty-concentrated neighborhoods to areas with lower poverty rates. Section 8 certificates and vouchers were provided to families in conjunction with funding for tenant counseling and landlord recruitment by fair housing and community-based organizations.

The Committee is not convinced that MTO has achieved its original goal of assisting low-income families to move to housing that provided more economic and social opportunities. Instead, the program has been plagued by poor implementation that has created opposition to it in numerous communities. Further, the Committee believes that some of the opposition to the program has resulted from the perception that HUD is attempting to transform a program designed to complement the voucher program into a much broader, social experiment for dispersing low-income families to middle-income suburban neighborhoods. Moreover, the Committee believes it is wrong to require low-income families to move to certain neighborhoods. Families will be empowered when provided with information which provides real housing options through informed choice.

The Committee recognizes that assisted housing programs have both real and perceived impacts on inner cities, abutting communities, and suburban neighborhoods. In the Committee's view, the reforms proposed to the section 8 program—to eliminate some of the barriers to landlord participation, to encourage homeownership and work, and to screen applicants for criminal or drug histories—will help promote wider acceptance of the section 8 program.

Finally, the Committee also expects that some functions of the MTO program, such as tenant counseling and screening and landlord outreach can and will be performed regularly by PHAs as part of their administrative functions. The Committee encourages HUD to monitor these efforts through its review of the management performance of section 8 administering housing agencies. In addition, the Department may continue to evaluate the MTO program and report on the results.

Implementation

The transition period for merging the existing certificate and voucher programs will require thoughtful and careful planning and discussions with housing agencies, owners, section 8 tenants, and other interested parties. A General Accounting Office (GAO) study of merging the two programs pointed out that during a transition period, HUD and housing agencies would have to administer three programs—the certificate program, the voucher program, and the new merged program. Accordingly, negotiated rulemaking procedures will be used to develop regulations to implement the new voucher program. After the regulations for the new voucher program are implemented, HUD will be allowed to continue to apply former law where necessary to simplify the program administration or to avoid hardship to assisted families and owners. The Committee believes that the coordination and cooperation of all parties will be important in ensuring a smooth merger.

Recapture and reuse of section 8 reserves

The Committee bill provides HUD with the authority to recapture and reuse housing agency project reserves of unused or excess tenant-based section 8 funds for purposes of amending current housing assistance contracts or renewing expiring housing assistance contracts. With this authority, HUD would be able to redistribute recaptured section 8 reserve funds to any housing agency.

HUD currently allows housing agencies to retain unused or excess section 8 funds as contingency funds for future use. HUD believes that this policy allows housing agencies to cover unexpected program cost increases or other contingencies. These reserves have grown in recent years due to a budgeting procedure which allocates funding to housing agencies based on the assumption that assisted families would have no income and, therefore, make zero rent contributions. The reality, however, is that many residents have earned income and have been generally contributing 30 percent of their income for rent.

In recent years, the Department has been attempting to reconcile section 8 contract accounts to determine the amount of unused funds in the housing agencies' project reserves. HUD identified about $1.6 billion in unspent section 8 funds as of the end of fiscal year 1996. It was later determined by the Secretary of HUD that this amount could be as high as $5.8 billion; however, the Secretary has stated that the actual amount has not been completely reconciled.

The Committee was surprised by the amount of reserves uncovered. The Committee strongly believes that these excess funds should be used for renewal purposes only. The cost of renewing all expiring section 8 contracts will grow from $10.2 billion in fiscal year 1998 to over $20.7 billion in fiscal year 2007. The cost of renewing expiring tenant-based section 8 contracts alone will grow from $8.1 billion in fiscal year 1998 to $12.9 billion in fiscal year 2007. The Committee urges HUD to complete its efforts in reconciling these funds and keeping the Committee regularly informed of its progress.

Title III—Safety and Security

The Committee bill builds upon the safety and security provisions contained in the Housing Opportunity Program Extension Act of 1996 (P.L. 104–120) and includes a number of new measures aimed at improving the safety of the residents of public and assisted housing. A provision in Title I of the bill expands the authority of PHAs to allow police officers to reside in public housing, regardless of income limitations, in an effort to make public housing safer for its residents. In addition, a separate provision in Title II allows owners of project-based section 8 housing to exercise the same option.

The Committee bill combines the screening and eviction provisions contained in the Housing Opportunity Program Extension Act and expands these provisions to apply to housing assisted under the section 8 program. In addition, violent criminal acts and criminal acts resulting in a felony conviction are added to the list of offenses for which eviction standards are required regardless of the geographic location of the crime. Also, the bill permits PHAs to request written release of records of drug-related activity in order to aid PHAs in their screening activities.

Title IV—Miscellaneous Provisions

Title IV contains clarifying and conforming provisions relating to the CHAS, income limit determinations in certain jurisdictions, the demolition of certain public housing developments, a technical correction to the Immigration Reform and Control Act of 1996 and other miscellaneous provisions.

Sense of the Congress

This section contains a sense of the Congress that PHAs should consider the needs of individuals who are victims of domestic violence when establishing their system of preferences. The Committee also urges PHAs to take into account the current and future needs of the growing elderly population when developing preferences for occupancy. By highlighting these particular groups, the Committee does not intend to diminish the important needs of other groups or individuals.

Review of drug elimination program contracts

The Committee bill requires the Secretary to investigate all security contracts awarded by grantees under the Public and Assisted Housing Drug Elimination Act of 1990 that are public housing agencies that own or operate more than 4,500 public housing units. The Committee is concerned about allegations that certain security firms under such contracts have engaged in discriminatory hiring practices and allowed their employees to proselytize while on duty. In particular, the Committee is concerned about security firms affiliated with the Nation of Islam which have received more than $20 million in HUD contracts. Further, the Committee seeks to determine if proper procurement procedures were followed.

Legislative action is required to ensure that the Secretary thoroughly reviews each security contract, and reports the findings of the investigation to Congress. If a security contract is not in full

compliance with applicable laws and regulations, the Secretary must promptly bring the contract into compliance, or terminate the contract.

Repeals

In an effort to streamline the 1937 Housing Act, the Committee bill contains several repeals of programs, studies, or demonstrations that are either consolidated into the new block grants, expired, inactive, or already completed. The Committee intends to continue, and urges HUD to assist in, efforts to identify additional programs and initiatives that can be repealed or consolidated under the new block grant structure.

Cockroach eradication

The Committee is very concerned that a recent study sponsored by the National Institute of Allergy and Infectious Diseases relates severe asthma in children to exposure to cockroaches, and finds a high incidence of such cases in children growing up in public housing. It is the intention of the Committee to include a provision addressing the eradication of cockroaches when S. 462 is considered by the full Senate.

SECTION-BY-SECTION

Section 1. Short Title; Table of Contents

This section states that this Act may be cited as the Public Housing Reform and Responsibility of 1997.

Section 2. Findings and Purpose

This section describes Congress' intent to reform public housing and section 8 tenant-based programs by consolidating programs, streamlining program requirements, and providing well-performing public housing agencies (PHA) with maximum discretion and control in conjunction with accountability to tenants and localities. It also stresses the need to reform public housing to remove disincentives for economic self-sufficiency of residents by allowing PHAs the flexibility to design programs that reward employment.

In addition, the section stresses the need to improve the section 8 tenant-based assistance programs using market-based principles.

Section 3. Definitions

This section defines "public housing agency" and "Secretary".

Section 4. Effective Date

This section states that unless otherwise specifically provided, the Act and amendments made by the Act shall be effective upon date of enactment.

Section 5. Proposed Regulations; Technical Recommendations

Subsection (a) requires all new proposed regulations necessary to implement the law to be submitted to Congress within 9 months of enactment.

Subsection (b) requires HUD to submit to the appropriate committees of Congress within nine months of enactment any rec-

ommended technical and conforming legislative changes to carry out this Act.

Section 6. Elimination of Obsolete Documents

This section prohibits the enforcement, after one year from the date of enactment, of any rule, regulation or order promulgated under the U.S. Housing Act of 1937 prior to the enactment of this Act, as it relates to the public housing and section 8 tenant-based programs.

Section 7. Annual Reports

This section requires the Secretary to report to the Congress annually on what impact the amendments made by this Act have had on public housing tenants and households receiving tenant-based assistance, the economic viability of PHAs, and the effectiveness of the rent policies established by this Act on the employment status and earned income of public housing residents.

Title I—Public Housing

Section 101. Declaration of Policy

This section amends section 2 of the 1937 Act to state that it is the policy of the U.S. to: assist States and localities to remedy unsafe housing conditions and the acute shortage of decent and safe housing; assist States and localities to address the shortage of low-income affordable housing; and vest in PHAs that perform well the maximum amount of responsibility and flexibility in program administration in conjunction with local accountability to public housing tenants and localities.

Section 102. Membership on Board of Directors

This section adds a new section 29 at the end of Title I of the 1937 Act. The new section requires that a PHA board of directors contain at least one member who is a public housing resident or Section 8 recipient, except on boards where the members are salaried and serve on a full-time basis. This section also allows for the election of the resident board member if provided for in the public housing agency plan developed in consultation with the resident advisory board. In addition, the requirement does not apply to a PHA with less than 300 units if the PHA has provided reasonable notice to the resident advisory board of the opportunity for a resident to serve on the board and no resident expresses an interest in serving on the board. It also prohibits discrimination against public housing residents in the selection of governing bodies of PHAs.

