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102d Congress
2d Session

SENATE

REPORT
102-332

NATIONAL AFFORDABLE HOUSING ACT
AMENDMENTS OF 1992

R E P O R T
of the
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

UNITED STATE SENATE

TO ACCOMPANY
S. 3031
together with
ADDITIONAL VIEWS

July 23, 1992.-Ordered to be printed

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(II)

C O N T E N T S

	Page Number
Legislative history of the act	1
The affordable housing crisis	4
Summary of the committee bill	8
Explanation of the legislation	10
Title I-General Provisions and policies	10
Title II-Investment in affordable housing	15
Title III:	
Subtitle A. Homeownership initiatives	27
Subtitle B. FHA and secondary mortgage market	29
Title IV-HOPE	41
Title V-Housing assistance	45
Subtitle A. Public and Indian housing	45
Subtitle B. Low-income rental assistance	58
Subtitle C. General provisions and other assistance programs	65
Title VI-Preservation	66
Subtitle A. Prepayment of mortgage insured under the National Housing Act	66
Subtitle B. RESTORE for troubled multifamily housing	74
Title VII-Rural housing	76
Title VIII-Housing for persons with	

special needs	84
Subtitle A. Supportive housing for the elderly	84
Subtitle B. Supportive housing for persons with disabilities	84
Subtitle C. Supportive housing for the homeless	85
Subtitle D. Housing opportunities for persons with AIDS	87
Title IX-Community development and miscellaneous programs	88
Subtitle A. Community and neighborhood development and preservation	88
Subtitle B. Regulatory programs	94
Subtitle C. Miscellaneous programs	94
Title X-Residential lead-based paint hazard reduction	107
Subtitle A. Lead-based paint hazard reduction	115
Subtitle B. Evaluation and reduction infrastructure	121
Subtitle C. Public information in the private real estate transaction	122
Subtitle D. and E. Research and development and reports	123

SECTION-BY-SECTION

TITLE I-GENERAL PROVISIONS AND POLICIES

Sec. 101. Comprehensive housing affordability strategy refinements	124
Sec. 102. Performance goals	124
Sec. 103. Subsidy layering review	124
Sec. 104. Capacity study	124
Sec. 105. Salaries and expenses	125
Sec. 106. Regulation of consultants	125

TITLE II-INVESTMENT IN AFFORDABLE HOUSING

- Sec. 201. HOME authorization 125
- Sec. 202. New construction 125
- Sec. 203. Administrative costs 125
- Sec. 204. Tenant-based rental assistance 126
- Sec. 205. Maximum subsidy limitations 126
- Sec. 206. Rent calculations 126
- Sec. 207. Homeownership resale restrictions 126
- Sec. 208. Rental housing production set-aside 126
- Sec. 209. Matching requirements 127
- Sec. 210. Community housing production set-aside 127
- Sec. 211. Redevelopment of blighted urban areas model program 127
- Sec. 212. Transitional housing opportunities 128

TITLE III-HOMEOWNERSHIP

Subtitle A-Homeownership Initiatives

- Sec. 301. National homeownership trust authorization 128
- Sec. 302. Enterprise zone homeownership opportunity grants 128

Subtitle B-FHA and Secondary Mortgage Market

- Sec. 311. National Interagency Task Force on Multifamily Housing
130
- Sec. 312. Multifamily finance demonstration 131
- Sec. 313. Expenditures to correct defects 133
- Sec. 314. Repeal of warranty requirement 133

TITLE IV-HOPE

- Sec. 401. Authorization 133
- Sec. 402. HOPE amendments 134
- Sec. 403. HOPE for Youth: Youthbuild 134

TITLE V-HOUSING ASSISTANCE

Subtitle A-Public and Indian Housing

- Sec. 501. Authorizations 139
- Sec. 502. Reform of public housing management 140
- Sec. 503. Revitalization of severely distressed public housing 141
- Sec. 504. Choice in Management Act of 1992 154
- Sec. 505. Directive to relieve regulatory burden 159
- Sec. 506. Ceiling rents 159
- Sec. 507. Replacement housing 159
- Sec. 508. Income eligibility 160
- Sec. 509. Applicability of definitions to Indian housing 160
- Sec. 510. Preference rules 160

Subtitle B-Low-Income Rental Assistance

- Sec. 521. Voucher and certificate homeownership 160
- Sec. 522. Moving to opportunity for fair housing 162
- Sec. 523. Family unification assistance 164
- Sec. 524. Housing assistance in Jefferson County, Texas 164
- Sec. 525. Applicability of amendment to McKinney Act 164

Subtitle C-General Provisions and Other Assistance Programs

- Sec. 531. Low-income housing authorization 164
- Sec. 532. Housing counseling 165
- Sec. 533. Public and assisted housing drug elimination 165

TITLE VI-PRESERVATION

Subtitle A-Prepayment of Mortgages Insured
Under National Housing Act

- Sec. 601. Authorization 166
- Sec. 602. Prepayment amendments 166

Subtitle B-Other Preservation Provisions

Sec. 611. RESTORE for troubled multifamily housing 170

TITLE VII-RURAL HOUSING

Sec. 701. Program authorizations 172

Sec. 702. Deferred mortgage demonstration 172

Sec. 703. Set-aside for underserved areas and colonias 173

Sec. 704. Permanent authority for section 523 173

Sec. 705. Nonprofit set-aside 173

Sec. 706. Housing preservation grants 173

Sec. 707. Use of FMHA inventory for transitional housing for homeless persons and for turnkey housing 173

Sec. 708. Preservation 174

Sec. 709. Disaster assistance 174

Sec. 710. Administrative appeals process 174

Sec. 711. Prohibition on transfer of rural housing programs 174

Sec. 712. FMHA reform provisions 174

Sec. 713. Rural voucher program 175

Sec. 714. Site acquisition and development 175

Sec. 715. Subdivision approval 175

TITLE VIII-HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A-Supportive Housing for the Elderly

Sec. 801. Authorization 176

Sec. 802. Supportive housing for the elderly 176

Subtitle B-Supportive Housing for Persons With Disabilities

Sec. 811. Authorization 176

Subtitle C-Supportive Housing for the Homeless

Sec. 821. Authorization 176

Sec. 822. Safe Havens for the homeless 177

Sec. 823. Applicability of Shelter Plus Care 180

Subtitle D-Housing Opportunities for Persons With AIDS

- Sec. 831. Authorization 180
- Sec. 832. Program amendments 180
- Sec. 833. Housing opportunities for persons with AIDS 180

TITLE IX-COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A-Community and Neighborhood Development
and Preservation

- Sec. 901. Community development authorizations 180
- Sec. 902. Homeownership assistance under CDBG
180
- Sec. 903. State set-aside for technical assistance 180
- Sec. 904. Elimination of nonhousing community development plan
181
- Sec. 905. Loans of CDBG funds 181
- Sec. 906. CDBG code enforcement 181
- Sec. 907. CDBG set-aside for colonias 181
- Sec. 908. Approval of multijurisdictional agreements 181
- Sec. 909. Neighborhood-based nonprofit organizations 181
- Sec. 910. Economic development 181
- Sec. 911. Neighborhood development program 182
- Sec. 912. Neighborhood Reinvestment Corporation Act 183

Subtitle B-Regulatory Programs

- Sec. 921. National commissions 183

Subtitle C-Miscellaneous Programs

- Sec. 931. HUD research and development 183
- Sec. 932. Fair housing initiatives program 183
- Sec. 933. Economic opportunities for low- and very low-income
persons 185

Sec. 934. Study of section 3 of the Housing and Urban Development Act of 1968 187

Sec. 935. Study on the housing impact of military base expansion 187

Sec. 936. Nehemiah housing opportunity grants 188

Sec. 937. Sense of the Senate 188

Sec. 938. Improved coordination of urban policy 188

Sec. 939. Community Outreach Act 188

Sec. 940. Report on community development lending 189

Sec. 941. Report on community development banking 189

Sec. 942. Flood control restoration zone 190

Sec. 943. Energy efficient mortgages pilot program 190

Sec. 944. Prohibition of lump-sum payments 190

Sec. 945. Smoke detectors 190

Sec. 946. The National Cities in Schools Community Development Program 191

Sec. 947. Economic independence 191

TITLE X-RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

Sec. 1001. Short title 191

Sec. 1002. Findings 191

Sec. 1003. Purposes 192

Sec. 1004. Definitions 192

Subtitle A-Lead-Based Paint Hazard Reduction

Sec. 1011. Grants for lead-based paint hazard reduction in target housing 192

Sec. 1012. Evaluation and reduction of lead-based hazards in federally assisted housing 194

Sec. 1013. Disposition of federally owned housing 195

Sec. 1014. Comprehensive housing affordability strategy 195

Sec. 1015. Private sector task force on lead-based paint hazard

reduction and financing 196

Sec. 1016. National consultation on lead-based paint hazard reduction 196

Subtitle B-Evaluation and Reduction Infrastructure

Sec. 1021. Contractor training and certification 196

Sec. 1022. Certification of laboratories 197

Sec. 1023. Guidelines for lead-based paint hazard evaluation and reduction activities 197

Sec. 1024. Contractor quality control 197

Sec. 1025. National clearinghouse on residential lead poisoning 197

Subtitle C-Public Information and Technical Assistance

Sec. 1031. Disclosure of information concerning lead upon transfer of residential property 198

Sec. 1032. Public awareness 200

Sec. 1033. Relationship to other laws 200

Subtitle D-Research and Development

Part 1-HUD Research

Sec. 1051. Research on lead exposure from other sources 200

Sec. 1052. Testing technologies 201

Sec. 1053. Authorization 201

Part 2-GAO Report

Sec. 1056. Federal implementation and insurance study 201

Subtitle E-Reports

Sec. 1061. Reports of the Secretary of Housing and Urban Development 201

Regulatory impact statement 202

Changes in existing law 202

Cost estimate 202

Additional views of Senator Mack 203

Additional views of Senator D'Amato 204

Additional views of Senators Garn, D'Amato and Mack 205

S. 3031 213

Calendar No. 558

102D CONGRESS
2d Session

SENATE

REPORT
102-332

NATIONAL AFFORDABLE HOUSING ACT AMENDMENTS OF 1992

July 23, 1992.--Ordered to be printed

Mr. Riegle, from the Committee on Banking, Housing, and Urban
Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

To accompany S. 3301

The Committee on Banking, Housing, and Urban Affairs, having considered the same, reports favorably a Committee bill to reauthorize, revise and extend federal housing and community development programs.

LEGISLATIVE HISTORY OF THE ACT

The Committee on Banking, Housing and Urban Affairs has reported favorably the National Affordable Housing Act Amendments of 1992. The full Committee met on June 18, 1992, to mark up the legislation and ordered the bill favorably reported by a voice vote with one opposed.

The legislation would reauthorize existing federal housing programs and community development programs at \$22.7 billion in fiscal year 1993 and \$23.4 billion in fiscal year 1994 for an increase of \$5.9 billion above current baseline levels over the next two years. The bill would accomplish three key objectives: to reauthorize and revise federal housing and development programs; to incorporate key Administration proposals; and to include several far reaching initiatives sponsored by Committee Members.

The Committee bill reflects suggestions from a nationwide

cross-section of state and local officials, nonprofit housing organizations, private developers, experts in housing finance, housing managers, tenant representatives, low-income housing advocates, housing researchers, and other community based groups. The Committee heard from many of these organizations that refinements to the Cranston-Gonzalez National Affordable Housing Act of 1990 were necessary and timely.

In January, Senator Cranston and D'Amato invited a wide variety of housing groups to submit recommendations for the reauthorization of the National Affordable Housing Act of 1990. The response was overwhelming and many of the recommendations are reflected in the bill. The recommendations were published in April 1992 as the ``Recommendations for the Reauthorization of the Cranston-Gonzalez National Affordable Housing Act'' (S. Print 102-93).

On March 6, 1992, the Subcommittee held a kick-off hearing on the housing reauthorization bill. The hearing focused on the state of the nation's affordable housing. Witnesses included: the Honorable Kurt Schmoke, Mayor of Baltimore; Lawrence B. Simons, Powell Goldstein; Eli Broad; and James Rouse, Chairman of the Enterprise Foundation. Jim Rouse poignantly and prophetically illustrated the desperate living and economic situations of millions of Americans:

We read the dismal figures, see pictures of dilapidated housing in derelict neighborhoods; but most of us have not walked those streets, stepped inside those houses; have not seen good people with clean, decent families huddled in miserable housing, paying outrageous rents; have not looked into the saddened sullen faces; felt the hopelessness, the distrust, suspicion, and separation that provides their lives all around them.

These are the breeding grounds for a new America that we do not want to face-an impoverished, suffering, hopeless, hostile people living in violence and in fear. Millions of Americans are being left behind, forgotten in the persistent spread of poverty and the physical and social deterioration that is moving through our cities and threatening our stability as a nation.

On March 11, 1992, Senator Cranston introduced S. 2341, the Resident Lead-Based Paint Hazardous Reduction Act with five original cosponsors including Senators Akaka, D'Amato, Kerry, Lieberman, and Sarbanes. The bill was developed to create a cost-effective, workable system for reducing lead poisoning risks in housing. And, it was designed to target scarce federal resources and expertise to protect those most at risk-young children from low income families.

The Subcommittee followed-up the introduction of the bill with a roundtable hearing on March 19, 1992. The hearing included witnesses from a wide variety of interest groups as well as the Burke family. At the hearing, Mrs. Burke powerfully explained the

need for legislation that would provide greater disclosure to potential homebuyers and renters.

A prior Subcommittee hearing on lead-based paint was held on October 17, 1991. This hearing brought attention to the fact that three quarters of all American housing contains lead-based paint-57 million homes. And, some 3.8 million of those homes are occupied by young children and have peeling paint, excessive amounts of lead dust, or both.

The Subcommittee held a hearing focusing on severely distressed public housing on March 25, 1992. Witnesses included: author Nick Lemann, Congressman Bill Green of New York, resident groups, Public Housing Authority directors, researchers, neighborhood associations and HUD's Assistant Secretary for Public and Indian Housing.

On April 3, 1992, the Subcommittee held a hearing focusing on the Federal Housing Administration's single and multi-family mortgage insurance programs. The Subcommittee held an earlier hearing on October 29, 1991, that focused on the problems with multi-family financing. These problems again were illustrated at the April 3rd hearing. Witness after witness testified that the multi-family financing system has essentially collapsed, contributing to the continued loss of rental housing that is affordable to low-and moderate-income families.

Senator Bob Graham held a Subcommittee field hearing in St. Petersburg, Florida on March 14, 1992. The hearing explored the availability of financing for affordable housing construction in Florida. Witnesses included the Mayor of St. Petersburg and various representatives of public and private organizations involved in housing. Senators Sasser, Sanford and Bryan (among others) also held key meetings in their state.

In addition to the hearings, the Subcommittee held a series of staff symposia designed to explore and discuss specific issues in more detail. These issues included: the HOME program, economic development and the CDBG program, the mixing of elderly and disabled populations, the preservation of the older assisted inventory, and rural housing.

Over the course of the year, the Subcommittee built a careful record on the problems that need to be addressed-and the gaps that need to be filled-in federal housing programs.

On the basis of testimony and other avenues of input, the Subcommittee began drafting and refining legislative proposals. On April 13, 1992, the Housing Subcommittee issued a preliminary outline of the National Affordable Housing Act Amendments of 1992. The Housing Subcommittee issued its draft bill on April 30, 1992.