Section 103. Authority of Public Housing Agencies

Subsection (a) amends the Brooke Amendment rent calculation by allowing PHAs to set rents that do not exceed 30 percent of a public housing resident's adjusted income rather than charging rents based on a straight percentage of adjusted income. This provision does not apply to recipients of tenant-based assistance.

Subsection (b) permits PHAs to adopt ceiling rents that reflect the reasonable market value of the public housing units, but are

not less than 75 percent of the monthly cost to operate the public housing units and to make a deposit to a replacement reserve. Subsection (b) also allows PHAs to adopt a minimum monthly rent of no more than $25 for public housing and for section 8 tenant-based and project-based programs. This subsection also allows rental of public housing units to police officers who are not otherwise eligible. In addition, this subsection allows a PHA with less than 250 units to rent a unit to an individual or family that is not low-income on a month-to-month basis if there are no eligible families on the waiting list. The PHA must also ensure that the rent is not less than the operating cost of the unit, the over-income family vacates the unit if an eligible family applies for residence, and reasonable public notice of the availability of the unit is provided. Finally, subsection (b) requires PHAs to establish rental policies that encourage and reward employment and economic self-sufficiency.

Subsection (c) provides a transitional provision for the establishment of ceiling rents until final regulations are issued. PHAs are permitted to set ceiling rents: (1) at 75 percent of the monthly cost to operate the public housing units; (2) equal to the 95th percentile of the rent paid for a unit of comparable size in the development; or (3) equal to the fair market rent for the area in which the unit is located.

Section 104. Definitions

Subsection (a)(1) amends the definition of "single persons" by striking the sentence establishing a preference for elderly or disabled persons before single persons who are otherwise eligible.

Subsection (a)(2) clarifies the definition of "adjusted income." The definition would also permit PHAs the flexibility to establish any other adjustments to earned income that a PHA deems appropriate.

Subsection (b) requires PHAs, when calculating a family's rental payment under the public housing and section 8 tenant-based programs, to disregard increases in income for 18 months as a result of employment of a member of the family who was previously unemployed for one or more years. After the 18 months, there would be a phase-in of the income increases over a three-year period. The 18-month earned income disregard would only apply to tenant-based assistance programs provided that funds are appropriated on or after October 1, 1997. This subsection also grandfathers any household with an income disallowance under current law.

Subsection (c) defines terms used in reference to public housing. It makes it clear that costs related to obtaining non-Federal financing for development are eligible development costs and that financing charges for developments with non-Federal funds are eligible operating costs. Subsection (c) also contains new definitions for the following terms: public housing agency plan, disabled housing, elderly housing, mixed-finance project, capital fund, and operating fund.

Section 105. Contributions for Lower Income Housing Projects

This section deletes sections 5 (h) through (l) of the 1937 Act which: permit PHAs to sell public housing units to their tenants; require use of solar energy; place restrictions on PHAs eligible for

development funding; authorize the use of development funding for major rehabilitation of obsolete housing; and prohibit recapture of development funds until 30 months after they were made available. The legislation transfers authority for PHAs to sell public housing units to their residents to section 117 of this Act.

Section 106. Public Housing Agency Plan

Subsection (a) adds a new section 5A of the 1937 Act, establishing requirements for the submission of written public housing agency plans.

This section requires each PHA to submit to HUD a public housing agency plan which must be developed in consultation with a resident advisory board and be consistent with the jurisdiction's comprehensive housing affordability strategy (CHAS).

Under this section, PHAs are required to submit a 5-year plan and an annual plan. The 5-year plan calls for a mission statement for serving the needs of low-income families in the PHA's jurisdiction and a statement of goals and objectives of the PHA to serve the needs of those families. The annual plan must include: a statement of low-income housing needs in the community and how the PHA intends to address the needs; a statement of financial resources and their planned uses; the PHA's general policies governing eligibility, selection, admission, assignment, occupancy, and rents; the PHA's policies for the maintenance and operations of the agency; a statement of the PHA's grievance procedures; a plan describing any capital improvements; a description of any housing to be demolished or disposed of; a description of any developments designated for elderly or disabled; a description of any properties to be converted to tenant-based assistance; a description of any homeownership or self-sufficiency programs; a description of policies for safety and crime prevention; a certification of compliance with fair housing laws; and an annual audit.

The plan must be submitted to HUD for approval 60 days before the start of the PHA's fiscal year. HUD must review the plan to determine whether it: (1) is complete; (2) is consistent with the information and data available to HUD; and (3) does not include material prohibited by, or inconsistent with, applicable law. Insufficient time to review a plan is not a valid reason for HUD to reject a plan. If HUD fails to approve the plan within 60 days (or 75 days the first year), it is deemed approved.

In addition, the new subsection 5A(e) requires: (1) each PHA to establish a resident advisory board but allows HUD to waive the requirement for the establishment of new boards if the PHA demonstrates that existing resident organizations adequately represent the interests of the residents and have the ability to perform the advisory functions required under this section; (2) a public hearing on the plan with public notice and an opportunity to inspect the plan; and (3) any significant amendments to the plan: be adopted at a duly-called meeting of public housing commissioners (or other comparable governing body); be considered by the resident advisory board; be consistent with the CHAS; and be approved by HUD. Under this subsection, HUD is required to review and approve plans and significant amendments within 60 days (or 75 days the first year) of submission and allows HUD to reject plans and sig-

nificant amendments only if they are incomplete, inconsistent with information available to HUD, or prohibited by law. This subsection also allows HUD to request additional information from troubled or near-troubled PHAs and to establish streamlined planning requirements for small, non-troubled PHAs, high-performing PHAs, and PHAs that only administer tenant-based assistance.

Subsection (b) requires negotiated rulemaking within one year for development of regulations on the plan and also requires HUD to issue an interim rule within 120 days of enactment.

Subsection (c) requires the General Accounting Office (GAO) to audit and review a representative sample of PHAs and report to Congress on the degree of compliance of PHAs with their plans. The GAO must conduct the audit within one year of the effective date of the regulations and report to Congress within 2 years after the plans are initially required to be submitted to HUD.

Section 107. Contract Provisions and Requirements

Subsection (a) amends section 6(a) of the 1937 Housing Act by adding a provision requiring that any contract for loans, contributions, sales, leases, mortgages, or any other agreement made pursuant to this Act be consistent with the public housing agency plan.

Subsection (b) repeals section 6(c) of the 1937 Act that, in general, contains the system of Federal and local preferences for admission to public housing allowing PHAs to develop their own preference system for admission to public housing.

Subsection (c) repeals an obsolete provision requiring excess funds from annual contribution contracts to be offset against subsequent year annual contributions.

Subsection (d) makes technical amendments to the Public Housing Management Assessment Program (PHMAP) for assessing the management performance of PHAs and adds four new PHMAP indicators: (1) the extent to which the PHA coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of residents and provides opportunities for residents to be involved in the administration of public housing; (2) the extent to which the PHA implements effective screening and eviction policies and other anti-crime strategies; (3) the extent to which the PHA is providing acceptable basic housing conditions; and (4) the extent to which the PHA successfully meets the goals and carries out the activities of the public housing agency plan. Subsection (d) also allows HUD to use a simplified system of performance indicators for PHAs with fewer than 250 units.

Subsection (e) adds violent crimes and criminal acts resulting in felony convictions to the list of offenses for which eviction is called for, regardless of the geographic location of the acts. Subsection (f) deletes the current provision which specifies the timing of notices of lease terminations. Instead, PHAs would provide such notices, as provided under State or local laws, except that PHAs would be allowed to use shorter notice periods, as determined reasonable by HUD, when the health or safety of the PHA residents or employees, or members of the surrounding community are threatened or when drug-related or violent crimes or criminal acts resulting in felony convictions have occurred, regardless of the geographic location of such acts.

Subsection (g) deletes a provision in section 6(o) of the 1937 Act concerning the Family Unification program. The bill makes activities under the Family Unification program eligible under the new block grants.

Subsection (h) deletes section 6(p) of the 1937 Act, which requires a preference for public housing development for areas with an inadequate supply of very low-income housing.

Subsection (I) provides a transition to allow PHAs to establish local preferences between the date of enactment of the Act and approval of the PHA plan.

Section 108. Expansion of Powers for Dealing With PHAs in Substantial Default

This section amends section 6(j)(3) of the 1937 Act that give HUD options for dealing with PHAs in substantial default under their Annual Contributions Contracts.

Subsection (a) amends the four options available to HUD for dealing with substantial defaults. Provisions providing for solicitation of proposals for alternative management of public housing and permitting HUD to require an agency to provide for alternative management of public housing would be extended to cover section 8 and any other program of an agency. A new clause is added to authorize HUD to take possession of the PHA, including all or part of any project or program.

Subsection (a) establishes procedures for dealing with troubled housing authorities. For any troubled PHA that cannot correct its troubled status on the later of the date of troubled designation and the date of enactment of this Act, the Secretary would be required: (1) in the case of a PHA with 1,250 or more units, to petition for the appointment of a judicial receiver, or (2) in the case of a PHA with fewer than 1,250 units, to either petition for the appointment of a judicial receiver or take possession of the PHA and appoint an individual or entity to act as an administrative receiver. The administrative receiver would assume the responsibilities of the Secretary for administration of all or part of the PHA. In the case of a public housing agency with 1,250 or more units the Secretary may, during the period between the date on which a petition is filed and the date on which the receiver assumes responsibility, take possession of all or part of any project or program of the PHA.

Subsection (a) also provides additional powers where HUD or a receiver has taken over a PHA to: abrogate contracts impeding correction of the substantial default; demolish or dispose of PHA properties and transfer ownership to resident-supported nonprofit entities; break up the troubled PHA into one or more new PHAs; and preempt State or local law relating to civil service requirements, employee rights, procurement, or financial controls that, in the written opinion of the receiver or HUD, substantially impede the correction of the substantial default. HUD would be given such additional powers as a district court could confer on a receiver to achieve the purposes of the receivership.

Subsection (a) permits a court to terminate receivership when the court determines that all defaults have been cured or the PHA is capable of again discharging its duties.

Subsection (b) would make this section applicable to actions taken before, on, or after the effective date of this Act. This subsection would also make clear that it is applicable to any receivers appointed for a PHA before the date of enactment of this section.

Section 109. Public Housing Site-Based Waiting Lists

This section adds a new provision to section 6 of the 1937 Housing Act allowing PHAs to establish site-based waiting lists for admissions to public housing developments. This section requires any procedures for site-based waiting lists to comply with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws. It also requires that PHAs provide full disclosure of any housing options available within the PHA to individuals applying for public housing assistance.

Section 110. Public Housing Capital and Operating Funds

This section rewrites section 9 of the 1937 Act involving annual contributions.

Under the amended section 9, all public housing programs are merged into two funds, a Capital Fund and Operating Fund. In general, the Capital Fund may be used for: development and modernization, vacancy reduction, deferred maintenance, code compliance, management improvements, demolition and replacement, resident relocation, empowerment activities, security, and homeownership activities.

This section provides several factors for HUD to consider in developing the Capital Fund formula including: the number of units and percentage occupied by very low-income families; the number of units converted to vouchers; the costs to rehabilitate, reconstruct, develop; or demolish units; the degree of household poverty; security costs; and the ability of the PHA to administer effectively the Capital Fund. This section also contains a condition on the use of capital funds; the condition requires that any public housing developed with capital funds be operated under the public housing rules for a 40-year period and any public housing modernized using capital funds be maintained and operated under the public housing rules for a 20-year period.

Under this section, the Operating Fund may be used for: management systems, routine preventative maintenance, anti-crime and anti-drug activities, resident services, resident management and participation activities, operation of mixed-finance projects, insurance, energy costs, and administration of the public housing community service and self-sufficiency requirement under section 12.

This section provides several factors for HUD to consider in developing the Operating Fund formula including: operating costs, the number of units and percentage occupied by very low-income families, the degree of household poverty, activities to promote economic self-sufficiency, the number of chronically vacant units, security costs, and costs to effectively administer the Operating Fund.

The amended section 9 also: (1) allows a PHA to use up to 20 percent of its Capital Fund for activities eligible under the Operating Fund; (2) disallows the use of assistance under the Capital or Operating Funds for the construction of public housing that would

result in a net increase in the number of public housing units owned and operated by the PHA with certain exceptions; (3) requires HUD under certain circumstances to provide operating and capital assistance directly to resident management corporations managing public housing projects under contract with a PHA; and (4) authorizes HUD to provide technical assistance (TA) funds to PHAs and resident organizations including training and TA to PHAs at risk of becoming troubled or already troubled. In addition, this section includes a two percent set-aside for emergencies, settlement of litigation, and costs to administer the Operation Safe Home program and requires HUD and the Office of Inspector General to report on the feasibility of transferring the Operation Safe Home Program to the Department of Justice.

This section also includes a provision requiring PHAs to obligate their Capital Funds within 18 months and spend any capital assistance within 4 years with certain exceptions or be subject to the withholding of future assistance or recapture of funds.

Finally, this section requires the formulas for the Capital and Operating Funds to be established through negotiated rulemaking and provides for a transition period whereby operating and modernization funds would be allocated to PHAs according to current distribution mechanisms under sections 9 and 14 of the 1937 Act. It also provides that HUD not take into account in developing the transitional formula any reduction of or increase in rental income where a PHA establishes an interim rental policy that allows rental amounts to be less than 30 percent of a family's monthly adjusted income.

Section 111. Community Service and Self-Sufficiency

This section amends section 12 of the 1937 Housing Act by adding three new provisions related to community service and self-sufficiency. The first provision under subsection (c) would establish a requirement for adult public housing residents to participate in a community service or self-sufficiency activity for not less than 8 hours per month. This requirement also provides for exemptions to someone who is: (1) elderly; (2) disabled or a primary caretaker of someone who is disabled; (3) engaged in an eligible work activity; or (4) otherwise exempt as defined under a State welfare program. This section uses the same definition for work activities under the welfare reform law. Second, under circumstances where the welfare or public assistance benefits of a public housing or section 8 family is reduced due to noncompliance or an act of fraud, the family's share of rent may not be reduced during the period of the reduction. It also clarifies that the sanctions provision does not apply where a family's benefits are reduced due to the expiration of time limits. Lastly, this section establishes a requirement for PHAs to enter into cooperation agreements with State or local welfare agencies for purposes of transferring information between the agencies and to target assistance to public housing and section 8 families.

Section 112. Repeal of Energy Conservation; Consortia and Joint Ventures

This section repeals section 13 of the 1937 Act, which requires life cycle cost analyses of energy systems for new construction and modernization developments.

Section 112 establishes a new section 13 that permits any two or more PHAs to form a consortium to receive assistance and allows PHAs to enter into joint ventures, partnerships or other business arrangements with other entities to administer public housing programs. Also, PHAs will be able to retain amounts generated from activities carried out under this section without incurring a reduction in funds provided under the Operating or Capital Funds or other funding sources provided under this Act. Such amount must be used for low-income housing or for the benefit of the residents.

Section 113. Repeal of Modernization Fund

This section repeals the public housing modernization program in section 14 of the 1937 Act and makes numerous technical and conforming amendments.

Section 114. Income Eligibility for Public and Assisted Housing

This section replaces section 16 of the 1937 Act involving income eligibility for public housing, tenant-based assistance, and project-based assistance.

The new subsection (a) states that for any public housing units (including those in a mixed-finance project) that become available each year, PHAs are allowed to serve families up to 80 percent of the area median income, but requires that 75 percent of the units be made available to families with incomes at or below 60 percent of the area median, and 40 percent of the units be made available to families with incomes at or below 30 percent of the area median. This subsection also allows PHAs to establish a different eligibility standard for good cause in accordance with their public housing agency plan and if approved by HUD.

In addition, subsection (a) prohibits a PHA from concentrating very low-income families in certain public housing developments and requires PHAs to achieve a diverse income mix among tenants in each development and among scattered-site public housing.

The new subsection (b) sets out the income eligibility standards for tenant-based assistance providing that a PHA may serve families up to 80 percent of the area median income but must set aside 50 percent of the tenant-based assistance that becomes available each year for families with incomes at or below 30 percent of the area median income. This subsection also allows housing agencies for good cause to establish a different eligibility standard for tenant-based assistance if approved by HUD. Subsection (b) also establishes the same eligibility requirements for section 8 project-based assistance as for public housing under subsection (a).

Section 115. Demolition and Disposition

This section replaces section 18 of the 1937 Act concerning the demolition and disposition of public housing.

The new section streamlines the requirements for demolition and disposition and establishes standards that PHAs must meet in

order to sell or demolish public housing units. In order to demolish a project, a PHA must certify that the project is obsolete and not cost-effective to rehabilitate. In order to sell a project, the PHA must certify that its retention is not in the best interests of the tenants or the PHA. In addition, this section allows HUD to disapprove an application for demolition and disposition if it determines that any certification made by the PHA is clearly inconsistent with the information available to HUD and if the application was not developed in consultation with the affected residents or resident advisory board.

The new section 18 also: (1) provides residents with the opportunity to purchase developments in the case of proposed sales—not demolitions; (2) permits any replacement units to be built on the same site but only if the number of replacement units is fewer than the number of units demolished; and (3) repeals the one-for-one replacement requirement.

Section 116. Repeal of Family Investment Centers; Voucher System for Public Housing

Subsection (a) amends section 22 of 1937 Act by repealing the program for Family Investment Centers and replacing it with a new section involving a voucher system for public housing.

Section 22, as amended, allows PHAs to develop a plan to convert public housing units to a system of tenant-based assistance and requires PHAs to develop a conversion assessment within 2 years of enactment. The assessment must include a cost analysis, market analysis, and impact analysis on the affected community, and a plan to achieve such a conversion if the PHA intends to take any action with regard to converting any developments to vouchers. HUD is allowed to waive the assessment requirement for some projects or classes of projects or allow for a streamlined assessment.

In addition, the new section 22 allows a PHA to implement a conversion plan: (1) if the conversion assessment demonstrates that the conversion will principally benefit the residents, PHA, and community; (2) if the costs of conversion do not exceed the costs of continued operation as public housing; and (3) if the plan is not inconsistent with the data available to HUD or with the PHA's assessment plan. The section also states that the funds to provide tenant-based assistance shall be added to the housing assistance payment contract.

Subsection (b) includes a savings provision for any contracts under the Family Investment Centers program entered into prior to date of enactment of this Act.

Section 117. Repeal of Family Self-Sufficiency; Homeownership Opportunities

Subsection (a) amends section 23 of the 1937 Act by repealing the Family Self-Sufficiency Program and replacing it with a new section allowing PHAs to sell their units to their residents and allowing PHAs to provide assistance to residents to purchase a home. Section 23, as amended: (1) includes purchase requirements that require residents to occupy the property as their principal residence and to certify that they will occupy the property for one year

and require PHAs to recapture 75 percent of the proceeds if a family sells the property within one year; (2) allows PHAs to use sale proceeds for low-income housing consistent with their public housing agency plan; and (3) allows PHAs to use operating or capital funds or other earned income to provide assistance to residents to purchase a principal residence, including a residence other than public housing.