On April 29, 1992 the Rodney King verdict was announced, inciting

America's worst urban riots in the past two decades. On May 14, 1992, the full Committee held a hearing on the nation's urban problems. The Committee heard pleas from many voices, including Housing Secretary Jack Kemp, to develop meaningful legislative solutions-solutions that would directly improve the social and economic conditions fueling the anger and disaffection in our cities.

It became increasingly clear that affordable housing for all Americans is an integral part of the solution to the nation's urban crisis. The Chairman of the Enterprise Foundation, Jim Rouse, testified that,

When targeted to meet the needs of low-income people, housing inherently adds value to the public investment being made and ripples through our economy. Beyond the immediate jobs created, a social purpose is accomplished. Workers and their families who have safe and decent housing have a stable living environment. Societal costs are avoided, such as homelessness, health problems from living in overcrowded or unsafe conditions, and poor nutrition from feeding a family on a budget stretched to pay too much for housing. In a stable home, children have a place to do their homework and learn the value of family life. Parents have an opportunity to better their skills and chances of advancement in the workplace. What greater return on investment could be achieved?

The Los Angeles riots provided an added impetus for the passage of housing reauthorization legislation. The Housing Subcommittee issued a revised staff discussion draft on May 29th and a Committee Print on June 15th. The legislation was revised to reflect changes proposed by Committee Members and the Administration. An intensive series of meetings were held with OMB and HUD officials during the week of June 8th.

The Senate Committee on Banking, Housing and Urban Affairs held the mark-up of the bill on June 18, 1992. The Committee adopted by voice vote a package amendment incorporating in original or revised form a substantial number of the 96 amendments filed. The package included amendments suggested by Senators as well as the Administration. An amendment naming the Neighborhood Development Program after the late Senator John Heinz was also adopted by voice vote. The Committee then ordered the bill favorably reported by voice vote with only one Senator opposed.

THE AFFORDABLE HOUSING CRISIS

The Committee believes that the events in Los Angeles have brought us to a crossroads in the nation's response to the urban crisis. Issues that have been shunted aside for years-urban poverty, pervasive discrimination, lack of affordable housing, the future of inner city youth-have now moved to the frontburner of the domestic agenda.

Report after report-as outlined below-document a sobering account of housing need and human despair. The nation's affordable housing crisis-despite the best efforts of thousands of committed individuals throughout the country-continues to worsen.

Rental housing.-Since the 1970's, there has been a substantial reduction in the number of low rent units in the housing stock and a sharp increase in the number of poor families. The result is a classic mismatch between supply and demand, leading to higher rents, higher rent burdens, increased overcrowding, increased evictions and increased homelessness.

Specifically, the supply of housing renting at \$250 or less-affordable to a family earning \$10,000 per year-fell by 2.6 million units from 1974 to 1989. The loss of affordable rental housing is principally attributable to simple economics: rent payments of \$250 are insufficient to cover the basic costs of maintaining and operating housing. The failure to break even leads owners to disinvest which causes units to deteriorate and which eventually results in units being lost from the housing stock.

The loss of affordable housing also results from the impact of gentrification: condominium conversions, conversion to non-residential use, upgrading of units to attract high-income renters. Of the 7.9 million units costing less than \$250 in 1985, 804,000 were vacant because of natural turnover in rental housing, structural deficiencies, and uninhabitable locations. Less than half of renter households with incomes below \$10,000 lived in the occupied units.

And, the number of low-income renters is growing. In 1974, 9 million households had incomes that fell below official poverty thresholds. By 1989, 12.3% (11.5 million) of the nation's households lived in poverty. Between 1974 and 1989, the number of poverty-level households with heads aged 18-64 had jumped 42% to 8.8 million. Most of these poor households-6.2 million-were renters, an increase of 62% from 1974.

Disturbingly, the income gap between the rich and the poor has continued to widen. During the 1980s, the top 1 percent of American households experienced an income increase of 122 percent after taxes, but incomes fell by 10 percent for the bottom fifth of America's households.

With the decline in affordable housing and the explosive growth in the low-income population, a mismatch has emerged between supply and demand. The shortfall between affordable housing units (renting for less than \$250) and the number of needy low income families was 4.1 million units in 1989. The number of affordable housing units (renting for \$250 or less) fell steadily from over 8.6 million in 1974 to only 6.0 million in 1989. Of the 2.6 million units vacant in 1989, only one third (987,000) would have rented at levels affordable to poor renters.

While the number of families with children living in poverty has grown dramatically-one-fifth of all children live in households with less than a poverty-level income-only 20% of the vacant units available in 1989 were large enough the families.

In addition, the number of ``worst case'' renter households is growing rapidly. 5.1 million very low-income renter households are considered ``worst-case'' housing needs-paying 50% or more of their incomes for rent, living in substandard housing, or both. In 1974, the number of ``worst case'' households was 2.5 million.

The shortfall in affordable housing has caused low-income renters to pay high proportions of their income for rent. In 1989, two-thirds of all poor renter households remained outside the housing assistance network and, 77% of these unassisted poor households paid more than 50% of their income for housing. The growth of poor households has outstripped the increase in housing assistance resources, boosting the population unassisted poor renters from 4.2 million in 1974 to 5.5 million in 1985. The cost of renting a one-bedroom unit is beyond the reach of at least one-third of renter households in every single state.

The shortfall in affordable housing has also contributed to the homeless problem. The National Alliance to End Homelessness estimates that as many as 736,000 persons may be homeless on a given night and between 1.3 million and 2 million persons may experience homelessness at some point during the year. Countless others may be teetering near the brink of homelessness-one missed paycheck or personal crisis away.

A U.S. Conference of Mayors survey of 27 large cities found that over one-third of the homeless are families with children. 100,000 children may be homeless on any give night. Children under the age of 18 are the fastest growing group among the homeless population.

The number of families on public housing waiting lists is almost as high as the number of existing public housing units-over 1 million eligible low-income Americans are currently on waiting lists. More than two-thirds of large American cities have closed their lists because the wait was already so long. This means that many families needing housing are not even included in this one million figure. Mayor Dinkins noted that there are 200,000 families on public housing waiting lists in New York City alone.

Furthermore, multifamily starts fell 56% between 1985 and 1990 to only 297,000 units.

Homeownership.-At the same time the nation is experiencing a rental housing crisis, there has been a steady decline in the nation's homeownership rate. The national homeownership rate declined throughout the 1980's-from 65.6% in 1980 to 64.1% in 1990. This was the first time the homeownership rate had dropped

since the beginning of World War II. While the percentage of decline may appear small, it means that nearly 2 million fewer families own homes today.

The decline was particularly severe for young, first time homebuyers. For example, in households under age 25, the homeownership rate fell from 21.3% to 15.3% and in households aged 30-34, the homeownership rate fell from 61.1% to 51.5%. In back households, the homeownership rate fell from 43.8% to 42.4%.

The failure of incomes to keep pace with escalating housing costs over the past two decades has put homeownership beyond the reach of many young, middle class families. Between 1970 and 1990, the average purchase price for a starter home rose 21% in real terms while the average income among potential first-time homebuyers declined 7% in real terms. Experts estimate that only 17% of renters (and only 4% of black renters) have the income and downpayment resources to qualify for a mortgage on a typical starter home, even with an array of downpayment options.

Despite depressed home purchase prices in some markets and low interest rates, the gap between income and price remains difficult to bridge. Housing prices have outpaced income growth throughout the nation. From 1974 to 1990, real house prices soared 127.4% in Los Angeles while real incomes rose only 5.3%. In Boston, house prices jumped 81.1% while incomes edged up only 3.2%. Even in metropolitan areas like Cleveland, Detroit, and Pittsburgh, where inflation-adjusted house prices have fallen over the last 16 years, incomes have declined even more.

Poor families who are able to become homeowners face significant burdens. Nearly one-third of all poor homeowners-31 percent-paid at least 70 percent of their incomes for housing in 1985. Nearly half paid at least 50 percent of their incomes on housing, while 73 percent paid at least 30 percent of their income on housing. Poor homeowners faced high costs for housing expenses other than just their mortgage payments. The typical poor homeowner household paid 35 percent of its income for fuels, other utilities, real estate and insurance.

This has led to poverty, substandard living, and a greater increase in renter households. Between 1978 and 1985, the number of poor households grew from 10.5 million to 13.3 million. Nearly 1.3 million poor homeowners (31%) paid at least 70% of their income for housing. And, 54.4% of poor homeowners paid more than half their income for housing. 18.7% of poor homeowners failed to meet minimum standards for structurally sound units.

The response.-The housing crisis has been exacerbated by a decade of federal inaction and, more recently, by the economic recession. The Congressional Budget Office has extensively documented the sharp reduction in new federal housing assistance during the 1980's. In 1980, \$26.7 billion (in budget authority) was appropriated for low-income housing assistance. If these

funding levels had been maintained during the past decade, \$44.4 billion would have been provided in 1991. Yet, in that year, only \$8.5 billion was appropriated, a cut of 82% in real terms.

Even this substantially reduced level of federal funding had to be redirected in the past decade away from serving new families to maintaining the existing inventory. As the Senate Appropriations Committee noted last year:

Unfortunately, from fiscal year 1980 through fiscal year 1992, the growth in the funds directed to nonincremental activities, whose sole purpose is to maintain the existing stock of assisted housing, privately and publicly owned, has grown from less than 20 percent of the annual assisted housing budget appropriated each year, to almost 80 percent of the annual appropriation. (S. Rept. 102-107)

Because of these budget cuts and the redirection of federal funding, the number of new families assisted each year declined steadily throughout the 1980's. In 1977, the number of families receiving assistance for the first time was more than 350,000, through HUD programs alone. By 1990, that number had dropped to 68,700. If housing funding has been sustained at the 1980 level, 1.2 million more families would have been served through HUD and almost 700,000 additional families would have been assisted under rural housing programs. These statistics illustrate a fundamental truth: the federal commitment to serve the housing needs of new low-income families was severely diminished during the same period the number and needs of those families substantially expanded.

It is true, of course, that the total number of families assisted-and the federal housing outlays supporting that assistance-continued to grow during the past decade, even as budget authority for new assistance was slashed. In 1990, direct federal outlays on low-income housing assistance programs totaled \$16.6 billion out of total federal outlays of \$1.3 trillion, only slightly more than one percent of the federal budget. Even this growth was largely attributable to housing projects originally funded during the Ford and Carter Administrations (which did not become available for occupancy until the early 1980's). And other factors-deeper targeting of federal housing assistance, the rapid rise of rents-also contributed to the outlay surge.

The Committee strongly believes that the number of new families assisted is a more accurate measure of the federal government's commitment to affordable housing than the growth in federal outlays. By that measure, the 1980's was a time of major retrenchment and retreat, particularly troubling given the larger affordable housing trends discussed above. Incredibly, it would take another 63 years to meet the nation's ``worst case'' housing needs at the current levels of funding.

The recession has also compounded the affordable housing crisis.

States, in the face of further revenue shortfalls, have enacted the most severe cutbacks in social service programs since the early 1980s. The 30 state-funded general assistance programs were hit harder than any other set of low-income programs. Fourteen states cut their programs, often deeply-five by more than 30 percent and nine by at least 12 percent. For example, Michigan terminated its program, ending all cash monthly assistance to 82,000 people. Ohio slashed its program in half, while Massachusetts, Illinois and Minnesota enacted reductions which could affect close to 100,000 people.

Of the 29 states with emergency housing programs, for the homeless, 10 pared back these programs, while five states cut these programs by more than 30 percent. The reductions in affordable housing programs totaled \$246 million nationally, shrinking these programs by one-fifth.

SUMMARY OF THE COMMITTEE BILL

The National Affordable Housing Amendments of 1992 would reauthorize and revise federal programs that enable states and localities (in partnership with the private sector) to expand the supply of affordable housing and carry out community and economic development activities. The Committee bill would also contain several Administration proposals as well as other key initiatives sponsored by Senate Members. The Committee bill would, therefore, attempt to marry different philosophies and views on how to best improve the housing conditions of millions of Americans.

Reauthorization of major federal housing programs.-The Committee bill would reauthorize existing federal housing/development programs at \$22.7 billion in fiscal year 1993 and \$23.4 billion in fiscal year 1994 for an increase of \$5.9 billion above current baseline levels over the next two years.

Most importantly, the bill would reauthorize the two major federal programs-HOME and CDBG-at increased levels with revisions to make the programs more effective.

HOME-the key program for expanding the supply of affordable housing-would be authorized at \$2.1 billion in FY93, an increase of \$600 million over the appropriated level. Regulatory restrictions that have inhibited the implementation of the program-new construction limitations, subsidy limitations-would be eased.

CDBG-the most important federal tool for community development-would be authorized at \$3.9 billion in FY93, an increase of \$500 million over the appropriated level. The program would be revised to enable states and localities to carry out economic development activities with less regulatory interference.

Inclusion of Administration's agenda.-Secretary Kemp's HOPE

program-also created by the National Affordable Housing Act-would be reauthorized. The HOPE program is intended to expand the homeownership and economic opportunities of public and assisted housing tenants by helping them to purchase their housing units. The program was funded at \$351 million in FY92 and would be reauthorized at approximately \$900 million in FY93 and FY94.

The Committee bill would also incorporate the following new Administration initiatives:

Choice in Management, designed to test the effectiveness of giving residents of housing administered by troubled PHAs the ability to choose alternative management;

Take the Boards Off, designed to transfer substantially vacant developments, currently owned by troubled public housing agencies, to nonprofits and other specified entities in order to return this housing to productive use;

Moving to Opportunity, designed to help families with children move out of areas with high concentrations of persons living in poverty;

Vouchers for Homeownership, designed to permit recipients of vouchers or certificates who are first-time homebuyers to use their rental assistance towards mortgage payments; and

Safe Havens for the Homeless, designed to provide small residential facilities for seriously mentally ill homeless persons.

Inclusion of Senate initiatives.-The Committee bill would contain a series of new initiatives that would respond directly to the social and economic conditions fueling unrest in urban communities. Major initiatives would include:

Youthbuild, designed to help capable nonprofits train, educate and employ low-income youth in the construction and rehabilitation of affordable housing;

Other Employment initiatives, designed to use housing development to create jobs for low income residents, particularly young people;

Distressed Public Housing, designed to revitalize the most distressed public housing developments by involving residents and community groups in comprehensive planning, major reconstruction, supportive service and management reform initiatives;

Lead-Based Paint Hazard Reduction, designed to prevent childhood lead poisoning by expanding the federal government's commitment to the assessment and reduction of lead paint hazards in private, public and assisted housing;

Fair Housing Enforcement, designed to expand and revise the Fair

Housing Initiatives Program-the backbone of federal efforts to weed out discriminatory behavior in the marketplace and expand the housing options of minorities; and

FHA Multi-Family Finance Demonstration, designed to expand and preserve the supply of affordable rental housing-the primary source of affordable housing for low income families-by enabling FHA to tap the resources and expertise of state housing finance agencies, federal government sponsored enterprises and other market participants.

EXPLANATION OF THE LEGISLATION

TITLE I-GENERAL PROVISIONS AND POLICIES

Comprehensive housing strategies

The National Affordable Housing Act created a new planning document-the comprehensive housing affordability strategy (CHAS)-that state and local governments must submit in order to be eligible for most federal housing assistance. This document forces state and local governments, with significant community involvement, to look ahead for five years, assess housing needs, and plan allocation of resources. In many states and communities, the CHAS process has provided a serious forum in which to identify housing needs, propose strategies and solutions and evaluate the results of ongoing action. Housing advocates have welcomed this opportunity to participate and influence planning and spending decisions at the state and local level. In many states, this process has been used successfully to galvanize support for the commitment of additional resources to affordable housing.

The CHAS process has been underway now for two years. While the initial results have been largely positive, a consistent weakness identified by housing advocates is the absence of a mechanism to ensure that resources are utilized in accordance with the CHAS. The CHAS requires an extensive identification of housing needs, but no adequate mechanism to ensure that communities respond to those needs in the "action plan". The Committee bill would amend the CHAS to foster better linkage between a community's identified housing needs and its actual spending decisions. A jurisdiction would be required to describe how its resource allocations will meet the identified housing needs, describe reasons for its allocation priorities and identify any obstacles to addressing underserved needs.

In addition, homeless advocates indicate that, despite an increasing incidence of homelessness in rural America, this population often goes unnoticed and unserved by housing programs. The Committee bill would, therefore, expand the requirement, in existing law, to identify the incidence of homelessness in the CHAS to specifically include rural homelessness.

Performance goals

A recommendation of the HUD/Mod Rehab Investigation Subcommittee of the Banking Committee was the establishment of goals and performance measures for federal programs so that Congress, the Administration and the public could evaluate the success of program design and implementation.

The Committee bill would require the Secretaries of the Department of Housing and Urban Development and the Department of Agriculture to establish performance goals for the major programs of HUD and FmHA. Each year, the Secretary would be required to report to Congress on the progress made in attaining the performance goals for each program, citing the actual results achieved in each program, explaining why any goals were not met, and requesting any legislative or regulatory changes necessary to achieve the goals.

Subsidy layering review

Section 102(d) of the HUD Reform Act of 1989 requires HUD to certify that assistance to any housing project is not more than is necessary to provide affordable housing. Section 42 of the Internal Revenue Code requires state housing credit agencies to conduct a similar process for projects receiving low income housing tax credits.

State housing credit agencies are responsible for ensuring that low income housing tax credits awarded to a project do not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period. In making this determination, the credit agency must consider all sources and uses of funds for the project including expected federal, state or local subsidies and any proceeds generated by the tax benefits. This determination must be made at the time of application for the credits, at allocation of the credit, and when the building is placed into service. State housing credit agencies have been implementing this provision since January, 1990.

Administrative guidelines to implement section 102(d) were published by HUD in April, 1991. The Committee has heard from virtually all sectors of the housing industry-for-profit developers, non-profits, housing finance agencies-criticizing the HUD review process as time-consuming, duplicative and unreasonably restrictive.

The Committee is deeply concerned that HUD's current implementation of section 102(d) has led to unnecessary project delays and has discouraged developers from undertaking the more difficult projects which need additional federal subsidies-such as homeless projects, small scattered site developments and those in inner cities.

HUD's current guidelines have established strict limits on development fees, syndication expenses, investor returns and project reserves that do not recognize variations among projects. As the report of the Banking Committee's HUD Investigations Subcommittee noted, ``it would be inappropriate and perhaps impossible for HUD or Congress to determine a reasonable rate of return or profit level for developers.'' The report further recommended that flexibility and negotiation were essential in determining appropriate subsidy amounts for each unique project. Contrary to these recommendations, HUD has established formulaic subsidy calculations and limits on developer and builder profit and investor rate of return below those commonly accepted in the current market. Most state credit agencies provide a development fee allowance in the range of 10-20%, with 15% the average for both HUD-assisted and unassisted projects. HUD's guidelines would limit development fees to 10%. While the risk associated with a project certainly affects the expected profit margin, HUD's inflexible standard do not take account of such variables as project size, type, location, terms of affordability or rent levels. For example, a small family project sponsored by a non-profit community group in an inner city with 50 year low-income use restrictions would command a much different market response than a large elderly project in a suburban community with only 20 year use restrictions. A small, difficult deal in an inner city area could be expected to be much riskier and have higher project costs and fees than a large, easy deal in the suburbs.

Another major concern regarding HUD's implementation of section 102(d) are the inordinate time delays associated with the reviews. Anecdotal evidence indicates that the HUD review process, alone, can take anywhere from 8 weeks to over 12 months-in addition to normal development timetables. These added project delays contribute to increased construction costs and possible lower equity contributions. For projects with complicated financing, these extra delays may cause the deal to collapse.

HUD has also refused to coordinate its review process with the review process conducted by the state credit agencies under the low income housing tax credit program. This has created a ``chicken and egg'' problem between the two processes-both responsible for assessing and refining subsidy amounts. HUD delays have created considerable problems for credit agencies who must meet statutorily mandated timetables under the tax credit program. In some cases, the tax credits have expired while awaiting HUD project approval.

While the Committee has every interest in limiting excess subsidy, the HUD reform provisions must not become an excuse to shut down future, responsible development by making the subsidy review process so cumbersome that developers simply walk away. The culture of risk avoidance overcoming HUD has slowed down housing production-particularly housing for low income families

most in need of federal assistance. As Thorne Aucter-a HUD hired consultant-noted in his September 1991 report to the Federal Housing Commissioner on HUD's subsidy layering guidelines:
`` t he Department needs to reconcile the objectives of section 102 with National Housing Goals enunciated in legislation spanning more than four decades''.

The Committee is encouraged by recent progress in negotiations between low income housing providers and HUD. The Committee bill would codify the substance of these preliminary agreements to ensure that progress continues.

The Committee bill would ensure that project reviews could be completed in a timely manner while subsidies would be limited to only reasonable and necessary amounts. To accomplish this, the Committee bill would require HUD to establish guidelines for state housing credit agencies to implement the requirements of section 102(d) of the HUD Reform Act of 1989 for projects receiving assistance under both the low income housing tax credit and HUD programs.

The Committee expects that the guidelines would specify minimum standards that state housing credit agencies would use in their review process-similar to those which state credit agencies currently apply in conducting their reviews required under the low income housing tax credit program (section 42 of the Internal Revenue Code). Credit agencies would, of course, continue to be required to consider all sources of project financing, including expected federal, state or local subsidies, and tax benefits. Credit agencies would be required to ensure that net equity contributions and a project's costs, including developer fees, be within a reasonable range, taking into account the project's size, characteristics, location and risk factors. This reasonable range should be flexible enough to accommodate variations for the development of difficult projects, such as those with deep targeting, those located in poor, inner city neighborhoods or remote rural areas, those sponsored by non-profit community housing development organization, those serving populations with special service needs or those with long-term use restrictions that exceed federal requirements. Prudent project reserves could be allowable project costs as long as appropriately restricted.

Credit agencies would not be expected to use an internal rate of return (IRR) process to limit the amount of tax credit allocated to a project. Instead, the customary practice among state credit agencies of measuring the net equity-the amount of equity capital contributed by investors to a project partnership per tax credit dollar-would be used to ensure that levels are reasonable given current market conditions and specific project characteristics. Project sponsors are naturally motivated to seek out investors willing to pay the highest possible net equity per tax credit dollar and the public sector should harness this market incentive to maximize the level of investment that goes into housing. For projects assisted with HUD funds, the Committee expects that

states would give a priority in the allocation of credits to projects with lower syndication costs and higher levels of net equity invested into the project per credit dollar.

The Committee intends that HUD act expeditiously to establish guidelines for state credit agencies. The Committee understands that HUD is already in the process of developing such guidelines. After January 1, 1993, a housing credit agency would be delegated the responsibility for carrying out section 102(d) of the HUD Reform Act if appropriate certifications are provided that HUD's guidelines are being properly implemented. Since work is already underway and since HUD has been reviewing this issue, with the assistance of numerous consultants, for nearly three years, the Committee believes that January 1, 1993 is a reasonable date by which to begin the delegation of responsibility for subsidy review.

Elimination of duplicative aspects of subsidy layering review would expedite the development of low income housing and free up staff time to focus on other pressing issues before the Department.

Capacity study and salaries and expenses

The Committee Bill would amend the existing requirement that HUD report annually on its staffing capacity and resources to include an assessment of the Department's ability to respond to areas identified as ``material weaknesses''.

The Committee Bill would also authorize salaries and expenses for HUD and would set aside a portion of such authorization exclusively to provide ongoing training and capacity building for Department personnel.

These provisions reflect the Committee's increasing concern about the capacity of the Department to carry out its mission and responsibilities.

Section 110 of the National Affordable Housing Act requires the HUD Secretary to report to the Congress annually on the adequacy of the staff and resources of the Department to carry out its mission and responsibilities. In 1990, the Final Report of the HUD/Mod Rehab Investigation Subcommittee recommended that HUD undertake a comprehensive evaluation of its staffing capacity. The provision included in the National Affordable Housing Act reflects the HUD/Mod Rehab Investigation Subcommittee's recommendation. Report language accompanying the National Affordable Housing Act spelled out congressional intent regarding the analysis and report in some detail.

Despite these specific directives to the Department, the Committee notes with grave dismay the Department's failure to submit a substantive report which responds to the statutory requirements. The most recent report submitted to the Congress by

the Secretary, three pages in length, was woefully inadequate.

At the same time, however, evidence continues to mount regarding the Department's complete and total inability to carry out its responsibilities efficiently and effectively.

At a Subcommittee oversight hearing on June 30, 1992, the HUD Inspector General reported on the severe staffing shortages within the Department, noting that HUD staffing levels have dropped from about 17,000 in 1982 to just over 13,000 in 1992. The IG also noted that:

existing staffing levels are inadequate to effectively monitor HUD's wide range of complex programs . . . and that HUD's methods of determining needs and allocating Congressionally-appropriated resources do not assure their most efficient and effective use. Consequently, program results are not maximized and program risk and susceptibility to fraud, waste, and abuse remain at high levels.

The IG also raised concerns about the Department's inability to conduct an analysis of its capacity, noting that:

HUD management promised and attempted to analyze capacity issues in the past several years but nothing substantive was completed. For example, HUD told Congress in January 1991 that it would conduct a capacity study to determine its multifamily housing program staffing needs. We were informed that HUD was not able to deliver on that promise due to resource constraints.

The inability of the Department to assess its capacity needs or to match program needs with existing resources could pose very severe consequences of financial risk to the agency and to the federal government.

Recent audit reports by the HUD IG of the Multifamily Divisions of the Grand Rapids, Michigan and Detroit, Michigan field offices underscored the very real dangers posed by the Department's inattention to staffing capacity. HUD currently faces a very real risk of widespread defaults of existing federally insured multifamily loans primarily because the capacity of HUD to monitor loan performance, provide loan servicing or take appropriate actions to prevent project defaults is seriously deficient:

The Grand Rapids IG report pointed out that HUD staffing was so inadequate ``the Office did not take adequate steps to protect HUD's interest as the insurer or holder of the projects' mortgages.''

The Committee once again notes its very serious concerns regarding the capacity of HUD and the lack of effort by the Secretary to address these concerns. The Committee fully expects that future capacity reports submitted by the Secretary will

reflect a more substantive and comprehensive analysis by the Department.

Registration of consultants

The Committee bill would exempt state and local government and housing authority employees engaged in official business from the registration requirements of the HUD Reform Act. This provision is necessary to clarify confusion resulting from existing law and HUD regulations that require some state and local government employees to comply with burdensome registration and reporting requirements intended primarily for private lobbyists and those with a personal financial interest in a HUD project. HUD has already recognized this problem by exempting from the reporting and registration requirements many state and local officials who routinely contact HUD and special assistants who work for these exempted officials. However, other full-time state and local government employees are required to file registration statements within 10 days after contacting HUD for routine business dealings for each HUD-assisted project. Other employees must file annual compensation reports as well as the periodic registration forms. This crazy-quilt set of requirements is confusing for many state and local government housing agencies and authorities and is inhibiting normal and routine communications with HUD. The proposed amendment is carefully drawn to remove the confusion but to make it clear that the exception only applies when state or local government officials are acting within the scope of their employment on official business. Any state or local employee who contacts HUD on a matter where the employee has a personal interest would be subject to the full range of lobby registration and reporting requirements that apply to other individuals.

TITLE II-INVESTMENT IN AFFORDABLE HOUSING

Authorization/overview

The HOME Investment Partnerships program was created in 1990 to expand the supply of affordable housing through partnerships between Federal, State and local governments, non-profits and the private sector. The HOME program-based upon the recommendations of the Rouse-Maxwell National Housing Task Force Report entitled ``A Decent Place to Live''-was developed and refined with bipartisan support over three years. HOME replaced several ``cookie-cutter'' categorical programs which dictated housing solutions from the federal level. Under HOME, responsibility was devolved to the state and local level where community needs are better reflected. State and local governments prepare affordable housing strategies tailored to their own markets and design and implement housing programs consistent with those strategies.

State and local governments, non-profits, and community groups report, however, that statutory and regulatory restrictions have undermined the envisioned design and spirit of the HOME program and, in some cases, made it virtually unworkable.

The Committee bill would reauthorize and revise the HOME program to ensure that federal restrictions do not inhibit the ability of state and local governments and non-profit housing providers to respond to the housing needs of their communities. The HOME program would be authorized at approximately \$2.1 billion for FY93 and \$2.2 billion for FY94. Set-asides of \$14 million each year for certain community housing partnership activities and \$11 million each year for efforts in support of state and local housing strategies would also be authorized.

New construction limitations

The HOME program, as originally conceived, provided jurisdictions with a great deal of latitude in the design of their affordable housing strategies. Eligible activities under the original legislation included new construction, rehabilitation, acquisition, etc. with a preference for rehabilitation. The program underwent several major revisions during Senate floor debate to gain the support of the Administration. Thus, the final Act only allows new construction with HOME funds in communities that: (1) are designated by HUD as having an inadequate supply of rental housing; (2) certify that new construction is needed to facilitate a ``neighborhood revitalization program''; or (3) certify that new construction is needed to address the shortage of ``special needs housing'' such as single room occupancy units (SROs), housing for large families, housing for persons with disabilities, and housing for other persons with special needs.

The Committee received extensive comments from state and local governments, non-profit housing providers and housing advocates on the new construction limitations. The limitations have been heavily criticized as too restrictive and directly counter to the program's philosophy that state and local jurisdictions should decide what housing solutions are best suited to their needs.

The Committee bill would retain the overall structure of the 1990 Act-limiting new construction to areas that HUD designates as eligible. Instead, the bill would make the exceptions, in current law, more workable and ensure that communities that must undertake new construction are not unduly burdened with a higher matching share. Other refinements would be made to ensure that new construction-eligible communities are appropriately identified.

New construction eligibility.-Under current law, HUD must designate at least 30% of participating jurisdictions as eligible to use HOME funds for new construction. HUD has chosen to interpret this 30% minimum as a ``ceiling'' rather than a ``floor''.

HUD's new construction designations are based upon low vacancy rates, low turnover of units, high proportion of substandard housing, high fair market rent, and high population growth. The

use of substandard housing as a factor has been criticized as unfairly, and perhaps illogically, skewing new construction eligibility toward older cities (which may be unable to find or afford land to build on) and away from suburban areas (which may be rapidly growing and in need of additional housing stock). The Committee bill would, therefore, eliminate the incidence of substandard housing as a formula factor for determining new construction eligibility. The Committee expects that several communities, previously ineligible for new construction, would now be able to qualify.

Communities that are not initially designated by HUD for new construction eligibility may petition the Secretary of HUD for a waiver to become eligible. A jurisdiction must petition HUD each year even if the objective data that was used to grant a waiver has not significantly changed. The Committee bill would modify the Secretary's waiver authority to permit the waiver to apply for more than one year. The Committee intends that the Secretary make use of this authority to avoid annual justifications by jurisdictions that would clearly be in need of new construction eligibility for several years.