Subsection (b) contains conforming amendments and subsection (c) makes it clear that the amendments made by this section do not affect any contracts under the Family Self-Sufficiency Program entered into prior to the date of enactment of this Act.

Section 118. Revitalizing Severely Distressed Public Housing

This section rewrites section 24 of the 1937 Act involving the revitalization of several distressed public housing. This new simplified program allows HUD to provide competitive grants to PHAs for demolition of obsolete projects, site revitalization and replacement housing. The competition will be based on: (1) the need for additional resources; (2) the need for affordable housing; (3) the supply of other housing available and affordable to voucher holders; and (4) the local impact of the proposed revitalization.

This section sunsets the grant program on October 1, 1999.

Section 119. Mixed-Finance and Mixed-Ownership Projects

This section adds a new section 30 to the 1937 Act to allow PHAs to own, operate, or assist in the development of mixed-finance projects. The proportion of public housing units to total units should equal the proportion of public housing financial commitment to total financial commitments in the mixed-finance project.

The new section 30 permits a mixed-finance development to elect to have all units taxable, or for the PHA to elect that the public housing units that are part of the mixed-finance development be exempt from local taxes. Where a PHA is unable to fulfill its contractual obligations to a mixed-finance development as a result of a reduction in appropriations for capital or operating funds, this section allows the entity that owns or operates the development to deviate (under regulations developed by HUD) from otherwise applicable restrictions governing public housing rents and income eligibility to preserve the viability of the units.

Section 120. Conversion of Distressed Public Housing to Tenant-Based Assistance

This section adds a new section 31 to the 1937 Act that requires, to the extent provided for in appropriations, each PHA, in consultation with residents and the local government, to identify public housing units that are distressed and develop a plan for removal of such units over a five-year period. PHAs must use guidelines based on criteria established by the National Commission on Severely Distressed Public Housing in determining which projects are distressed.

Subsection (a) requires a PHA to provide displaced families with notification of the elimination of the distressed units, any necessary counseling, and actual and reasonable relocation costs. PHAs are also required to offer each displaced family comparable housing

that meets housing quality standards including tenant-based assistance, project-based assistance, or units in another public housing project. Where the PHA fails to adequately develop or implement a plan for removing distressed properties from the public housing inventory, this section requires HUD to take actions to ensure the removal of such units.

Subsection (b) repeals parallel language to this section in section 202 of the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1996.

Section 121. Public Housing Mortgages and Security Interests

This section adds a new section 32 to the 1937 Act to allow PHAs to mortgage or grant a security interest in any project where approved by HUD. Each mortgage or security interest must have a term that is consistent with the terms of private loans in the market area and that does not exceed 30 years, and have conditions that are consistent with conditions to which private loans in the market area are subject.

Section 122. Linking Services to Public Housing Residents

This section adds a new section 33 to the 1937 Act to allow HUD to make grants to PHAs, resident management corporations, resident councils, or resident organizations for supportive services and resident empowerment activities to assist public housing residents in becoming economically self-sufficient.

Grants may be used for: physical improvements to a public housing project in order to provide space for supportive services for residents; the provision of service coordinators; the provision of services related to work readiness; economic and job development; resident management and resident participation activities; and other activities designed to improve the economic self-sufficiency of residents.

The new section 33 requires that $25,000,000 of the amount appropriated for this program be made available to resident councils, resident organizations, and resident management corporations.

Section 123. Prohibition on Use of Amounts

This section states that no HUD funds to carry out this Act may be used to indemnify contractors or subcontractors of the government against costs associated with judgments of infringement of intellectual property rights.

Section 124. Pet Ownership

Section 124 creates a new Section 35 of the 1937 Act.

Subsection (a) permits a resident of a dwelling unit in federally assisted housing to own or keep one or more common household pets in a dwelling unit, subject to the reasonable requirements of the owner of the federally assisted rental housing, if the resident maintains each pet responsibly and in accordance with applicable rules and regulations. Reasonable requirements may include requiring the payment of a nominal fee, a pet deposit, or both, to cover the operating costs to the project relating to the presence of pets.

Subsection (b) prohibits discrimination against any person in connection with admission to, or continued occupancy of, any unit by reason of ownership of common household pets.

Subsection (c) defines "federally assisted rental housing" as any public housing project or any rental housing receiving project-based rental assistance.

Subsection (d) provides that this section shall take effect upon the date of effectiveness of regulations issued by the Secretary pursuant to notice and comment rulemaking.

Title II—Section 8 Rental Assistance

Section 201. Merger of the Certificate and Voucher Programs

This section amends section 8(o) of the 1937 Act to create a single tenant-based assistance program from the section 8 existing certificate and voucher programs. Some of the features of the new voucher program include the following:

(1) *Payment standard.* Public housing agencies (PHA) are permitted to set a payment standard above 90 percent of HUD's fair market rents (FMR) and below 110 percent of the FMR. PHAs may also request to set a payment standard outside the 90 to 110 percent of FMR range if approved by HUD. HUD is also required to monitor rent burdens and any payment standard that results in a significant percentage of section 8 assisted families paying more than 30 percent of adjusted income for rent. Based on this review, HUD could require the PHA to modify its payment standard.

(2) *Tenant rent contribution.* The monthly amount of tenant rent contribution would be set at the greatest of (a) 30 percent of the family's monthly adjusted income, (b) 10 percent of the family's monthly income, or (c) if a family is receiving welfare assistance, the portion of the welfare assistance that is designated to meet housing costs. This section also deletes the "shopping incentive" provision which allows families to pay less rent if they lease a unit renting for less than the payment standard.

(3) *Rent burden cap.* If the tenant wishes to lease a unit where the initial rent on a unit exceeds the payment standard, tenants may pay the difference up to 40 percent of their adjusted income.

(4) *Program eligibility.* Program eligibility for the new voucher program would include very low-income families, previously assisted families, low-income families that meet eligibility criteria specified by the PHA, families that qualify under a homeownership program, and certain families that reside in properties eligible for preservation incentives.

(5) *Family income review.* PHAs are required to conduct reviews of assisted family incomes. These reviews must be conducted at least annually.

(6) *Local preferences.* PHAs are permitted to establish local preferences consistent with their public housing agency plan. (Federal preferences are repealed in Section 202.)

(7) *"Endless lease."* The amendment eliminates the "endless lease" rule, which prevents an owner from terminating a section 8 tenancy unless the owner institutes court action. The new voucher program: (a) permits PHAs to approve section 8 leases for a term of not less than one year unless a shorter lease term will improve

the tenant's housing opportunities and if such shorter terms are considered to be acceptable local market practice; (b) allows owners to use a standard market lease that is used in the locality by the owner; and (c) clarifies that a section 8 tenant would have access to remedies under State, tribal, and local law on the same basis as any other tenant.

(8) *Inspection of Units.* PHAs are required to inspect section 8 units at least annually to ensure that the units meet decent and safe housing quality standards (HQS) established by HUD, the local housing agency, or local codes, whichever are stricter and do not severely restrict housing choice. The provision also requires that HUD designate another entity to make inspections and rent determinations for units that are owned by PHAs.

(9) *Vacated units.* The bill would ensure that subsidy payments are not being made during any time after an assisted family vacates a unit.

(10) *Rent reasonableness.* PHAs are required to check for rent reasonableness in the same way that they do under the existing tenant-based programs. Families may also request PHA assistance in negotiating a reasonable rent.

(11) *Timely payments.* PHAs are also required to make timely payments of rent to owners or they could be subject to late payment penalties in cases where PHAs are responsible for the late payment and where late fees are permissible under local law. In such cases, the penalties will be paid out of the PHA's administrative fees.

(12) *Manufactured housing.* Rental assistance is still permissible to families who own a manufactured home and rent the property on which the home is located.

(12) *Project-basing.* As currently allowed under the existing certificate program, PHAs will have the discretion to project-base up to 15 percent of their section 8 vouchers.

(13) *Witness relocation.* HUD, in consultation with the HUD Office of Inspector General, is required to provide section 8 assistance to relocate families under a witness relocation program.

Section 202. Repeal of Federal Preferences

This section repeals Federal preferences for all section 8 programs—both project-based and tenant-based.

Section 203. Portability

The State/metropolitan portability feature is expanded to a national level. Also, discretion is provided to HUD for creating a pool to reimburse PHAs which lose vouchers to tenants leaving their jurisdictions. The reimbursement pool will allow the receiving PHA to absorb the new vouchers without a loss to the sending PHA. This section also prohibits assisted households from receiving a voucher if they have moved out of their unit in violation of a lease.

Section 204. Leasing to Voucher Holders

This section eliminates the "take one, take all" rule, which requires owners to accept all section 8 tenants once they have begun participating in the program.

Section 205. Homeownership Option

This section amends the current homeownership option authority by allowing voucher holders to obtain homeownership through shares in a cooperative housing development or through a lease-purchase arrangement, whether or not the family is a first-time homeowner. The provision also alters the assistance formula for families receiving assistance for homeownership which would make it comparable to the new formula for tenant-based assistance. Further, PHAs would be allowed to contract with a nonprofit entity to administer the program.

The bill also amends the law by allowing participation only if the PHA determines that the families have sufficient resources.