New construction exception for rural areas.-HUD regulations specifically exclude rural areas with populations less than 25,000 from HUD's new construction eligibility list. Since the new construction exception for neighborhood revitalization is meaningless in rural areas, these areas are essentially ineligible for new construction.

Rural areas often need new construction most. New construction is often more cost effective than repair for the severely substandard housing common in rural areas. According to the Congressional Research Service, there are over 7 million housing units in non-metro areas that are inadequate, overcrowded or unaffordable. CRS further estimates that demand exceeds production in rural areas by more than 75,000 units per year.

The Committee bill would make rural areas eligible for new construction if they certify that this is an identified priority need of the community and there is not an adequate supply of existing housing that can be economically rehabilitated to meet this need. A jurisdiction would have to certify that a market need exists before undertaking new construction.

New construction as neighborhood revitalization effort.-Under current law, communities not included on HUD's new construction eligibility list may use HOME funds for new construction as part of a neighborhood revitalization program that emphasizes rehabilitation. Congress believed that new construction can provide a strong stimulus for revitalization of deteriorated neighborhoods when carried out as part of a comprehensive revitalization program. HUD's regulations have implemented this neighborhood revitalization exception very narrowly, making it virtually useless. On the one hand, a jurisdiction may only

qualify for the exception if: ``rehabilitation is not the most cost-effective way to meet the participating jurisdiction's need to expand the supply of affordable housing within the neighborhood and the participating jurisdiction's housing needs within the neighborhood cannot be met through rehabilitation of the available housing stock''.

On the other hand, the jurisdiction must then demonstrate that the revitalization program emphasizes rehabilitation with quantitative evidence such as the expenditure of at least 51% of neighborhood program funds on such rehabilitation activities. This requirement thus forces the jurisdiction to undertake what it has just certified is not cost-effective or feasible in order to qualify for new construction eligibility.

The Committee bill would override HUD's restrictive regulatory interpretation to conform the provision with original congressional intent. A neighborhood revitalization program would have to include some rehabilitation but would not be required to emphasize rehabilitation. This refinement would not make the exception too broad. As under current law, a jurisdiction must still certify that: (1) the housing is located in a low or moderate income neighborhood, (2) the housing is to be produced by a community based non-profit or public agency, (3) that one of the following four factors be met: (i) no more than 20% of the HOME-funded units in the neighborhood revitalization program are newly constructed; (ii) the housing is to be located in a severely depressed areas with large tracts of vacant land and abandoned buildings; (iii) the housing is to be located in an area with an inadequate supply of existing housing that can be economically rehabilitated to meet identified housing needs; or (iv) the new construction is required to accomplish the neighborhood revitalization program.

Administrative costs

Under current law, HOME funds may not be used to pay for administrative costs, but up to 7% of the local match may be derived from administrative costs funded from local sources or CDBG.

Many state and local governments have reported to the Committee on the hardships created by the lack of administrative funds. The numerous legislative compromises made with the Administration in 1990 greatly increased the complexity of the HOME program. HOME is no longer the simple program originally envisioned when no administrative funds were contemplated. HOME replaced several smaller housing programs such as rental rehabilitation which provided funds (up to 10%) for effective program administration. States and localities were left with a more complicated program but fewer administrative resources.

The Committee bill would allow 7% of HOME funds to be used directly for administrative costs instead of the current 7% match

credit. Jurisdictions in fiscal distress (as defined below) could use up to 10% of their HOME allocation for administrative costs. The Committee bill would also eliminate the provisions that allow up to 7% of administrative expenses funded from local sources or CDBG to count towards the local matching contribution.

Tenant-based rental assistance

Under current law, rental assistance provided with HOME funds may only be used for tenants drawn from the public housing authority waiting lists. Some program users have requested that greater flexibility be permitted in selecting tenants. In some cases, rental assistance could most effectively be used in concert with a transitional housing, job-training or other program where some selectivity may be beneficial. Rural areas might be precluded from using HOME for tenant assistance because there may not be a public housing authority serving the area.

The Committee bill would provide communities with more flexibility by conforming tenant selection policies for rental assistance with those for project-based assistance. HOME recipients would be allowed, but no longer required, to draw tenants from the local PHA's waiting lists. Rental assistance would, however, have to be provided in accordance with written tenant selection policies and criteria that are consistent with the purpose of providing housing to very low and low income persons and are reasonably related to federal and local PHA preference rules.

Maximum subsidy limits

The National Affordable Housing Act requires that only a reasonable amount of HOME subsidy be invested in a unit and directed that subsidy limits operate effectively in all jurisdictions and reflect actual development costs. HUD's regulations have defined this amount as 67% of the FHA Section 221(d)(3) per-unit mortgage limits for multi-family projects. The 67% is based on the expected federal share of project investment. The remainder is expected to be made up by the state or local match and/or other private financing. The maximum HOME subsidy amount is also discounted by tax credit net equity proceeds if low income housing tax credits are used in the project.

In countless comments received by the Committee, HUD's regulatory subsidy limits have been criticized as unreasonably low. These limits make new construction or substantial rehabilitation virtually impossible in high cost areas and therefore fail to fulfill Congressional intent that the subsidy limits operate effectively in all jurisdictions. Through the 33% reduction from the 221(d)(3) mortgage limits, HUD has essentially required a per-unit match even though the match was waived for FY92 and the match is supposed to be on a program-wide basis. HUD's dollar for dollar deduction of tax credit proceeds from the subsidy limits essentially preclude the use of the low income housing tax credit

with the HOME program-cutting out a significant source of housing investment and thwarting Congressional intent that HOME foster public/private partnerships by attracting investment based on the tax credit and other sources.

The Administration contends that use of HOME with the tax credit results in excessive subsidies and the assistance of fewer affordable housing units. This argument fails to take into consideration that a smaller amount of HOME funds would be needed if a larger share of the project subsidy is derived from tax credit equity. Those HOME funds could then be used to assist additional housing units. The combination of the two funding sources thus only provides more flexibility at the local level, not less housing. Moreover, the need to combine sources is greatest when the intent is to serve the lowest-income residents.

The Committee believes that protections against oversubsidy already exist. State credit agencies limit the amount of tax credit subsidy to only the amount necessary. If anything, HUD's restrictively low subsidy limits force localities to patch together multiple funding sources and ``layer'' subsidies, making the project financing more complicated and inefficient.

The Committee bill would override HUD's restrictive regulations to ensure that the program is carried out consistent with Congressional intent. As Section 212(d)(1) of the National Affordable Housing Act clearly states, HUD's cost limits:

* * * shall reflect the actual cost of new construction, reconstruction or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements.

The Committee bill would clarify that HUD could not deduct tax credit proceeds or other expected federal subsidies from the cost limits. As conceived, the HOME program was expected to be used as gap financing, in combination with other assistance. Congressional intent was clearly to allow HOME and the low income housing tax credit to be used together when necessary. The Committee bill would also prohibit HUD from requiring jurisdictions to contribute their match on a per unit basis. Such restrictions provide no benefit and simply limit a jurisdiction's flexibility in program design.

The Committee has also received testimony criticizing the section 221(d)(3) mortgage limits as too low and in need of an adjustment to account for inflation since they were last updated. These limits have not been adjusted since 1987. Since then, the Commerce Department has estimated that construction costs have increased by approximately 15%. Moreover, HUD generally caps the market adjustment factor so that the section 221(d)(3) limits substantially underestimate costs in high cost areas. The Committee will continue to review this issue to determine if further action is necessary.

Rent calculations

The Committee bill would make two amendments to the rent calculations for rental housing assisted under the HOME program. The first revision would bring the provision in conformity with the low income housing tax credit and provide project sponsors with more predictability in the estimation of project operating revenues. Under current law, the maximum rent that may be charged for a HOME assisted unit is the lesser of section 8 fair market rent or a rent that does not exceed 30% of the adjusted income of a family earning 65% of the area median income, with adjustment for smaller and larger families. The Committee bill would adjust the maximum rent levels by the number of bedrooms in a unit rather than by the household size of prospective tenants. This method captures the same objective as the original language but would provide more predictability in calculating project revenue and debt-service potential and conform with the low income housing tax credit program.

The second revision to rent calculations under the HOME program would eliminate a statutory conflict that could prevent HOME funds being used in combination with the low income housing tax credit program. A tenant living in a HOME unit whose income rises above 80% of median income must pay 30% of his or her income for rent. Under the low income housing tax credit program, the maximum rent a tenant may be charged is established at 30% of 60% or 50% of the area median income—even if the tenant's income rises. Because a project using both HOME funds and the low income housing tax credit would lose tax credit eligibility and trigger a recapture on any unit where the tenant is forced to pay above the tax credit rents because of an increase in income, the provision effectively discourages private investor participation through the low income housing tax credit in HOME projects. The Committee bill would eliminate the requirement that tenants be charged at least 30% of their income for rent if their income rises above 80% of median income for projects allocated a low income housing tax credit or in communities that have state or local rent control laws.

Homeownership resale restrictions

The HOME homeownership resale restrictions require that the original HOME-assisted owner receive a fair return on investment but that the housing remain affordable to a reasonable range of low income buyers. Under HUD regulations, the resale restrictions remain in force for 15-20 years. Affordability for this purpose is defined as monthly principal, interest, taxes and insurance (piti) payments of not more than 30% of 75% of the area median income. This long term affordability requirement applies to the specific unit originally assisted.

It has been pointed out to the Committee that this approach could be problematic in housing markets where the value of the home has

significantly appreciated. The jurisdiction would have to provide a significant amount of subsidy to a subsequent low income purchaser to be able to afford the home.

The Committee bill would amend the homeownership resale restrictions in existing law to permit a jurisdiction to either require a specific HOME assisted unit to remain affordable to other low income purchasers or recapture the HOME subsidy provided to the unit for use by other eligible HOME recipients. This approach would allow a homeowner to receive a fair return on investment and allow the jurisdiction to recapture subsidy to assist another low income homebuyer obtain housing.

The Committee intends that participating jurisdictions have sufficient discretion to tailor recapture terms to local conditions. In a low-income neighborhood where development costs often exceed re-sale market values, recapture must be structured in a way attractive to first mortgage lenders and prospective homebuyers. For example, resale proceeds (net of senior mortgage repayments) might be shared between the seller and the participating jurisdictions even though full recapture might not be possible if re-sale prices are insufficient.

Rental housing production set-aside

The HOME program provides for a production set-aside within (not in addition to) the basic HOME allocations for jurisdictions which are new construction eligible. The set-aside was intended to ensure that new rental housing could and would be built despite general construction limitations, burdensome matching shares and possible HUD intransigence. The amount of the set-aside nationally is equal to 15 percent of HOME funds. The amount of the set-aside for an individual jurisdiction is determined on the basis of a formula; for each of the new construction eligible jurisdictions, the rental housing production formula determines how much new construction or substantial rehab the jurisdiction must do. After two years, if the set-aside funds are not yet used, they then may be spent on any HOME eligible activity.

The Committee has heard from jurisdictions complaining that the rental housing production set-aside forces them to undertake activities potentially contrary to the priorities identified in their CHAS. In Newton, Massachusetts, for example, over 60 percent of its HOME allocation was designated for rental housing production. The community had identified other housing priorities in its CHAS; new construction was not a top priority because of the high construction costs, lack of available land, and higher local matching share. Earlier this year, legislation was enacted to eliminate the set-aside for FY1992 HOME funds. The Committee bill would eliminate the rental housing production set-aside completely and restore some local flexibility to the program.

Matching provisions

The HOME program is based upon a partnership approach in which participating jurisdictions must match HOME funds with local contributions based on the amount of HOME funds drawn in a given fiscal year.

Uniform match. The HOME program currently has a tiered match to encourage localities to undertake light rehabilitation and tenant based assistance instead of new construction. The local match is 50% for new construction, 33% for substantial rehabilitation and 25% for moderate rehab or tenant based assistance. This variable match was added at the Administration's insistence to further deter States and localities from carrying out new construction activities. The Committee bill would replace the tiered match with a single uniform match of 25%.

The HOME program was predicated on the assumption that jurisdictions know local housing markets and local housing needs better than the federal government. HOME was intended to be a flexible program to allow states and localities to outline their housing needs in the CHAS and devise housing solutions accordingly. The Committee is concerned that the fundamental purpose of the HOME program—to expand the supply of affordable housing—may become lost as federal biases, such as the tiered match, create incentives for communities to undertake activities such as rehabilitation assistance for existing homeowners instead of increasing housing opportunities for families without decent, affordable shelter.

The Committee is also concerned that the tiered match unfairly penalizes growing communities and communities that simply do not have an adequate stock of housing to rehabilitate. Communities throughout states such as California, Florida, and Nevada, faced with a continuing growth in population, need to build more housing. The Committee believes that communities that must undertake new construction to meet their housing needs should not be penalized by doubling their match burden.

The Administration's concerns that jurisdictions pursue the most cost-effective housing solutions are addressed through several means. It is in the clear interest of states and localities, strapped by budgetary pressures, to maximize their resources in meeting housing needs. The high construction costs provide a disincentive to new construction where it is not needed. And finally, only communities that have met HUD's eligibility standards can build new housing with HOME dollars.

Eligible match.—The HOME statute specifies a number of permissible sources of local matching funds including cash from non-federal sources, deferred, foregone or abated taxes or fees, the value of land or real property and administrative costs up to 7% of HOME funds. The HOME statute does not provide any guidance on the eligibility of publicly issued debt as a match. HUD's regulations allow loans used to finance a project to count as a

match if the repayments of both principal and interest are reinvested in other HOME activities. The value of any mortgage interest rate reduction provided by a jurisdiction is also recognized. Accordingly, the face value of publicly issued bonds that are repaid from project revenue are not an eligible form of match.

The Committee has heard from state and local governments and housing finance agencies requesting that the full face value of such housing revenue bonds be recognized as a match. The 1986 Tax Reform Act established caps on the volume of private activity bonds issued within a state. Housing must compete with transportation, education, hazardous waste removal, energy, and industrial development needs for this limited resource. Many argue that an allocation of bond volume to housing represents a commitment of state and local resources and should be recognized as a match. The liabilities and expenses incurred by jurisdictions issuing bonds may also be considered a commitment of resources for match purposes. HUD has already agreed to provide match credit for the present value of state and local tax exemption for housing bonds, and the value of any uninsured risk that a jurisdiction assumes in connection with issuing bonds and making mortgage loans.

The Committee has also heard testimony from housing advocates and others who argue against the full recognition of debt financing. A key element of the HOME program design was the participation of state and local governments in a partnership with the federal government to provide new resources for affordable housing. In several states, the HOME program has been a successful rallying point to gain support for new housing appropriations. In its report to Congress entitled ``Housing Bonds and the Non-Federal Matching Requirement in the HOME Program'', HUD noted that:

the volume of state and local housing bond activity is so much larger than either federal HOME spending or the non-federal HOME matching liability that indiscriminately counting all loans to HOME activities from bond proceeds would make it far too easy for participating jurisdictions to meet their matching requirements without contributing new or redirected funds.

The contribution of ``hard'' dollars to the HOME project should also enhance the state and local governments participation in underwriting and oversight.

The Committee has attempted to strike a balance that recognizes legitimate contributions to housing while ensuring that an incentive to commit new resources to housing remains. The Committee bill would give partial credit-up to 25%-to the value of project-based debt issued to support HOME eligible rental housing. Multi-family rental housing provides the predominate source of affordable housing for low income families. The vast majority of housing bond activity is issued to support homeownership housing-often targeted to moderate income families.

Rental housing bonds are required to be deeply targeted to low income families; project economics are often more difficult and additional sources of subsidy are often necessary. The Committee could limit match credit to these rental housing bonds in order to encourage the development of deeply targeted housing and to recognize the greater difficulty and risk associated with those projects. The Committee has chosen a 25% credit as a proxy for the value of this state or local contribution. This limitation to rental housing bonds also avoids the potential-suggested by HUD-for a jurisdiction's match to be fulfilled solely from bond activity already being undertaken. As an additional protection, only 25% of a jurisdiction's match could come from this source. Sweat equity would also be added as an eligible match, as is currently allowed under the HOPE program.

Match for fiscally distressed communities.-Under current law, HUD can reduce a state or local government's required HOME match if they are experiencing fiscal distress and would otherwise be unable to participate in the program. Last year, because of the impact of the recession on many state and local governments, the HUD Appropriations Act waived the match completely for FY92.

The Committee believes that a match is integral to the program design to leverage additional housing investment and ensure that state and local housing dollars are not simply replaced with federal funds. The Committee does recognize, however, that some relief is necessary for communities that are unable to provide matching funds. Since HOME funds are allocated partly on the basis of poverty and housing need, communities that receive the most HOME dollars and thus must raise the largest local match may be just those communities least able to do so.

The country remains mired in the midst of the longest recession since the Depression. States and local governments face fiscal crises. Most have been forced to cut spending significantly or to raise taxes, or both, to meet budget deficits. According to the National Governor's Association (NGA), states have raised taxes by \$25 billion and cut spending by over \$10.2 billion over the last two years. An NGA survey predicts that states ``will continue to face tough times ahead, even when the recession ends, because economic growth will be slower than it was in the 1980s, while needs are increasing.'' A survey conducted by the National League of Cities indicated that more than half of the nation's cities will run a deficit in 1992. Over 70% of cities large and small have been forced to raise taxes or fees or establish new taxes or fees within the past year.

Although the statute already contains a case-by-case match waiver authority for distressed communities, a better objective test of fiscal distress is necessary. The current waiver authority does not respond to the chronic distress of very poor communities-only to short-term cyclical distress. It may only provide a 75% reduction of the match in the first year, a 50% reduction in the second year and a 25% reduction in the third year. With more than

500 participating jurisdictions, HUD staff could be swamped with waiver requests in times of major economic downturn, as the country has recently been experiencing. Replacement of this bureaucratic decision-making process would free staff time to focus on more important administrative and oversight functions within the Department and enable participating jurisdictions to plan their programs with greater certainty of their matching requirements.

The Committee is also concerned that HUD would not utilize its waiver authority to provide relief to needy communities or that waivers would only be provided to politically-connected jurisdictions.

The Committee bill would replace the case-by-case waiver process in current law with a streamlined process for reducing the match burden to 15% for fiscally distressed jurisdictions, 5% for severely distressed jurisdictions and 0% for extremely distressed jurisdictions. For localities, the level of a jurisdiction's distress would be measured by the degree to which a jurisdiction exceeded threshold criteria for three factors: (1) households in poverty, (2) average per capita income and (3) the growth lag in the labor force. For states, distress would be measured using the state fiscal capacity and expenditure needs data compiled by the Advisory Commission on Intergovernmental Relations (ACIR). The required match would be indexed according to the degree to which a given state exceeded threshold criteria.

Community housing partnership set-aside

NAHA contains a strong community housing partnership component to promote and facilitate the development of affordable housing by community-based non-profit housing organizations. Each participating jurisdiction is required to set-aside 15% of HOME funds for investment in housing to be developed, sponsored or owned by nonprofit community housing development organizations (CHDOs). If the set-aside funds are not obligated to CHDOs within an 18-month period, they will be recaptured and reallocated by HUD to other PJs or intermediaries to assist CHDOs in the jurisdiction or elsewhere.

For purposes of this set-aside, NAHA defines Community Housing Development Organizations (CHDOs) as a special kind of non-profit that:

has among its purposes the provision of decent housing that is affordable to low and moderate income persons; maintains, through significant representation on the board, accountability to low-income community residents and low income beneficiaries with regard to decisions on the design, siting, development and management of affordable housing; has a demonstrated capacity for carrying out these activities; and has a history of serving the local community within which housing is to be assisted.

The regulations further stipulate that at least one-third of a CHDO's board members must be residents of low income neighborhoods, low income residents of the community, or elected representatives of low income neighborhood organizations. A CHDO may not be a public agency and no more than one-third of the board may be appointed by the state or local government and no more than one-third of the board may be public officials.

While generally supportive of the regulatory implementation of CHDO composition, the Committee is concerned that the CHDO definition is impractical in rural areas and may exclude otherwise eligible and capable community-based non-profits. HUD requires at least one low-income representative from each county served by the non-profit be on the governing board. The Committee directs HUD to provide flexibility in determining that a CHDO maintains accountability to low-income community residents when that community includes an expansive geographical area.

The Committee has heard from several state and local governments that do not yet have sufficient number of qualified and capable non-profits to fully utilize the 15% set-aside. To accommodate the need to develop a sufficient capacity of CHDOs, the Committee bill would make two changes. First, the time period for a jurisdiction to identify CHDOs would be extended from 18 months, the period in current law, to 24 months; the commitment period would remain at 24 months. This refinement would provide localities with an additional six months to identify CHDOs without unduly delaying the obligation of funds. Second, a jurisdiction would be permitted, in its first two years of participation under HOME, to use up to 10% of its CHDO set-aside for technical assistance and capacity building if necessary to improve capability of existing non-profits or develop quality organizations where they do not already exist.

Redevelopment of blighted urban areas

HUD is currently required to develop model programs for use under HOME. These model programs are intended to avoid a central dilemma: housing design is either so centralized that it cannot take adequate account of differing local needs or so decentralized that it cannot efficiently involve national industries and financial institutions. They are also intended to enable jurisdictions with limited experience in program design to come up to speed. States and localities may adopt the model programs, adapt them to their own circumstances, or develop their own programs. Several model programs have been specified in law: rental housing production, rehab loans, rental rehab and others.

The Committee bill would establish a new model program to facilitate the redevelopment of severely blighted inner city areas. There is a major concern that mistakes of the past-overconcentration of very poor families-not be repeated. Successful redevelopment of blighted areas requires strong stable neighborhoods. Mixed income housing often creates a more stable

community able to sustain new business activity and attract other neighborhood investment.

Under current law, 90% of HOME rental funds must serve low income families below 60% of median income; 100% of funds must serve families below 80% of median income. Under the Committee bill, projects located in blighted areas, as measured by poverty and high incidence of vacant land or abandoned buildings, could use HOME funds to assist both moderate and low income families. Income targeting would be changed only slightly in very distressed communities. Deeper targeting to very low income families would be included with limited assistance to moderate income families. HOME assisted families and the entire community would benefit from the rebuilt neighborhood. Low income families would benefit directly through HOME assistance and indirectly through better access to stores and good schools, a more stable housing market, and potentially increased property values.

Low income use restrictions

HUD regulations have required that the low-income use restrictions on both rental housing and homeownership units be maintained even in the event of a foreclosure. The Committee has heard testimony that this will make it extremely difficult to secure financing through private lenders and the secondary mortgage market. It has recently come to the attention of the Committee that HUD will not revise this restriction in pending regulations. The Committee, therefore, intends to pursue additional legislative remedies prior to floor consideration of the housing bill.

The Department's regulations also establish a long term low income use period of only 20 years in order to attract private sector participation. Shorter terms are provided for nominal investments. The Committee has heard testimony that these use restrictions should be lengthened to avoid repetition of the recent experience with the preservation of housing financed under older HUD development programs. The state of California's low income housing tax credit program-which gives strong preference for projects with 55 year low income use restrictions-continues to attract private sector involvement. The Committee directs HUD to reconsider the low income use restriction terms prior to publishing a final rule.

TITLE III

SUBTITLE A-HOMEOWNERSHIP INITIATIVES

National homeownership trust

The Committee bill would authorize the National Homeownership Trust ('`NHT'') for fiscal years 1993 and 1994. The Committee bill would also add a new eligible activity under the NHT. In addition to assisting individual homeowners, the NHT could be

used to capitalize revolving loan funds at the state or local level to provide homeownership assistance to eligible first-time homebuyers. These revolving loan funds would be subject to all of the program requirements applicable to individual borrowers. In addition, the Committee bill would require participating state and local governments to match the federal contribution with an equal amount of local investment into the fund. Any proceeds or repayments from loans made from the state or local revolving loan fund would be used to provide additional homeownership assistance.

This provision is modeled on the successful program established in San Mateo County. San Mateo's Employer Homeownership Program (EHOP)-through a partnership among the federal, state and local governments, private lenders and Fannie Mae-provides second mortgage assistance to County employees who have difficulty finding affordable housing within the County.

Enterprise zone homeownership opportunity grants

As Congress has considered the problems facing our inner cities and economically distressed areas, many analysts and government officials have concluded that enterprise zones can play a useful role in reviving distressed urban areas. Most of the direct incentives included in enterprise zone proposals concentrate on encouraging business formation, investment, and economic development. Many of these incentives require changes to federal tax policy, which is the jurisdiction of another Senate Committee.

However, there are federal policies under the jurisdiction of this Committee that can also contribute to efforts to revive distressed urban areas. In fact, any comprehensive strategy for significantly improving the living environment of such areas must encourage the development of strong communities and neighborhoods as well as new business activity. Although there are many existing programs that can provide assistance to such communities, they are not targeted specifically to enterprise zones.

In addition, these programs may not allow specific activities that could help the residents of these communities achieve stability and prosperity, such as promoting homeownership. Areas that are likely to qualify as enterprise zones are likely to be characterized by relatively low homeownership rates. Because homeownership fosters positive feelings about one's community, creates incentives to promote neighborhood stability and well-being, and gives owners a greater stake in their community, increased homeownership should lead to stronger communities and neighborhoods. Consequently, a program to encourage homeownership in enterprise zones would both strengthen the sense of community and provide a stronger base for economic stability and growth.

Therefore, during markup the Committee accepted an amendment to

establish a program to promote homeownership in enterprise zones. This program, the Enterprise Zone Homeownership Opportunity Program (EZ HOME) is designed to encourage homeownership by families who are not otherwise able to afford to purchase their own home, to encourage the redevelopment of economically depressed areas, and to provide better housing opportunities in federally-approved and equivalent state-approved enterprise zones. Under this program, HUD may provide assistance to nonprofit organizations to provide interest-free loans of up to \$15,000 to first-time homebuyers purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program. Such loans shall be secured by a second mortgage held by the Secretary on the property involved and be repayable to the Secretary upon the sale, lease, or other transfer of such property. Families purchasing a home under this program will have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally-approved or equivalent state-approved enterprise zone is located.

Expenditures to correct defects

The Committee bill would amend section 518(a) of the National Housing Act to extend the homeowner protections against structural defects available to owners of newly constructed, FHA insured single family homes to FHA insured condominiums.

Section 518(a) of the National Housing Act was enacted in 1964 to provide a four-year warranty against structural defects that threaten the safety of new construction FHA insured single family homes. Currently, Section 518(a) protection are not available to owners of FHA-insured condominiums.

In the case of FHA insured condominiums, HUD accepts the existence of a homeowners warranty in lieu of conducting a series of inspections for a property. (FHA only conducts a final inspection before insuring a mortgage). The logical expectation is that homeowners' warranties will cover structural defects that do not meet local building standards. However, there have been many cases-one in Florida called Seville Place that has since been resolved in the courts-that have left FHA-insured condominium owners without compensation for severe structural defects, even in the presence of homeowners' warranties.

The Committee believes that when the Federal government relinquishes its inspection role in the presence of a homeowners' warranty, it must hold that warranty company accountable to the homeowner for structural defects-or as a last resort-correct the defects itself.

Currently, Section 518(a) only applies where HUD does pre-construction review of plans and specifications and three inspections during construction and not where a warranty exists.

The Committee bill would amend Section 518(a) to include condominiums that are backed by a warranty plan acceptable to the Secretary. This will give HUD the added incentive to hold warranty companies more accountable for costs resulting from structural defects in FHA-insured homes. Under the Committee bill, where warranty policies fail to compensate for structural defects, condominium homeowners will be eligible to apply for assistance under Section 518(a).

SUBTITLE B-FHA AND SECONDARY MORTGAGE MARKET

A. Summary

The continuing decline in affordable housing and the explosive growth in the low-income population, have combined to produce a serious mismatch between supply and demand. Researchers with the Joint Center for Housing Studies at Harvard University noted in *The State of the Nation's Housing, 1991*, that:

Housing the nation's poor remains a problem because of two broad trends: the persistence of poverty and the loss of low-cost units . . . The poor . . . face high and rising rents as the stock of low-cost housing continues to dwindle. As a result, millions of low-income households must live in units that are either too costly relative to their incomes, inadequate to their needs, or both.

As the need for affordable rental housing continues to intensify, attention has focused on the multifamily housing delivery systems and the ability of these systems to meet the growing demands. Of particular concern has been multifamily housing finance and expanding access to capital for affordable multifamily housing production.

Multifamily rental housing finance has collapsed in recent years-partly because the recession has dampened demand, but also because of profoundly adverse developments in the lending markets. The demise of the S&Ls, changes in the risk-based capital rules, financial weakening of the insurance industry, the withdrawal of Freddie Mac from the multifamily market, and the near shutdown of FHA multifamily activity have sharply reduced multifamily credit from traditional sources.

The Housing Subcommittee conducted two hearings on the issue of multifamily housing finance-one in October 1991 and one in April 1992. The general consensus from witnesses at both hearings was that the outlook for expanding and preserving the supply of affordable rental housing remains bleak. Testimony presented by industry experts underscored the seriousness of the problems associated with multifamily finance and the need for immediate action on a number of fronts to begin to reverse the current trends. While the first hearing focused on identifying the problems in the multifamily housing finance area, the second hearing followed up with a more thorough discussion of specific

recommendations for improvement, including recommendations from the General Accounting Office, the National Task Force on Financing Affordable Housing, state and local housing finance agencies, secondary market entities, lenders and other multifamily experts.

GAO presented the preliminary results of its study on legislative or administrative actions that could improve the availability of mortgage financing for affordable multifamily housing. The GAO recommended several credit enhancement options focused primarily on modifying and improving the current insurance programs of the Federal Housing Administration (FHA). GAO suggested implementation of these options on a pilot basis involving FHA and state and local housing finance agencies (HFAs) with a demonstrated capacity to undertake multifamily housing financing. GAO also highlighted the need for more accurate data on the general and performance characteristics of affordable multifamily housing loans, and recommended the establishment of a national database on multifamily loan performance.

On June 11, 1992, the National Task Force on Financing Affordable Housing, composed of representatives from all areas of housing finance and development, issued its final report and recommended a revitalized system for financing rental housing. The Task Force report, in particular, supported the establishment of a multifamily loan database and the exploration of new risk-sharing mechanisms between old and new sources of credit enhancement.