Section 206. Law Enforcement and Security Personnel in Public Housing

This section amends section 8 by permitting owners of project-based section 8 housing properties to rent to police officers and other security personnel.

Section 207. Technical and Conforming Amendments

This section repeals the 90-day notice requirement which compels a landlord to provide a 90-day notice to HUD when the landlord decides to terminate a section 8 contract. This section also repeals the Moving to Opportunity demonstration program authority and section 8(n)—the single room occupancy authority.

Section 208. Implementation

This section requires that HUD use negotiated rulemaking procedures to develop regulations that carry out the amendments made by this Act.

Section 209. Definition

This section expands the term public housing agency for purposes of the section 8 program to include entities that serve multiple jurisdictions.

Section 210. Effective Date

This section provides that the amendments made by Title II shall be effective not later than 1 year after the date of enactment of this Act.

Section 211. Recapture and Reuse of Annual Contribution Contract Project Reserves Under the Tenant-Based Assistance Program

This section would provide HUD with the authority to recapture and reuse unspent section 8 contract reserves for purposes of amending or renewing section 8 contracts.

Title III—Safety and Security in Public and Assisted Housing

Section 301. Screening of Applicants

This section provides that a family is ineligible for Federally-assisted housing for three years if evicted by reason of drug-related criminal activity or for a reasonable time (as may be determined by the PHA) for other criminal activity. In addition, this section re-

quires a PHA or owner of Federally-assisted housing to establish standards prohibiting admission of persons or families who the PHA or owner determines to be using a controlled substance or who the PHA or owner has reasonable cause to believe that such household member's illegal use (or pattern of use) of a controlled substance or abuse of alcohol (or pattern of abuse) of alcohol would interfere with the health, safety, or right of peaceful enjoyment of the premises by other residents. In order for a PHA to make that determination, this section also allows a PHA, under certain conditions, to require each person applying for housing assistance to sign a release authorizing the PHA to obtain written information related to the applicant's current illegal use of a controlled substance or abuse of alcohol.

A PHA or owner of Federally-assisted housing may deny admission to any applicant household that, during a reasonable period prior to applying for housing assistance, had engaged in any criminal activity. A PHA or owner may require that an applicant household prior to admission authorize the PHA to obtain any relevant criminal records from the National Crime Information Center, police departments, or other law enforcement agencies.

Section 302. Termination of Tenancy and Assistance for Illegal Drug Users and Alcohol Abusers

This section requires a PHA or owner of Federally-assisted housing to establish safeguards and lease provisions allowing termination of assistance to residents who the PHA or owner determines to be engaging in the use of a controlled substance or whose illegal use of a controlled substance interferes with the health, safety, or right of peaceful enjoyment of the premises by other residents.

Section 303. Lease Requirements

This section provides that leases for Federally-assisted housing must contain provisions setting forth grounds for termination that include criminal activity and activity which threatens the health and safety of other residents.

Section 304. Availability of Criminal Records for Tenant Screening and Eviction

This section provides that the National Crime Information Center, police departments, state law enforcement agencies designated as registration agencies under a state registration program, or other law enforcement agencies shall provide to the PHA upon its request information regarding the criminal background of an adult applicant for housing assistance. An applicant must be given an opportunity to dispute any such information. PHAs may be charged a reasonable fee for provision of the information.

Section 305. Definitions

This section sets forth the definitions of certain terms used in this title.

Title IV—Miscellaneous Provisions

Section 401. Public Housing Flexibility in the CHAS

This section amends the 1990 National Affordability Housing Act to require that the Comprehensive Housing Affordability Strategy (CHAS) include a description of how the jurisdiction will help address the needs of public housing and coordinate with the local public housing agency plan. It also requires the CHAS to include a description of how the CHAS will help address the needs of public housing and is consistent with the local public housing agency plan.

Section 402. Determination of Income Limits

This section excludes Rockland County, NY from the New York City metropolitan area for purposes of determining the income level of low-income families.

Section 403. Demolition of Public Housing

This section permits PHAs to be eligible for Capital and Operating Funds for certain public housing units demolished under the authority of section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act of 1988.

Section 404. Technical Correction of Public Housing Agency Opt-Out Authority

This section makes a technical correction to clarify when PHAs may opt-out of compliance with section 214 of the Housing and Community Development Act of 1980.

Section 405. Review of Drug Elimination Program Contracts

This section requires the Secretary to review all security contracts awarded by grantees under the Public and Assisted Housing Drug Elimination Act of 1990 that are public housing agencies that own or operate more than 4,500 public housing units. The Secretary shall determine whether such contractors have complied with anti-discrimination laws and regulations and shall submit the findings of the investigation in a report to Congress.

Section 406. Sense of Congress

This section expresses the sense of Congress that PHAs should consider preferences for individuals who are victims of domestic violence when establishing preferences for the selection of residents.

Section 407. Other Repeals

This section repeals several programs, studies, or demonstrations that are either merged into the Capital or Operating Funds, expired, inactive, or already completed including: the Public Housing One-Stop Perinatal Services Demonstration, Public Housing Childhood Development Program, Indian Housing Childhood Development Program, Public Housing MINCS Demonstration, Public Housing Energy Efficiency Demonstration, Public and Assisted Housing Youth Sports Programs, Report Regarding Fair Housing Objectives, and Special Projects for Elderly and Handicapped Families.

CHANGES IN EXISTING LAW (CORDON RULE)

In the opinion of the Committee, it is necessary to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11 of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement regarding the regulatory impact of the bill.

On balance, the Committee believes that the various provisions of the reported measure would reduce regulatory and administrative burdens. In addition to significant programmatic reforms, the Committee bill would sunset all existing rules, regulations or orders issued under the United States Housing Act of 1937, unless they are re-proposed by the Department of Housing and Urban Development (HUD).

Title I of the bill would consolidate approximately 10 separate programs into two formula block grants, and it provides for substantially less Federal regulation of the day-to-day management and operation of well-run housing authorities. It reduces or eliminates numerous program requirements that public housing authorities have found particularly burdensome or costly, and which frequently have required up-front approval by HUD. These include providing increased flexibility in the use of public housing modernization funds, repeal of certain requirements for the demolition and disposition of public housing; and repeal of the Family Self-Sufficiency Program, which is an unfunded mandate.

Title II of the bill would consolidate two parallel rental assistance programs and streamline program requirements for both public housing authorities and private rental property owners.

The Committee does create a new public housing agency planning process, and requires most housing authorities to conduct a one-time assessment of the costs of administering each of their public housing developments. The bill also would establish a community service requirement for some public housing residents, which housing authorities would be required to administer. However, the Committee believes that any cost that might be incurred in administering this program could be offset by having participating residents themselves administer it.

COST ESTIMATE

In accordance with rule XXVI(11)(a), the Committee submits the following estimate of the costs of S. 462 prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 23, 1997.

Senator ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 462, the Public Housing Reform and Responsibility Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Carla Pedone.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

S. 462—The Public Housing Reform and Responsibility Act of 1997

Summary: S. 462 would significantly change the programs through which the bulk of federal low-income housing assistance is currently provided. It would amend or delete many sections of the United States Housing Act of 1937, which authorizes the public housing program and the section 8 rental assistance program. S. 462 also would consolidate a host of public housing programs and merge two rental assistance programs.

CBO estimates that S. 462 would authorize appropriations totaling $107 billion over the fiscal years 1998–2002, assuming that all expiring section 8 contracts would be renewed and that all programs authorized by the bill would be funded at the 1997 level adjusted for inflation. If programs affected by the bill, except section 8, are assumed to be funded at the 1997 level, without adjustment for inflation, the authorizations in the bill would total an estimated $104 billion over the five-year period. CBO estimates that enactment of this bill would result in direct spending savings of $62 million over the period. Therefore, pay-as-you-go procedures would apply.

S. 462 contains several intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), but CBO estimates that the total cost of these mandates would not exceed the threshold established under that act ($50 million in 1996, adjusted annually for inflation). The bill contains other provisions that could have a significant budgetary impact on public housing agencies, but they would not be considered mandates as defined in UMRA. The bill contains one private-sector mandate, but that requirement would have virtually no net cost to private-sector entities.

Estimated cost to the Federal Government: The estimated budgetary impact of this bill is summarized in Tables 1 and 2. Table 1 shows the authorizations in the bill increasing gradually from $17.6 billion for 1998 to $24.9 billion for 2002, assuming that the programs authorized without specific funding levels receive appropriations equal to the 1997 funding adjusted for inflation and that all expiring section 8 contracts are renewed. Total outlays for the affected programs would increase from about $23 billion in 1997 to $26 billion in 2002, including the outlays in those years from sums

appropriated in previous years. As a basis for comparison, the table also includes the spending totals under the CBO baseline with adjustments for inflation, which, pursuant to the Budget Enforcement Act of 1990, is constructed assuming that all expiring contracts under section 8 of the Housing Act of 1937 are renewed.

Table 2 shows similar figures but assumes no adjustments for inflation, either in the funding authorized by the bill or in the corresponding programs in the CBO baseline. (Funding levels in Table 2 allow for renewal of all expiring section 8 contracts, which are adjusted for inflation.)

The costs of this legislation fall within budget function 600 (income security).

Basis of estimate: CBO assumes that the bill would be enacted by October 1, 1997, and that the necessary sums would be appropriated by the beginning of each fiscal year.

Public housing

Title I of the bill would revise the statutes governing the federal public housing program. The existing program is administered by local public housing agencies (PHAs) that own and manage low-income housing projects. The activities of the PHAs are supervised closely by the Secretary of the U.S. Department of Housing and Urban Development (HUD).