Title III of the Committee Bill draws upon the suggestions and recommendations of GAO, the Task Force and other multifamily experts and contains proposals designed to address multifamily data collection and improve credit enhancement for affordable multifamily loans. Section 311 of the Committee Bill would establish a National Interagency Task Force on Multifamily Housing in order to begin the process of building a complete and useful national database on multifamily housing loans. Section 312 would authorize a demonstration program which would enable the Federal Housing Administration (FHA) to tap the resources and expertise of state housing finance agencies, federal government sponsored enterprises and other market participants in order to preserve and expand the supply of affordable rental housing. Section 312 would also authorize a specific pilot program to allow FHA to enter into partnerships-or risk sharing arrangements-with qualified state or local housing finance agencies to produce affordable housing.

B. Background

Affordable housing needs.-The nation's affordable housing crisis continues to worsen. Over half of poor households-households with incomes below official poverty levels-now pay more than 50 percent of their income for rent and utilities. The failure of incomes to keep pace with housing costs over the past two decades has put homeownership beyond the reach of many young families

with moderate incomes. Rental housing is increasingly becoming the sole housing option open to low and moderate income households.

The number of low-income renters has grown considerably. In 1974, 9 million households had incomes that fell below official poverty levels. By 1989, 12.3% (11.5 million) of the nation's households still lived in poverty. Current trends suggest that the growth in the number of renter households will be largely among low and moderate income households.

At the same time, the supply of affordable rental housing has declined substantially in the past two decades. Specifically, the supply of housing renting at \$250 or less-affordable to a family earning \$10,000 per year-fell by 2.6 million units from 1974 to 1989. In the late 1980s, 197,000 rental units were removed from the housing stock each year, including 75,000 low-cost units and 15,000 subsidized units. A recent report by the Joint Center of Housing Studies at Harvard University on the current state of the nation's housing noted that?

With the onset of the recession in 1990, private housing starts tumbled to their lowest levels in nearly a decade and have retreated even further in 1991 . . . Multifamily starts took the hardest hit, plummeting 56% between 1985 and 1990 to 297,000 units.\1\ (FOOTNOTE)

(FOOTNOTE)\1\`The State of the Nation's Housing, 1991,' by Apgar, DiPasquale, Cummings and McArdle, Joint Center for Housing Studies of Harvard University, 1991. p. 6.

The result of these trends is a classic and dangerous mismatch between affordable housing supply and demand, leading to higher rents, higher rent burdens, increased overcrowding, increased evictions and increased homelessness.

Current trends in multifamily housing finance.-During the last two decades, single family mortgage finance has undergone dramatic changes. A huge increase in mortgage demand has been accommodated largely by increased sophistication and innovation in the secondary mortgage market.

Multifamily housing, which is rental property with five or more units, has not benefited from similar improvements in mortgage finance. On the contrary, much of the earlier support for multifamily housing has collapsed in recent years. The recession has dampened demand for market-rate housing. But weakening in demand has been exceeded by the shrinking of multifamily mortgage credit from traditional sources. Also contributing to the problem have been changes to the tax code, the collapse of S&Ls, changes in bank and thrift capital requirements, financial weakening of the insurance industry, the withdrawal of Freddie Mac from the multifamily market, and the near shutdown of FHA multifamily activity.

The report of the Task Force on Financing Affordable Housing noted that:

Mortgage credit has contracted sharply over recent years in response to continually interacting forces--changes in the economic environment and in tax and regulatory policy, the decade-long Federal thrust to extricate government from direct provision of subsidies and to reduce intervention in the market, the collapse of the thrift and real estate industries, and the changed practices of the Federal Housing Administration (FHA).

The impact of tax reform.--Since rental housing is an investment asset, the return on investment is an important determinant of the supply of rental housing. The investment return to rental housing is significantly influenced by tax policy. Historically, the federal tax code granted very favorable tax status to rental housing. However, changes included as part of the Tax Reform Act of 1986 removed the financial incentives for investment in multifamily housing. These included changes which decreased marginal income tax rates and increased the capital gains tax rate, significantly lowering the after tax return on rental housing.

Perhaps the most significant blow to real estate investment under the 1986 Tax Reform was the provision that "passive" investors (which include most investors in limited partnerships of rental housing) could no longer offset ordinary income with losses from real estate investments. For many investors, this provision substantially eliminated the tax benefits of investing in rental housing. This in turn has added to the decline in multifamily housing starts. Some industry analysts would also argue that the Tax Reform changes have significantly contributed to the widespread disinvestment and abandonment of marginal or distressed multifamily properties by owners.

For multifamily housing, one positive element of the 1986 Tax Reform Act was creation of the Low Income Housing Tax Credit (LIHTC) to replace other tax incentives that the Act eliminated. Until enactment of the HOME program in 1990, the LIHTC was the only viable federal vehicle for the production of new affordable multifamily housing. Since its inception, the LIHTC has helped finance the production of more than 420,000 housing units.

LIHTCs have had a perilous existence. The original authorization expired in 1989. Since then, Congress has enacted a series of short-term extensions. This year to year uncertainty weakens the ability of the LIHTC to support investment in affordable multifamily housing.

The collapse of FHA.--The Federal Housing Administration (FHA) of HUD has long been a dominant source of mortgage insurance for multifamily mortgages, particularly for low and moderate income housing.

Over the last 21 years, HUD has insured a total of \$72.7 billion of multifamily mortgages for conventional and low-income projects. This figure includes \$56.6 billion for new properties and \$16.1 billion for existing properties.

Currently, FHA provides multifamily insurance through two programs. Section 221(d) provides financing for new construction or substantial rehabilitation of multifamily housing. Section 223(f) insures mortgages either for the purchase and non-substantial rehabilitation of existing housing or for the refinancing of such housing.

In the past three years, HUD has virtually withdrawn from the multifamily market. FHA multifamily insurance dropped from \$5.6 billion in 1987 to only \$630 million in 1989 and \$1.8 billion in 1990. FHA's share of total multifamily mortgage insurance fell from 30% in the early 1980's to only 3% in 1989. The FHA share of insurance on new properties dropped from more than 52% in 1982 to less than 8% by 1989 and 6% in 1990.

In addition to the dramatic decline in FHA's multifamily mortgage insurance origination activity, recent reports from the HUD Inspector General have highlighted significant material weaknesses in the FHA program as well as a general lack of staffing capacity.

Under the Chief Financial Officers Act, the HUD IG has responsibility for the audit of the FHA's financial statement. The IG contracted with Price Waterhouse to conduct the audit work. The Housing Subcommittee received the most recent IG/Price Waterhouse report on March 28, 1992.

The audit of the 1991 financial statement indicated that: the MMI fund has capital of \$871 million—slightly less than it had in 1990; the GI Fund may experience significantly higher losses than anticipated; and material weaknesses in FHA's internal controls continue to persist.

The audit cited three inter-related material weaknesses:

FHA monitoring must place more emphasis on default and loss prevention.—Price Waterhouse recommended that FHA make its monitoring ``more proactive and preventive in nature. Preventing defaults before they become claims is essential from the standpoint of curtailing the amount of default losses and easing the administrative burdens assumed by FHA when excessive numbers of properties and loans must be managed, served and sold.''

FHA must place continued emphasis on improving accounting and financial management systems.—The absence of modern information systems constrains monitoring and loss prevention efforts. Under current systems, for example, FHA's losses ``can only be attributed to major activities . . . but cannot be pinpointed

with precision to individual programs. . . .'' Price Waterhouse indicated that FHA must receive more precise information if it is to determine which programs are losing money and which management actions can curtail identified losses.

FHA must take action to curb losses in the resolution and management of defaulted single and multifamily loans.-The number of single family and multifamily notes being assigned to FHA has substantially increased. This is due partly to difficult economic conditions and partly due to known flows in the underwriting of certain programs (e.g. multifamily coinsurance). Yet losses to the federal government have been exacerbated because FHA has inadequate systems to prevent further assignments and to more quickly dispose of loans for which it is responsible.

The totality of these material weaknesses raise a very real risk of widespread defaults, putting even more significant drains on the multifamily insurance fund.

The HUD IG has also highlighted serious deficiencies in HUD's staffing capacity and its ability to monitor loan performance, provide loan servicing or take appropriate actions to prevent project defaults. A recent audit report by the HUD Inspector General of the Multifamily Division of the Grand Rapids, Michigan field office underscored the pervasiveness of this problem and the real threat of loss it poses to the federal government.

The IG pointed out that HUD staffing was so inadequate ``the Office did not take adequate steps to protect HUD's interest as the insurer or holder of the projects' mortgages.'' The IG went on to note that programs and systems put in place to monitor project health and to forecast potential loan defaults went unutilized, allowing seriously adverse conditions-such as enormously high vacancy losses; underfunded tenant security deposits and unauthorized withdrawals from operating reserves-to go uncorrected.

In comparing HUD's staffing capacity at the Michigan field office with that of the state housing finance agency the IG noted that the staffing capacity of the state housing finance agency far exceeded that of HUD-while the program staff of the state housing finance agency each handled an average of 16 projects, each of the HUD program staff were responsible for 71 projects.

The legacy of coinsurance.-The demise of the coinsurance program is often cited as contributing to the current decline in multifamily activity. Although coinsurance was authorized by Congress in 1974, the Reagan Administration is responsible for greatly expanding the use of FHA coinsurance as part of its ``privatization'' policy. Coinsurance was originally conceived as an idea to have the federal government share the risk of loss on multifamily loans with private lenders.

Under coinsurance, FHA delegated the mortgage insurance

underwriting functions, servicing, management and property disposition functions for multifamily loans to private lenders and agreed to share insurance premiums with the lenders. In exchange, lenders agreed to assume responsibility for a portion of any loss (up to a maximum of approximately 20% of the loan).

By 1989, it had become clear that the coinsurance program had been poorly designed and grossly mismanaged. Instead of a careful risk sharing program with qualified and well-capitalized lenders, coinsurance-as implemented by the Reagan administration-became a vehicle for massive staff cutbacks and a complete and total abdication of function, responsibility and oversight by HUD.

In addition, HUD lacked the staffing capacity to monitor the activities of lenders, and a majority of the coinsurance portfolio was originated by just two lenders.

In September 1989 Price Waterhouse reported that the FHA General Insurance Fund, which covers the multifamily coinsurance program, would suffer losses of \$3.5 billion in 1989, of which about \$2.7 billion were attributable to the coinsurance program.

The reasons behind the failures of the coinsurance program were examined at length by the Senate Banking Subcommittee on HUD/Mod Rehab Investigation and reported in the Subcommittee's final report (S. Prt. 101-124).

In January 1990, Secretary Kemp announced termination of the coinsurance program effective November 1990. In its place, the Secretary proposed implementing a new, full insurance delegated processing system. Under delegated processing, approved processors perform the technical underwriting functions for the FHA, but unlike coinsurance, the processors will not have the authority to issue insurance commitments. The delegated processing program began operation in the spring of 1991. It has suffered from numerous deficiencies and is unlikely to meet the need for affordable rental housing that serves low and moderate income families.

Secondary market activity.-While there was substantial growth in the secondary market for multifamily mortgage loans in the 1980s, this segment remains quite small compared with the single family secondary market. In 1989, \$10 billion in multifamily loans were sold in the secondary market, representing 33% of multifamily originations. In contrast, \$274 billion in single family mortgages were sold in the secondary market, representing 78% of originations in 1989.

The National Task Force on Financing Affordable Multifamily Housing noted the importance of a viable and vibrant secondary market for multifamily loans in its final report:

The need for a stable, high-volume secondary market that would serve subsidized as well as market-rate multifamily housing is

clear; its timely development should not be left to chance . . . The Task Force recognizes the far greater challenge of developing a secondary market for multifamily, as opposed to single family housing. However, the benefits of a secondary market are too numerous to allow the challenge to go unmet.

The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Association (Freddie Mac) have had mixed multifamily results. In addition, there is a growing perception in recent years--among a wide coalition of lenders, builders, tenant advocates, state and local governments and other housing organizations--that Fannie Mae and Freddie Mac are simply not ``doing enough'' to serve the housing needs of low and moderate income families.

While the total volume of Fannie Mae's multifamily mortgage activity at the end of the third quarter of 1990, was \$17.9 billion, industry observers point out that the bulk of Fannie Mae's multifamily activity has been directed to the high end of the rental market for more luxury type multifamily dwellings in suburban communities.

The Freddie Mac experience and track record in multifamily housing has been dismal. Freddie's multifamily volume dropped from a high of \$3.4 billion in 1986 to \$600 million in 1989. In September 1990, Freddie Mac suspended new business for its multifamily program, after suffering large losses as a result of poor underwriting and geographic concentration in housing markets in Atlanta and New York.

Freddie Mac's chairman announced at a Subcommittee hearing in October 1991, that it intended to re-enter the multifamily market sometime in the middle of 1992. At a subsequent Subcommittee hearing on April 3, 1992, Freddie Mac announced its intention to commit \$1 billion toward the purchase of existing multifamily loans in the agency's portfolio.

The Committee remains concerned about the nature and scope of Freddie Mac's multifamily activity. While activities such as the refinancing may help to forestall further defaults in Freddie Mac's multifamily portfolio, they do not expand the supply of affordable rental housing.

The Committee anticipates increased regulatory and legislative oversight of both Fannie Mae and Freddie Mac as a result of the GSE legislation currently awaiting conference between the House and Senate. In particular, the Committee is hopeful that Title V of the GSE bill--which is designed to amplify and clarify Fannie Mae's and Freddie Mac's responsibility for serving the housing needs of low and moderate income families--will help to stimulate the agencies' affordable multifamily activities.

C. Responses to structural impediments

Housing Subcommittee Hearings. In preparation for reauthorization of the 1990 National Affordable Housing Act, the House Subcommittee conducted two hearings on multifamily housing finance during the fall of 1991 and the spring of 1992. The hearings were designed to explore the current state of multifamily housing finance in this country and to begin to formulate recommendations for improvements. The first hearing, held on Tuesday, October 21, 1991, was conducted as a roundtable discussion. Witnesses included HUD Assistant Secretary for Housing, Arthur Hill, as well as leaders in multifamily housing lending, development, investment--both non-profit and for-profit; the secondary mortgage market; and mortgage security specialists.

The hearing focused on the adequacy of the current system for financing multifamily housing; recommendations for changes, particularly legislative changes in Federal policy to provide more adequate financing of affordable multifamily housing; and the appropriate role of the secondary market in multifamily housing finance.

In addition to regular written testimony, the Subcommittee requested that four of the witnesses prepare discussion papers on multifamily finance in advance of the hearing. These discussion papers were distributed to all witnesses prior to the hearing in order to stimulate a more effective roundtable discussion.

The discussion papers included the author's assessments of the adequacy of the current system for financing multifamily housing, particularly housing that is affordable to low-income and moderate-income families; an analysis of the important trends or public policies that might affect, either positively or negatively, the adequacy of that financing over the next decade; and recommendations for changes, especially legislative changes, in Federal policy to improve the financing of affordable multifamily housing to meet national needs.

Testimony presented at the hearing highlighted the need for more effective credit enhancement for multifamily housing; the need for an enhanced role for Fannie Mae and Freddie Mac in the purchase of multifamily loans; the need to improve the ability of FHA insurance program to process the existing and future multifamily pipeline; and the need to begin to develop more uniformity in the multifamily area, from underwriting to documentation.

By far, the most overwhelming and consistent opinion expressed by witnesses at the hearing was the need to have a vibrant and effective FHA back in the multifamily market. Witnesses uniformly stated that FHA provides the key credit enhancement for affordable multifamily housing; the FHA programs currently suffer primarily from insufficient staff which result in excessive delays in approvals. Several witnesses also suggested an enhanced role for FHA, which would entail working in better cooperation with state and local entities such as housing finance agencies,

as well as with Fannie Mae and Freddie Mac.

The second Housing Subcommittee hearing, held on Friday April 3, 1992, followed by with a more thorough discussion of specific recommendations for improvement, including recommendations from the General Accounting Office, the National Task Force on Financing Affordable Housing, state and local housing finance agencies, secondary market entities, lenders and other multifamily experts.

GAO report.-The 1990 National Affordable Housing Act directed the General Accounting Office to undertake a study on multifamily finance and to identify legislative or administrative actions that could improve the availability of mortgage financing for affordable multifamily housing through various credit enhancements.

In April 1992, the GAO presented its preliminary findings at the Housing Subcommittee hearing. The GAO recommended several credit enhancement options focused primarily on modifying and improving the current insurance programs of the Federal Housing Administration (FHA).

In conducting the study and formulating its recommendations, GAO drew upon the expertise of a wide range of senior and midlevel officials representing private financial institutions (including commercial bankers, mortgage bankers and savings and loan officials), bond insurers, credit rating agencies, government-sponsored mortgage finance corporations (GSEs), for-profit and nonprofit housing developers, government regulatory organizations, state and local housing finance agencies (HFAs), community development organizations, and representatives of academia.

The GAO concluded that a broad consensus exists among the industry that (1) significant barriers impede access to the capital markets for rental housing targeted to low and very-low income households and (2) there is a need to improve the availability of long-term fixed-rate financing for affordable housing. GAO's preliminary recommendations represent an attempt to respond to this consensus.

GAO presented four credit enhancement options which focused primarily on modifications to the existing FHA mortgage insurance programs. These included: (1) delegated processing; (2) delegated underwriting; (3) primary bond insurance; and (4) bond reinsurance. GAO suggested implementing these options on a pilot basis with FHA and those state and local housing finance agencies (HFAs) with a demonstrated capacity to undertake multifamily housing financing. Under each option, HFA's would agree to assume the expected losses on loans they originate based on this historic loan performance.

Under delegated processing, FHA would allow selected HFAs to

originate and process individual loans and submit loan packages directly to FHA for final approval for full mortgage insurance. FHA would be required to approve or deny the loan insurance within a specified time frame (e.g. 30 days). With the exception of timely review, FHA's current delegated processing program operates in much the same way as the GAO recommended option.

The second option would delegate underwriting to a selected group of the most experienced HFAs, allowing them to commit FHA to full mortgage insurance on individual loans without requiring final approval by FHA. GAO noted that this option would allow each HFA the flexibility of applying its own underwriting criteria to meet the needs of its local communities.

The third option would allow FHA or the Government National Mortgage Association (Ginnie Mae) to provide primary insurance on bonds issued by HFAs that are backed by multifamily loans. Proceeds from the bonds would be used to purchase or originate affordable multifamily loans. GAO noted that this option would provide more extensive access to HFA financing for local lenders who are currently originating small- and medium-sized loans for affordable multifamily housing.

Under the fourth option, private bond insurers would provide the primary bond insurance to HFAs. FHA or Ginnie Mae would reinsure the primary insurance policies. GAO noted that the availability of this reinsurance could encourage private bond insurers to more actively participate in providing credit enhancements for affordable multifamily housing.

CAO also highlighted the need for more accurate data on the general and performance characteristics of affordable multifamily housing loans, and recommended the establishment of a national database on multifamily loan performance.

National Task Force on Financing Affordable Housing.-The National Task Force on Financing Affordable Housing was launched in February 1990. The Task Force set out to identify obstacles that impede access to capital or market efficiency for multifamily housing and to explore the development of a fully-functioning secondary market, particularly for affordable rental housing.

Participants in all areas of housing finance and development comprised the membership of the Task Force and included representatives from the banking and insurance industries, mortgage bankers, underwriters multifamily developers, non-profit housing organizations, federal, state and local housing agencies, potential investors and representatives from secondary market agencies such as Fannie Mae and Freddie Mac.

Two of the members of the Task Force, Carl Eifler and Barbara Cleary, testified at the Subcommittee's hearing on April 3, 1992 and presented the group's preliminary findings.

On June 11, 1992, the Task Force released its final report and recommended a revitalized system for financing rental housing as well as the development of a large-scale secondary market for multifamily mortgages, which would make private capital more available for investment in rental housing. The report also recommended: (1) defining a multifamily loan database in order to move toward greater standardization in multifamily housing finance; (2) exploring new risk-sharing mechanisms between old and new sources of credit enhancement; and (3) establishing a Multifamily Institute to coordinate and to pursue the recommendations of the Task Force, and in particular to create standards for the industry.

D. Legislative response

The multifamily finance proposals contained in Title III of the Committee Bill draw upon the suggestions and recommendations of GAO, the Task Force and other multifamily housing experts. The proposals are designed to address multifamily data collection and improved credit enhancement for affordable multifamily loans.

Section 311 of the Committee Bill would establish a National Interagency Task Force on Multifamily Housing in order to begin the process of building a complete and useful national database on multifamily housing loans.

The Task Force would be composed of The Secretary of Housing and Urban Development, the Chairperson of the Federal Housing Finance Board, the Comptroller of the Currency, the Chairperson of the Federal Reserve Board, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the Federal National Mortgage Association, and the Chairperson of the Federal Home Loan Mortgage Corporation or their designees.

In addition, the Task Force would also include representatives appointed by both the Secretary of HUD and the Chairperson of the Federal Housing Finance Board. The HUD Secretary would appoint a representative from each of the following: a State housing finance agency, a local housing finance agency, the building industry with experience in multifamily housing, and the life insurance industry with experience in multifamily loan performance data.

The Chairperson of the Federal Housing Finance Board would appoint a representative from each of the following: the financial services industry with experience in multifamily housing underwriting, the nonprofit housing development sector with experience in subsidized multifamily housing development, and a nationally recognized rating agency.

The Task Force would be jointly chaired by the Secretary of Housing and Urban Development and the Chairperson of the Federal Housing Finance Board.

Section 312 of the Committee Bill would authorize a demonstration program which would enable FHA to tap the resources and expertise of state housing finance agencies, federal government sponsored enterprises and other market participants in order to expand the supply of affordable rental housing.

Under the general demonstration program, the Secretary would be authorized to explore the feasibility of entering into partnerships or other contractual arrangements with state or local housing finance agencies, the Federal Housing Finance Board, Fannie Mae, Freddie Mac, and other state or local mortgage insurance companies or bank lending consortia. In establishing the demonstration program the Secretary would be required to consult with the appropriate public or private agencies, organizations or individuals with experience in multifamily lending, underwriting, insurance and development. The Secretary would also be required to consider any recommendations made by the GAO pursuant to the study on credit enhancement mandated in the 1990 National Affordable Housing Act.

Section 312 would also authorize a specific pilot program to allow FHA to enter into partnerships-or risk sharing arrangements-with qualified state or local housing finance agencies to produce affordable housing.

Housing finance agencies would be given the ability to underwrite multifamily loans with full FHA insurance if they agree to reimburse the federal government for a specified portion of any losses which the loan may incur. This partnership between FHA and the housing finance agencies would enhance their shared public missions of providing affordable housing without taking undue risks with either agency assets or federal assets.

E. Response to Administration concerns

The Administration has raised several concerns regarding the multifamily demonstration program.

First, the Administration contends that the demonstration would repeat the failures of the coinsurance program. The Committee strongly disagrees, believing that the demonstration would learn the lessons from the coinsurance debacle.

The Final Report of the HUD/Mod Rehab Investigation Subcommittee noted in 1990 that ``coinsurance or risk sharing remains valid as a concept. HUD's failures in implementing the coinsurance authority merely illustrate that a sound concept can be poorly executed.''

Under coinsurance, FHA delegated the insurance underwriting functions for multifamily loans to private lenders and agreed to share insurance premiums with the lenders. In exchange, lenders agreed to assume 20% of the risk of loss on coinsured loans.

By most accounts and by HUD's own admission, coinsurance failed primarily due to flawed program design, inappropriate implementation and a complete lack of monitoring and oversight. Under coinsurance, lenders had an incentive to overvalue loan mortgages since they were required to put up little if any of their own capital as assurance that any losses would be repaid.

The demonstration, by contrast, would utilize qualified state housing finance agencies with substantial assets, a clear public purpose and a proven track record-instead of ``fly-by-night'' operations with minimal assets, virtually nothing to risk and everything to gain. Significantly, the experience of state housing finance agencies under coinsurance was exemplary-originating more than \$200 million coinsured loans and producing more than 2500 units affordable housing-without causing a single loss to the federal government.

The demonstration would avoid the problems of coinsurance by: requiring a demonstrated capacity of the agency's ability to reimburse its share of any losses under the program, and by establishing standards for HFA qualification which reflect an agency's ability to execute the underwriting and processing functions as well as its performance, personnel and fiscal capacity.

Second, the Administration asserts that the multifamily demonstration will expose the federal government to excessive risk. The Committee also disagrees with this contention. Sharing the risk with state housing finance agencies will lessen rather than increase the federal risk by utilizing the significant experience and resources of the state agencies-including loan underwriting capacity, loan servicing and monitoring experience. As noted earlier under the discussion of the diminished capacity of FHA, HUD currently faces a very real risk of widespread defaults of existing federally insured multifamily loans primarily because the capacity of HUD to monitor loan performance, provide loan servicing or take appropriate actions to prevent project defaults is seriously deficient.

When the HUD IG compared HUD staffing with that of the state housing finance agency, it noted that the staffing capacity of the state housing finance agency far exceeded that of HUD-while the program staff of the state housing finance agency each handled an average of 16 projects, each of the HUD program staff were responsible for 71 projects.

The partnership between FHA and the state housing finance agencies would enhance their shared public missions of providing affordable housing without taking undue risks with either agency assets or federal assets.

Title IV-HOPE

Authorization/amendment

The Committee bill would consolidate authorizations for the four HOPE programs for fiscal years 1993 and 1994. Conforming amendments would be made to existing law to strike separate authorizations. The bill would also add non-federal public housing to the list of multifamily rental properties eligible for homeownership under HOPE II.

HOPE for youth: Youthbuild

In general.-The Committee bill would establish a new grant program called Youthbuild to empower economically disadvantaged youth to become self-sufficient while at the same time increasing the supply of affordable housing. The Secretary would be authorized to provide planning and implementation grants to capable public and private non-profit organizations to educate and to train disadvantaged high school dropouts through a program involving construction and rehabilitation of housing for low-income people.

The Youthbuild program would be modeled on existing programs that have grown up at the grass roots level. These programs have proven effective over the course of the last 10 years, first in East Harlem in New York City; then in the South Bronx; and more recently in Roxbury, Massachusetts; and in Cleveland, Ohio: San Francisco, California; Milwaukee, Wisconsin; Indianapolis, Indiana; and Tallahassee and Gadsen County in Florida.

The Committee believes that the Youthbuild model offers a unique, comprehensive approach to the revitalization of distressed communities and the integration into the social and economic mainstream of what is in danger of becoming a lost generation of poor, minority youth. Youthbuild experiences link education and training in marketable job skills with leadership development and the production of a needed community resource-affordable housing.

The Committee designed the federal grant program both to enable organizations that have already run Youthbuild programs to expand their operations and to permit fledgling organizations, the managers or directors of which have experience in youth training and/or housing development, to develop new Youthbuild programs. The grant program would have sufficient flexibility so that grantees could operate Youthbuild programs independently or in conjunction with other federal, as well as state or local, housing development programs.

The Committee included the Youthbuild program as a new subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act, which contains the HOPE programs that enable recipients of federal housing assistance to purchase their units and provide those recipients with counseling and training aimed at economic empowerment. The Committee views the Youthbuild program, which seeks to empower low-income youth, as an analogue to the other HOPE programs. The Committee further believes that Youthbuild

would be best administered by the Department's Office of Community Planning and Development, which also administers the HOPE program under Subtitle C of Title IV.

Planning grants.-The Secretary could award planning grants of up to \$150,000 and would have discretion to approve higher amounts with good cause. Planning grants could be used to study the feasibility of establishing a Youthbuild program and for program planning and development, including identifying and selecting a site, preliminary architectural or engineering work, staff identification and training, and program activity planning. Planning grants could also be used to fund development of implementation grant applications. An applicant would not need to have control of the site to receive a planning grant. Applicants would be selected to receive grants based on competitive criteria, including their qualifications and experience, their potential for developing a successful program, and the need for the prospective program. The Committee intends that newly formed organizations should be eligible for grants as long as their principals have experience as specified in the criteria for selection.

Implementation Grants.-The Secretary would award implementation grants for the purpose of carrying out Youthbuild programs. Implementation grants could be used for architectural and engineering work; acquisition, rehabilitation and/or construction of housing and related facilities; administrative costs (which would be limited to 15% of the grant amount or a higher percentage determined necessary by the Secretary to support capacity development by a private nonprofit organization); education and job training services and related services including counseling and leadership development; wage stipends; operating expenses and replacement reserves of the property; legal fees; and technical assistance.

Grants would be awarded based on competitive criteria. As with planning grants, these criteria would include an applicant's qualifications and experience, its potential for developing a successful program, and the need for the prospective program. Other criteria would include the apparent commitment of the applicant to leadership development, education and training of participants; the inclusion of previously homeless tenants in the housing provided; and the amount of resources from non-program sources that the applicant or an affiliate would contribute to the program. The Committee intends that newly formed organizations should be eligible for grants as long as their principals have experience as specified in the criteria for selection.

Although the Committee intends that the amount of nonprogram funds an applicant can provide should receive serious consideration in the selection process, the Committee does not intend that this should be the determining factor. A proposed program with strong indicia of likely success and/or a program

that meets a great need should be funded before a program with weak indicia of likely success or that addresses a minimal need even if the applicant for the latter program can provide a larger portion of program costs.

An applicant would receive priority in the award of an implementation grant to the extent that the applicant proposed to finance housing development, operation, and maintenance costs from nonprogram funds. The Committee decided to include this provision to encourage coordination of Youthbuild programs with existing federal housing programs as well as with state and local housing programs in order to minimize unnecessary duplication of housing development programs and to leverage federal housing development dollars. The Committee was concerned, however, that many organizations that have and will operate Youthbuild programs may have difficulty coordinating with existing housing programs. Organizations that currently operate Youthbuild programs often experience such difficulty because federal housing production programs have goals and requirements that are inconsistent with the educational and training aspects of Youthbuild programs. The Committee therefore intends that funding Youthbuild programs with other housing production programs, but who perform well in the other selection criteria.

The Secretary would be required to develop a procedure whereby applicants would apply at the same time for a planning and an implementation grant. Receipt of implementation funds would be conditioned on successful completion of the goals for which planning funds were awarded.

Program requirements.-The bill would impose certain requirements both on the operation of the Youthbuild program and on the housing projects that would be constructed or rehabilitated through the Youthbuild program.

Each residential project assisted would have to make 90 percent of its units available for families with incomes less than 60 percent of the area median with the remainder of the units available for low-income families. The bill would also impose certain tenant protections and tenant selection procedures and would limit the rent paid by tenants to the level specified in Section 3(a) of the Housing Act of 1937. Transitional projects would have to comply with requirements regarding service delivery, housing standards, and rent limitation imposed on comparable housing receiving assistance under Title IV of the Stewart B. McKinney Homeless Assistance Act, and homeownership projects would have to comply with the requirements of either HOPE II or HOPE III. Profits on both rental and transitional housing would be limited to a six percent annual return on equity and an additional return on equity at disposition to offset inflation. Nonprofit organizations would have to use any profit for the purpose of providing housing for low and moderate income families. All restrictions would apply for the remaining useful life of the property.