Under the program established by the bill, funding for most public housing programs would be merged into one of two funds, a capital fund and an operating fund. In addition, S. 462 would revise the current grant program for revitalizing severely distressed public housing and authorize it for fiscal years 1998 and 1999. The bill would also authorize a revised supportive services program. PHAs would receive funding in the form of block grants and would be given greater flexibility in managing public housing. With certain constraints, a PHA could choose to use its grant to cover operating expenses or capital needs.

TABLE 1.—ESTIMATED COST TO THE FEDERAL GOVERNMENT WITH INFLATION ADJUSTMENTS

	By fiscal years, in millions of dollars					
	1997	1998	1999	2000	2001	2002
Spending for Housing Assistance Under Current Law:						
Budget Authority	10,625	0	0	0	0	0
Estimated Outlays	23,253	18,960	11,422	9,010	6,996	5,510
Proposed Changes—Subject to Appropriation:						
Estimated Authorizations of Appropriations	0	17,558	19,661	21,364	23,191	24,924
Estimated Outlays	0	5,030	13,410	15,940	18,452	20,605
Proposed Changes—Direct Spending:						
Estimated Budget Authority	0	0	0	0	0	0
Estimated Outlays	0	−8	−13	−13	−14	−14
Spending for Housing Assistance Under S. 462:						
Budget Authority/Estimated Authorizations	10,625	17,558	19,661	21,364	23,191	24,924
Estimated Outlays	23,253	23,982	24,819	24,937	25,434	26,101
MEMORANDUM						
CBO Baseline with Inflation Adjustments:						
Budget Authority	10,625	17,545	19,751	22,071	23,932	25,697
Estimated Outlays	23,253	23,901	24,469	24,930	25,497	26,259

Note.—This table does not include spending for HUD's administrative expenses.

TABLE 2.—ESTIMATED COST TO THE FEDERAL GOVERNMENT WITHOUT INFLATION ADJUSTMENTS

	By fiscal years, in millions of dollars					
	1997	1998	1999	2000	2001	2002
Spending for Housing Assistance Under Current Law:						
Budget Authority	10,625	0	0	0	0	0
Estimated Outlays	23,253	18,960	11,422	9,010	6,996	5,510
Proposed Changes—Subject to Appropriation:						
Estimated Authorizations of Appropriations [1]	0	17,372	19,256	20,772	22,359	23,831
Estimated Outlays	0	4,989	13,263	15,655	17,996	19,946
Proposed Changes—Direct Spending:						
Budget Authority	0	0	0	0	0	0
Estimated Outlays	0	−8	−13	−13	−14	−14
Spending for Housing Assistance Under S. 462:						
Budget Authority/Estimated Authorizations	10,625	17,372	19,256	20,772	22,359	23,831
Estimated Outlays	23,253	23,941	24,672	24,652	24,978	25,442
MEMORANDUM						
CBO Baseline without Inflation Adjustments:						
Budget Authority [1]	10,625	17,360	19,345	21,433	23,037	24,526
Estimated Outlays	23,253	23,864	24,333	24,655	25,056	25,609

[1] Funding levels include renewals of all expiring Section 8 contracts with inflation adjustments.
Note.—This table does not include spending for HUD's administrative expenses.

S. 462 also would authorize PHAs to demolish or otherwise dispose of distressed public housing projects and to provide tenant-based aid in situations where the cost of maintaining a project as public housing over its remaining useful life would exceed the cost of tenant-based assistance over that period. Over the long term, this provision would reduce combined outlays of the capital grant, operating grant, and voucher programs. The net impact on spending patterns of these programs in the short term is uncertain, however, because the characteristics of the distressed projects vary. In some cases, the combined costs of removing a project from the inventory and of issuing vouchers may be greater than the short-run cost of operating a project as public housing; in other cases, they may be less.

Of the amounts that would be appropriated for the capital fund, the Secretary would be allowed to retain up to 2 percent for a headquarters reserve fund. This fund would be used for needs resulting from natural disasters or other unforeseen events. Based on the Secretary's previous use of reserve funds, we assume that the Secretary would retain all of the funds allowed and that they would be disbursed within two years.

S. 462 does not specify the amounts of funding authorized for the future years. Based on 1997 appropriations totaling about $6 billion, CBO estimates that S. 462 would authorize appropriations over the 1998–2002 period of $30.7 billion, assuming adjustment for inflation, or $28.4 billion, assuming that 1997 funding levels are continued without adjustment for inflation (see Tables 3 and 4).

Section 8 rental assistance

S. 462 would authorize additional tenant-based section 8 assistance to replace aid for tenants currently being assisted under certain other housing programs or to help them relocate elsewhere, for example, under the witness protection program. The bill does not, however, specify the amount of the authorization. Therefore, this

estimate reflects the 1997 appropriation of $240 million, projected with and without adjustments for inflation.

Because the bill would modify certain aspects of the existing section 8 project-based program, CBO assumes that the bill would implicitly authorize funding for the renewal of expiring section 8 contracts. Under CBO's baseline assumptions, without the amendments to the section 8 programs contained in S. 462, the total authorization over the five-year period would amount to an estimated $52.1 billion for renewing tenant-based aid and $18.2 billion for project-based aid. The bill has several provisions in Title I and Title II that would change the cost of renewals, and, in some cases, affect spending from previous appropriations. The net impact of those provisions over the five-year period would be a reduction in the estimated authorizations for renewals of $0.5 billion and a direct spending savings of $62 million. The major program changes and their estimated budgetary impact are discussed below (see Table 5).

TABLE 3.—ESTIMATED AUTHORIZATIONS BY PROGRAM TYPE WITH INFLATION ADJUSTMENTS

	By fiscal years, in millions of dollars				
	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION					
Public Housing Spending					
Capital Fund:					
Estimated Authorization Level	2,254	2,316	2,377	2,441	2,508
Estimated Outlays	0	248	818	1,382	1,870
Secretary Reserve:					
Estimated Authorization Level	51	53	54	55	57
Estimated Outlays	26	52	53	55	56
Operating Fund:					
Estimated Authorization Level	3,229	3,317	3,406	3,497	3,593
Estimated Outlays	1,550	3,239	3,359	3,449	3,542
Severly Distressed Public Housing Grants:					
Estimated Authorization Level	564	579	0	0	0
Estimated Outlays	0	11	52	159	262
Supportive Services:					
Estimated Authorization Level	62	63	65	67	68
Estimated Outlays	2	24	45	62	65
Total—Public Housing:					
Estimated Authorization Level	6,161	6,328	5,902	6,061	6,225
Estimated Outlays	1,578	3,575	4,327	5,106	5,795
Section 8 Aid:					
New Tenant-Based Aid:					
Estimated Authorization Level	246	253	259	266	274
Estimated Outlays	16	237	253	260	267
Renewals of Tenant-Based Aid:					
Estimated Authorization Level	8,218	9,363	10,669	11,487	12,362
Estimated Outlays	2,763	7,483	8,537	9,513	10,256
Renewals of Project-Based Aid:					
Estimated Authorization Level	1,999	2,858	3,672	4,507	5,182
Estimated Outlays	673	2,136	2,922	3,694	4,424
Amendments:					
Estimated Authorization Level	923	948	973	999	1,026
Estimated Outlays	0	0	0	0	0
Changes in Cost of Subsidies:[1]					
Estimated Authorization Level	12	−89	−111	−128	−145
Estimated Outlays	0	−21	−99	−121	−137
Total—Section 8:					
Estimated Authorization Level	11,397	13,333	15,462	17,130	18,699
Estimated Outlays	3,452	9,835	11,613	13,346	14,810

TABLE 3.—ESTIMATED AUTHORIZATIONS BY PROGRAM TYPE WITH INFLATION ADJUSTMENTS—Continued

	By fiscal years, in millions of dollars				
	1998	1999	2000	2001	2002
Total:					
Estimated Authorization Level	17,558	19,661	21,364	23,191	24,924
Estimated Outlays	5,030	13,410	15,940	18,452	20,605

[1] See Table 5 for details.

TABLE 4.—ESTIMATED AUTHORIZATIONS BY PROGRAM TYPE WITHOUT INFLATION ADJUSTMENTS

	By fiscal years, in million of dollars				
	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION					
Public Housing Spending:					
Capital Fund:					
Estimated Authorization Level	2,205	2,205	2,205	2,205	2,205
Estimated Outlays	0	243	794	1,323	1,764
Secretary Reserve:					
Estimated Authorization Level	50	50	50	50	50
Estimated Outlays	25	50	50	50	50
Operating Fund:					
Estimated Authorization Level	3,145	3,145	3,145	3,145	3,145
Estimated Outlays	1,510	3,114	3,145	3,145	3,145
Severely Distressed Public Housing Grants:					
Estimated Authorization Level	550	550	0	0	0
Estimated Outlays	0	11	50	154	252
Supportive Services:					
Estimated Authorization Level	60	60	60	60	60
Estimated Outlays	2	23	43	58	60
Total—Public Housing:					
Estimated Authorization Level	6,010	6,010	5,460	5,460	5,460
Estimated Outlays	1,537	3,441	4,082	4,730	5,271
Section 8 Aid:					
New Tenant-Based Aid:					
Estimated Authorization Level	240	240	240	240	240
Estimated Outlays	16	231	240	240	240
Renewals of Tenant-Based Aid: [1]					
Estimated Authorization Level	8,212	9,337	10,611	11,381	12,194
Estimated Outlays	2,763	7,476	8,510	9,453	10,148
Renewals of Project-Based Aid: [1]					
Estimated Authorization Level	1,999	2,858	3,672	4,507	5,182
Estimated Outlays	673	2,136	2,922	3,694	4,424
Amendments:					
Estimated Authorization Level	900	900	900	900	900
Estimated Outlays	0	0	0	0	0
Changes in Cost of Subsidies: [2]					
Estimated Authorization Level	12	−89	−111	−128	−145
Estimated Outlays	0	−21	−99	−121	−137
Total—Section 8:					
Estimated Authorization Level	11,362	13,246	15,312	16,899	18,371
Estimated Outlays	3,452	9,822	11,573	13,266	14,675
Total:					
Estimated Authorization Level	17,372	19,256	20,772	22,359	23,831
Estimated Outlays	4,989	13,263	15,655	17,996	19,946

[1] Funding levels include renewals of all expiring Section 8 contacts with inflation adjustments.
[2] See Table 5 for details.

Minimum Rents. Section 103 would allow PHAs to set minimum rents up to $25 per month for the section 8 programs that they administer, which include the tenant-based programs and the section 8 moderate rehabilitation program. Under the section 8 program,

tenants generally pay 30 percent of their adjusted income for rent. Based on data provided by HUD, CBO estimates that this provision would affect less than 6 percent of assisted families and would increase their rent contributions on average by about $15 per month. Federal outlays for section 8 assistance would drop by an estimated $58 million over five years (see Table 5). Of that amount, $12 million would be savings in outlays flowing from previously appropriated funds and thus would be considered direct spending.

Disregard of Certain Earnings. Section 103 also stipulates a disregard of certain earned income in the determination of rent contributions for families with tenant-based assistance. The provision would only apply to aid funded from 1998 and later years' budget authority. Earnings by any adult who had not been employed during the previous year would not be counted as income for a period of 18 months. After that period, any rent increase would be phased in over three years. Because adults who would have worked anyway would receive additional assistance, subsidies would increase for those households. Based on census data CBO estimates that about 6 percent of assisted families would receive additional subsidies initially. To the extent that the provision would induce additional adults to become employed, the cost of renewing their section 8 assistance would be reduced after the first 18 months of employment. Although it is difficult to predict how many households would respond to such an incentive, CBO assumed for this estimate that about 3 percent of assisted families (excluding the elderly) would respond initially, and more in subsequent years. CBO estimates that on balance this provision would increase net outlays of tenant-based assistance by $94 million over the five-year period.

Disallowance of Rent Reductions. Section 111 would disallow a reduction in rent payments for families with tenant-based section 8 assistance, if their income fell as a result of noncompliance with welfare or public assistance program rules. Based on recent findings by the General Accounting Office and data from the Department of Health and Human Services and from HUD, CBO estimates that about 11 percent of families whose benefits are terminated or reduced because of sanctions also receive tenant-based section 8 assistance. CBO estimates that the average loss of income is between $1,200 and $1,300 per year. As a result, federal outlays would be reduced by about $30 million over the 1998–2002 period, of which $3 million would be direct spending savings.

Elimination of Shopping Incentive. Section 201 would merge the two current forms of tenant-based assistance—the certificate and voucher programs—into one revised voucher program. Generally, under the current certificate program, the government pays the difference between a unit's rent and 30 percent of the tenant's adjusted income, provided that the unit's rent does not exceed the so-called Fair Market Rent. Under the voucher program, the government pays the difference between a payment standard, which is similar to the Fair Market Rent, and 30 percent of the tenant's income. If the tenant chooses a unit that rents for less or more than the payment standard, the tenant may pocket (under the "shopping incentive provision") or must pay, respectively, the difference between that rent and the payment standard. The revised voucher program would combine features of both programs by, among other

things, eliminating the shopping incentive but allowing tenants to rent units with rents above the payment standard. Assuming that the revisions would be implemented as of October 1, 1998, CBO estimates that the elimination of the shopping incentive would reduce federal outlays by $0.4 billion over the 1999–2002 period.

Repeal of Preference Rules. Section 202 would repeal federal preference rules for admitting new recipients of section 8 assistance, both for tenant-based and project-based programs. Current rules give priority to applicants on waiting lists who have the most severe housing problems and who typically have much lower incomes than other eligible families. For tenant-based assistance, the bill would permit PHAs to establish local preferences consistent with their public housing plan. CBO is uncertain whether and how that provision would change the cost of tenant-based assistance because it would depend on the priorities of the individual PHAs. CBO expects that private owners of projects with section 8 project-based assistance would have incentives to offer a portion of their newly vacant units to working families with somewhat higher incomes to serve as role models and possibly make such projects more desirable to live in. Because such tenants would pay a larger share of the rent, spending for federal subsidies would decline by an estimated $84 million over the five-year period, of which $47 million would be direct spending.

HUD's administrative costs

CBO expects that, on balance, enacting this bill could result in administrative savings to the federal government in the long run but we cannot estimate those savings because we do not have sufficient information as to how HUD would implement the changes. Those savings are expected to result from consolidating various programs and streamlining their requirements, as well as shifting certain program oversight activities from HUD to well-run PHAs.

Certain provisions of the bill, however, would impose additional administrative responsibilities on HUD, such as reviewing the various types of plans that PHAs must submit, providing technical assistance, and developing distribution formulas for the two consolidated grant programs. In the near term, HUD might also incur some additional costs to implement the revised voucher program.

TABLE 5.—ESTIMATED CHANGES IN COST OF SUBSIDIES

	By fiscal years, in millions of dollars				
	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION					
Minimum Rent up to $25:					
Estimated Authorization Level	−5	−11	−12	−12	−12
Estimated Outlays	−2	−8	−12	−12	−12
Disregard of Certain Earnings:					
Estimated Authorization Level	20	30	23	15	8
Estimated Outlays	4	33	27	18	12
No Rent Decrease in Cases of Noncompliance with Welfare Rules:					
Estimated Authorization Level	−3	−5	−6	−7	−8
Estimated Outlays	−1	−5	−6	−7	−8
Eliminate Shopping Incentive:					
Estimated Authorization Level	0	−97	−106	−109	−113
Estimated Outlays	0	−39	−102	−109	−113

TABLE 5.—ESTIMATED CHANGES IN COST OF SUBSIDIES—Continued

	By fiscal years, in millions of dollars				
	1998	1999	2000	2001	2002
Repeal Federal Preference Rules:					
Estimated Authorization Level	0	−6	−9	−14	−21
Estimated Outlays	0	−3	−6	−11	−17
Total Changes:					
Estimated Authorization Level	12	−89	−111	−128	−145
Estimated Outlays	0	−21	−99	−121	−137
DIRECT SPENDING					
Minimum Rent up to $25:					
Estimated Budget Authority	0	0	0	0	0
Estimated Outlays	−4	−5	−2	−1	0
No Rent Decrease in Cases of Noncompliance with Welfare Rules:					
Estimated Budget Authority	0	0	0	0	0
Estimated Outlays	−1	−1	−1	0	0
Repeal Federal Preference Rules:					
Estimated Budget Authority	0	0	0	0	0
Estimated Outlays	−3	−7	−10	−13	−14
Total Changes:					
Estimated Budget Authority	0	0	0	0	0
Estimated Outlays	−8	−13	−13	−14	−14

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 specifies pay-as-you-go procedures for legislation affecting direct spending or receipts through fiscal year 1998. CBO estimates that the changes to the section 8 program in S. 462 would result in direct spending savings of $8 million in 1998.

Estimated impact on State, local, and tribal governments: S. 462 contains several intergovernmental mandates defined in UMRA. CBO estimates that the total cost of these mandates—primarily preemptions of state and local laws—would not be significant. The bill also contains a number of other provisions that are conditions of receiving federal financial assistance, and while these conditions are not mandates as defined in UMRA, their enactment would have a significant budgetary impact on public housing agencies. CBO estimates that compliance with these new conditions would result in additional costs to PHAs totaling $65 million in the first year and about $35 million annually thereafter. These costs would be at least partially offset by increased rental income that would result from new flexibility given to PHAs. S. 462 would not impose mandates or have other budgetary impacts on tribal governments.

Mandates

A number of provisions in S. 462 would preempt state and local laws by allowing HUD, or a receiver of a PHA, to be exempt from certain state and local laws and by requiring a PHA's Board of Directors to include a public housing resident. Such preemptions are mandates under UMRA. CBO estimates that their enactment would not require state or local governments to expend additional funds and that any loss of fee or penalty revenue from these provisions would be small.

Other provisions in the bill would require public agencies to provide information to PHAs. First, the bill would require police departments and other law enforcement agencies to provide PHAs

with information regarding the criminal conviction records of adult applicants for federally assisted housing. CBO expects that PHAs would make as many as 100,000 new requests for information. A survey of police departments indicates that the cost of providing such information generally ranges from $10 to $20 a request. In total, CBO estimates that the incremental annual costs of this mandate would be less than $2 million. The bill would allow police departments to charge a reasonable fee for any information provided, and CBO expects that affected agencies would charge such fees to cover additional costs.

Second, the bill would require various types of medical facilities and treatment centers to provide PHAs with information regarding the illegal use of controlled substances or abuse of alcohol by adult applicants for housing assistance. CBO has no basis upon which to estimate how often PHAs would make such request of public medical facilities. However, the bill would allow these facilities to charge a reasonable fee for any information provided, and CBO expects that the facilities would charge such fees to cover additional costs.

Other impacts

The bill would impose several new requirements on PHAs. These requirements are conditions of receiving assistance from HUD, and thus are not mandates under UMRA. They include establishing and enforcing community service work requirements for adult residents of public housing and preparing more detailed public housing agency plans. The bill also contains provisions that would provide PHAs additional administrative flexibility, including the authority to increase rental income over current levels.

PHAs would be required to implement and administer community service work requirements for adult residents of public housing. (Alternatively, adult residents could choose to participate in self-sufficiency programs.) PHAs would also be encouraged to enter into cooperative agreements with state and local welfare agencies to provide information about assistance programs. Under the bill, HUD would evaluate PHAs on how well they coordinate, promote, or provide effective programs that promote the economic self-sufficiency of public housing residents.

This provision would apply to all public housing or tenant-based section 8 residents receiving assistance with certain exceptions. Among those excluded from the work requirements and self-sufficiency agreements would be the elderly, disabled, and those complying with (or excluded from) work requirements under other public assistance programs. Based on information from HUD, CBO expects that these new requirements would apply to less than one-third of the households in these programs (800,000 out of 2.7 million).

Information from public housing organizations indicates that PHAs, particularly small ones, would require additional staff to comply with this new requirement. (Many large PHAs already have similar programs.) In total, CBO estimates that in order to comply with this provision PHAs would have to hire more than 1,100 new personnel and that additional costs would total about $35 million per year (assuming salary and benefits of $30,000 per full-time staff member).

S. 462 would also require each PHA to submit a Public Housing Agency Plan to HUD. PHAs currently provide much of the information that would be required by HUD in one form or another. PHAs would be required to submit some new information and to aggregate existing information from various reports into a new document (possibly in a new format). CBO expects that most PHAs would comply with the requirement by hiring consultants or additional staff with costs varying between $5,000 and $10,000 per agency. Smaller housing agencies would likely incur costs at the higher end of the range because of limited staff resources. More than two-thirds of the nation's approximately 3,400 PHAs fall into this group. CBO estimates total compliance costs to be approximately $30 million in the first year. A portion of these costs could continue into future years if PHAs hire permanent staff to meet these requirements.

Other provisions in S. 462 would provide PHAs with additional flexibility in administering their programs. One of these provisions would address the income mix of public housing residents and would allow PHAs to increase their rental income by selecting tenants for admission with slightly higher income levels than are allowed under current law. Information available to CBO from public housing organizations indicates that increases in rental income to PHAs would be modest, at least in the short term.

Estimated impact on the private sector: Section 301 of the bill would impose a requirement on physicians as well as private and public medical centers, clinics, and other types of medical facilities. In particular, at the request of a public housing agency, those entities would be required to provide the PHA with information relating to a housing applicant's illegal use of controlled substances and their abuse of alcohol. The physicians and other entities would be able to charge the PHAs a fee for this information, however, so the net cost of the mandate to private-sector entities would be virtually zero.

Estimate prepared by: Federal Costs: Carla Pedone and Susanne Mehlman. Impact on State, Local, and Tribal Governments: Marc Nicole. Impact on the Private Sector: Bruce Vavrichek.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

ADDITIONAL VIEWS OF SENATOR ALLARD

I believe that the Public Housing Reform and Responsibility Act is sound legislative policy. It contains provisions that allow for necessary reforms to public housing programs and aims to redistribute the power out of the federal government.

I have proposed an amendment to the legislation that moves more power away from bureaucracies. My amendment would give states the option to take over their housing programs—similar to the welfare reform that was enacted last Congress. States would receive funds in the form of block grants for public housing and housing assistance. States would then have the option of converting their housing program to vouchers or some other method of housing assistance for low income families.

Vouchers are very popular, which is demonstrated by the 1.5 million families who are currently using vouchers or certificates. Vouchers empower individuals and would promote competition within Public Housing Authorities and within the community, thereby lowering costs and improving conditions for the residents. Vouchers or other alternatives can be less expensive than the current public housing program; they can save the government money, and improve conditions for the tenants.

The public housing system is in need of dramatic restructuring and reform. I will continue to work with the Committee toward this end.

WAYNE ALLARD.

ADDITIONAL VIEWS OF SENATOR ENZI

I appreciate the consideration of the amendments I proposed to this Public Housing Reform bill. This bill includes several important provisions that will put rural and urban Public Housing Agencies on equal footing. The added provisions address the uniqueness of rural housing problems.

I feel we have made S. 462 more flexible with the incorporation of my amendment that allows the small, rural PHAs some exceptions to the resident requirement on the Board of Directors. The rural Public Housing Authorities that have less than 300 units need the flexibility to form their plan according to their own needs. This addition to the bill was needed because some small housing authorities are unable to find a resident who will sit as a member on the Board of Directors because of either resident disinterest or the high resident turnover rate in some developments.

I am also pleased to see included in the managers amendment the resident option to either work or participate in self-sufficiency programs. This option allows the residents the opportunity to acquire the job skills necessary to enter the job market. Conforming the exceptions of this requirement to the existing welfare laws should also make it simpler and less burdensome for the PHAs to enforce.

The factor that enhances a community the most is homeownership. With homeownership comes responsibility and pride in the community. Since the ultimate goal for public housing residents is the ownership of a home, then we should include more opportunities for the residents to achieve that goal. I believe we can tie the community service requirement to the purchase of a home for public housing residents. A homeownership credit would be an incredible incentive for residents to comply with the service requirement, and we could reward residents with an increased credit for their "overtime" service if they work more than the requirement. This "sweat equity" approach would give residents a reason to comply with the service requirement and take care of their property. The service performed by the public housing residents would then have a two-fold purpose of contributing to the goals of the local community and assisting the residents in homeownership. I urge the Chairman to continue to pursue means by which public housing residents can achieve the goal of homeownership.

I also want to see the committee address the minimum rent requirement so it will not be an appropriations issue every year. The Subcommittee on Housing Opportunity and Community Development has requested that HUD provide information on the impact an increased minimum rent has on those in public housing. HUD has not provided the subcommittee with this impact information yet, but evidence exists that a 25 dollar minimum rent can hinder the operations of a public housing agency. The Brooke Amendment

can burden a public housing agency in a high energy cost state like Wyoming. If the PHAs are not allowed to set minimum rent above $25, their survival capabilities are limited since they are required by the Brooke Amendment to pay the utilities if the resident cannot afford it. This can actually result in a negative rent for the Public Housing Agencies.

We have made great progress towards less burdensome regulations and requirements with this housing bill. Let's not stop here. I feel there is more to be done to provide the incentive and ability for residents to move from dependency to homeownership.

MICHAEL B. ENZI.

ADDITIONAL VIEWS OF SENATOR REED

As we enter an era in which the federal government is limited in its ability to provide or assist in the provision of affordable housing, we must ensure the integrity of existing programs that assist low- and moderate-income citizens. The Community Development Block Grant (CDBG) program is one such example.

Since its establishment in 1974, the CDBG program has provided federal block grants to states and local communities for investment in community development initiatives to benefit low- and moderate-income individuals. Specifically, CDBG funds have been used for housing rehabilitation, public works projects, economic development, public services, acquisition and clearance of property, and urban renewal. Recent studies have shown that CDBG has achieved its intended purpose—between FY93 and FY96, 93.7% of CDBG funds were used on activities benefitting people with incomes below 80% of the area median.

Despite the tremendous success of the CDBG program, it has been documented that some states and localities have used program funds for an unintended purpose—to steal jobs from other areas, a practice commonly referred to as "job pirating." States and local governments can use CDBG money to pirate jobs in a number of ways. They can offer low or zero percent loans to corporations, which are subsidized with CDBG funds. They can also pay for the costs of site preparation, street improvements, or lighting.

Perhaps the most egregious example of job pirating occurred in Milwaukee, Wisconsin, where it was revealed that Briggs & Stratton, an engine manufacturer, used $855,000 in CDBG money to subsidize the expansion of plants in Missouri and Kentucky which led to the relocation of 2000 jobs. In another example, $500,000 in CDBG funds were used to subsidize the relocation of an athletic helmet manufacturing plant from Knoxville, Tennessee to Salem, Illinois, resulting in the loss of 50 jobs.

The most disturbing aspect of the job pirating issue is that money is being shifted away from the intended beneficiaries—low- and moderate-income people—to corporations that are not in need of a subsidy. In the era of NAFTA, where many manufacturing jobs are being moved abroad, we cannot afford to allow our states to use federal community development money to subsidize the movement of precious manufacturing jobs from one state to another. Federal community development money should not be allowed to subsidize a "race to the bottom."

In the 104th Congress, bipartisan legislation was introduced in the House and Senate to prohibit localities from using CDBG funds to subsidize job relocation. This legislation followed the recommendation of the White House Conference on Small Business which called on Congress to ban the use of federal funds for luring jobs from one area to another. This legislation would also have

made the CDBG program consistent with every single other federal economic development grant program, each of which has anti-piracy provisions.

As the Senate prepares to consider S. 462 on the floor, I strongly urge my colleagues to adopt provisions prohibiting the use of CDBG monies for job pirating. Such provisions will ensure that CDBG funds reach communities that are most in need of assistance and will provide parity with other federal grant programs that prohibit piracy. This issue is of particular urgency as the federal government continues to reduce assistance to low-income communities, and I hope my colleagues will be compelled to support my efforts to include anti-piracy provisions in S. 462.

JACK REED.

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