The bill would also impose limitations on youth eligible to participate in a Youthbuild program. Participation would be limited, subject to certain exceptions, to economically-disadvantaged youth aged 16 through 24 who have dropped out of high school. Individuals selected for participation would have to be offered participation for 6 to 24 months. Program time would be required to be equally divided between education services and activities and work experience. Provisions of the Job Training Partnership Act relating to wages and benefits, labor standards, and nondiscrimination would apply. However, the bill would provide that programs could use funds from sources other than the Youthbuild subtitle to pay higher wages if appropriate. The Committee included this provision to provide flexibility to accommodate variations in living costs among program areas. Experience with existing Youthbuild programs has indicated that this flexibility is necessary to ensure program success.

Technical assistance.-The Committee bill would require the Secretary to set aside 5 percent of appropriations to fund technical assistance, for organizations operating or intending to operate Youthbuild programs. The Committee believes this provision is important to the bill's goal of developing the capacity of nonprofit organizations to operate Youthbuild programs.

Regulations.-The Secretary is authorized to issue regulations to carry out the Youthbuild program. Although the bill would not impose any deadline for the issuance of regulations, the Committee intends that the Secretary issue regulations as expeditiously as possible.

TITLE V-HOUSING ASSISTANCE

SUBTITLE A-PUBLIC AND INDIAN HOUSING

Authorizations

The Committee bill would authorize a series of public and indian housing programs and activities for fiscal years 1993 and 1994. These programs and activities would include public housing operating subsidies, the public housing vacancy reduction program, public housing resident management, public housing family investment centers, public housing early childhood development grants, and the indian public housing early childhood development demonstration program.

Overview

The Committee bill contains several initiatives to improve living conditions for the residents of public housing. The causes for troubled public housing are complex and interwoven, but the Committee believes that reforms need to proceed along two tracks.

The first track is management reform aimed at improving the operating performance of that small percentage of public housing authorities which has been consistently mismanaged over the years. The second group of provisions are aimed at solving the problems of severely distressed developments which are beyond the scope of current public housing programs and cannot be resolved solely by improving the management of the PHA.

Reform of the public housing system needs to proceed along both tracks: either solution by itself would be inadequate. In some cases, HUD and the residents need to take action to improve management and accountability of the PHA. In other cases, residents and community groups need to be involved in a comprehensive process to rebuild and reconfigure existing buildings and address the underlying causes of social and economic distress. Most significantly, residents need to be an integral part of whatever set of reforms is pursued.

Management reform

The Committee bill would contain two provisions designed to enhance the ability of the Department and residents to reform troubled public housing agencies. The first provision would amend existing law to give HUD additional powers, resources and mandates to reform and, if necessary, take over troubled public housing agencies. Resident participation in such reform efforts would also be substantially expanded. The second provision would establish a limited demonstration to test the effectiveness of giving residents of housing administered by troubled PHAs the ability to choose alternative management.

Amendments to existing law.-Section 6(j) of the United States Housing Act of 1937-as amended by the National Affordable Housing Act-provides the general framework for treatment of troubled housing authorities. The section: (1) requires HUD to designate troubled PHAs, based largely upon a PHA's performance under statutory indicators; (2) directs HUD to enter into agreements with each troubled PHA, setting targets for improved performance, strategies for meeting such targets and incentives or sanctions for effective implementation of those strategies; (3) gives HUD the authority, after finding a PHA in substantial default, to contract out the management of some or all of the developments administered by a troubled PHA or petition the courts for the appointment of a receiver to manage a troubled PHA.

It is apparent that existing law provides HUD with a strong set of powers. The Committee believes that these powers, if properly implemented, would go a long way towards reforming the management of troubled PHAs and improving the living conditions of tenants who reside in housing administered by these agencies. Yet the Department has rarely exercised these powers, concentrating its efforts in recent years on publicizing the management failures of various agencies with regard to vacancies, expenditure of modernization funds and other critical elements of public housing

management.

Clearly, some public housing management problems stem from forces beyond the control of managers; lack of social and income diversity, inadequate operating subsidies, unpredictable modernization funds, political interference by local politicians. Yet, it is a sad fact that some PHAs no longer practice the type of on-site project management that is synonymous with good real estate management. Some PHAs do not even use project-based accounting methods so that differences in operating, maintenance and utility costs can be calculated on a project-by-project basis.

The Committee believes strongly that the federal government has an affirmative responsibility-to the residents of public housing, to the federal taxpayers-to use its resources to remedy the management deficiencies in those few local agencies that are troubled. HUD cannot ``shift the blame'' to local malfeasance or incompetence; it ultimately has the responsibility to monitor the performance of recipients of federal aid and to act aggressively when such aid is being misused.

HUD's inaction also has larger consequences for federal housing policy. The few public housing agencies who are persistently troubled-with apparently little hope of self-reform-garner the lion's share of media attention. Unfortunately, this attention reflects negatively on thousands of PHAs, nonprofit and forprofit developers across the nation which do the unglamorous work of developing and maintaining decent, safe and sanitary affordable housing for low income families. Allowing troubled PHAs to persist unchecked clearly weakens the political support for all federally-supported affordable housing.

The Subcommittee on Housing and Urban Affairs held a hearing on March 25, 1992 to ascertain, in part, how well HUD was implementing the statutory framework described above and how existing law could be improved.

The most helpful testimony was provided by Ms. Josephine Hood, a tenant organizer with the Chester Economic Development and Tenant Management Corporation and Mr. Roger Ashodian, Counsel with the Delaware County Legal Assistance Association, two individuals who had ``lived through'' the Department's take-over of the Chester Housing Authority. They provided a detailed record of HUD inaction in the face of irrefutable evidence-six years on Inspector General and independent audit reports, management reviews, occupancy audits, maintenance operations reviews, engineering reviews, CIAP reviews, and Section 8 reviews-that the Chester Housing Authority had ceased to function as a caring and effective housing entity. They also provided a series of statutory recommendations that formed the basis for the Committee's legislative initiative.

In general, the Committee bill would strengthen (1) HUD's ability

and responsibility to take action against troubled PHAs, particularly in cases where the inadequacies of management are causing substandard living conditions; and (2) the ability of residents to ensure that necessary steps are taken, either by themselves or by HUD.

The Committee bill would require HUD, upon designating a PHA as troubled, to provide for an on-site, independent management assessment carried out by a knowledgeable assessment team. In addition to general management issues, the assessment team would consider, as appropriate, issues relating to the agency's resident population and physical inventory, including adequacy of the PHA's comprehensive plan, extent of resident involvement in management and the presence of severely distressed developments which need comprehensive assistance. The Committee believes firmly that a team of knowledgeable experts are better equipped than HUD's staff-many of whom have never worked in a local housing agency-to determine the root cause of management deficiencies and to recommend a series of management improvements or other actions to remedy these deficiencies.

The assessment teams would be required to consult with tenants and local public and private entities in carrying out its responsibilities. The tenants are the real ``experts'', knowing better than anyone else the effects of bad management. The Committee intends that the Department establish guidelines to ensure that these consultation requirements be treated seriously by the assessment teams and carried out in a meaningful fashion.

HUD would also be given specific authority to include in memoranda of agreements with troubled PHAs plans for enhancing resident involvement in management, including representation on the PHAs governing body, where appropriate. Mr. Ashodian's testimony referenced a bill under consideration in the Pennsylvania House of Representatives that would require all five member PHA boards to include at least one tenant representative. The Department should survey other states and consult with groups representing tenants, PHAs and other interested parties to determine what level of representation is suitable.

The Committee bill would expand the statutory remedies that are available to HUD when a PHA is found to be in violation of its basic covenants. The bill would clarify that HUD has the power under existing law to select private management agents that are chosen by the tenants of a particular development. This clarification incorporates within the existing legal framework a major goal of the Administration's Choice in Management proposal-to allow tenants living in housing developments administered by troubled housing agencies to select their own manager. The bill would also permit HUD to solicit competitive proposals for construction managers if needed to oversee implementation of modernization programs.

The Committee bill would strengthen the leverage of public

housing residents by allowing residents of troubled PHAs to petition HUD to take one or more of the remedial actions specified by the statute (such as hiring alternative managers or construction managers or petitioning for receivers) and requiring HUD to respond to such petitions in writing with its plans and the reasons why any such plans differ from the actions proposed by the residents. The bill would also require HUD to take one or more of these actions where a PHA has either (1) been on the troubled list for three consecutive years; or (2) has substantially defaulted on its obligations in a manner that is contributing to the substantial deterioration of public housing living conditions. Residents would also be empowered to petition directly for the appointment of a receiver if these conditions are met and HUD fails to act in a timely fashion. Finally, the Committee bill would authorize HUD to make assistance available to receivers or other alternative managers to remedy substantial deterioration of living conditions or related emergencies endangering the health, safety and welfare of the residents. The bill would authorize a \$25 million set-aside from modernization funds for each of fiscal year 1993 and 1994 to carry out such activities as well as other efforts (e.g. assessment teams, alternative management) permitted under the law.

Choice in management.-The Committee bill would also incorporate a limited version of the Administration's Choice in Management proposal. As originally proposed, Choice in Management would have given residents in most public housing developments administered by troubled PHAs the opportunity to choose whether they want their development managed by an entity other than the PHA. The Committee was initially skeptical of this proposal. First, as demonstrated above, existing law already gives HUD a wide range of tools to attempt to reform-and, in some cases, remove-troubled public housing authorities. As the Chester testimony indicates, HUD has persistently failed to use these tools and carry out its responsibilities.

Second, under the Administration's original proposal, all the developments under the administration of a troubled PHA were "up for grabs", irrespective of whether a development is well-managed or in a severe state of distress. This lack of targeting could have had counterproductive results. Under one likely scenario, the proposal could have lead to well-managed developments opting out of the inventory (e.g. to receive additional modernization funding) while distressed developments remain under PHA control.

Nevertheless, the Committee recognizes that alternative management could offer public housing residents a chance to dramatically improve their living conditions. The threat of alternative management could also spur improvement at troubled PHAs.

For these reasons, the Committee, on the basis of bipartisan

discussions, made five major refinements to the Administration's proposal. First, the proposal was essentially reduced to a demonstration. Over the next two years, HUD will be given the authority to transfer management in only 15 developments administered by troubled PHAs. This will give Congress and others the opportunity to evaluate the effectiveness of this alternative approach to reforming troubled PHAs.

Second, transfer of management has been limited to developments that have been identified as severely distressed.

Third, the universe of troubled PHAs that are subject to this demonstration has been circumscribed. The Administration's original proposal defined the term "troubled public housing agency" as meaning a PHA that owns or operates 250 or more units of public housing and has been designated by HUD as a troubled PHA for the current Federal fiscal year and the past two Federal fiscal years. The Committee bill would also restrict coverage to those troubled PHAs that have not met the targets for improved performance that are contained in their agreements with HUD. Choice in Management would, therefore, be limited to those troubled PHAs that are making no progress in reforming themselves.

Finally, authorizations for the rehabilitation component of the program would be capped at \$50 million, instead of the \$100 million originally proposed by the Administration.

The other elements of Choice in Management have generally been retained in their original proposed form. Resident councils would apply to HUD for approval to transfer management of their development if a majority of the board and the residents supported such a change. The alternative manager could be a private nonprofit (including an RMC), a public nonprofit, a public agency, a forprofit entity or a PHA other than the one which owns the building.

New managers would receive the development's operating subsidies and modernization funds directly from HUD and would maintain the same income eligibility, preference and rent rules as public housing. New managers, however, would be allowed to terminate tenancy without an administrative grievance process and would not be required to select families from the PHAs waiting list.

Developments that do not need rehabilitation could be transferred to alternative managers with HUD approval at any time. Developments that need rehabilitation could not be transferred unless they received a rehabilitation grant. As discussed above, the program would set aside \$50 million in FY 1993 and 1994 from the public housing modernization program to provide the necessary rehabilitation funding. These funds would be awarded through a national competition.

Distressed public housing developments

The Committee bill would authorize two new programs to eliminate unfit living conditions in distressed public housing developments. The first provision would authorize a separate program to revitalize the most distressed public housing developments by involving residents and community groups in comprehensive planning, major reconstruction, supportive service and economic development initiatives. The provision incorporates some of the promising recommendations recently put forward by the National Commission on Severely Distressed Public Housing. The second provision would include the Administration's Take the Boards Off proposal, designed to transfer substantially vacant developments, currently owned by troubled public housing agencies, to nonprofits and other specified entities in order to return this housing to productive use.

Committee revitalization initiative.-For the past fifty years, public housing has been a strong pillar of national housing policy. Public housing is home to more than 3.4 million people whose average income is less than \$6,000 a year. Most public housing in the nation consists of small garden-style apartment complexes which are well maintained and relatively indistinguishable from other subsidized or unsubsidized rental housing.

Nevertheless, among the nation's 10,000 projects, there exist a few highly visible family public housing developments with intolerable and seemingly intractable conditions that are perennially spotlighted by the media. These few developments reflect negatively on the efforts of PHAs, nonprofit and forprofit developers across the nation to develop and maintain affordable housing for low income families. These developments also often occupy sites of a size or value which could not again be assembled for affordable housing and, thus, are a potentially valuable public resource.

The severely distressed developments typically share common characteristics. First, these developments require major redesign (if not partial or total demolition) to correct not only for years of deferred maintenance and the physical deterioration or obsolescence of major systems but for serious flaws in the original design. Many low-rise developments, for example, were built without attention given to notions of defensible space. High-rise developments often contained elevator banks open to the elements. In both cases, developments are often densely populated.

Second, the families residing in these severely distressed developments are themselves distressed. The problems generally associated with the inner city poor-high rates of unemployment and teenage pregnancy, broken families, lack of adequate education, drug-use and drug-trafficking, vandalism, random violence-are magnified and exacerbated by the concentration of families with children in dense, segregated living environments.

In some developments, 85 percent or more of the residents receive AFDC benefits.

In the past few years, the future of distressed public housing has become a subject of national debate. A growing body of literature (e.g. Nicholas Lemann's ``The Promised Land,' ' Alex Kotlowitz's ``There Are No Children Here' ') has focused national attention on some of the most notorious developments and the communities in which they are located. Individuals from diverse disciplines and backgrounds-tenant rights, civil rights, child advocacy, welfare reform and public housing-are joining hands to formulate innovative solutions. The Administration, through Housing Secretary Jack Kemp, has put forward a number of controversial and provocative proposals.

The national debate has recently been enhanced by the preliminary report of the National Commission on Severely Distressed Public Housing. The Commission, established by the HUD Reform Act of 1989, was charged with identifying public housing developments in a severe state of distress, assessing the most promising strategies to improve the condition of these projects and developing a national action plan to eliminate by the year 2000 unfit living conditions in those public housing developments determined by the Commission to be severely distressed.

The 18 members of the Commission were appointed in equal numbers by the Administration, the Senate and the House. The Co-Chairmen of the Commission are Congressman Bill Green of New York and Vince Lane, Chairman of the Chicago Housing Authority. Senate appointees included Anne Rudin, the Mayor of Sacramento, California; David Gilmore, Executive Director of the San Francisco Housing Authority; Richard Baron, a St. Louis-based developer of affordable housing; and Irene Johnson, President of the LeClaire Courts Resident Management Corporation in Chicago.

Since first convening in February of 1991, the Commission has undertaken an ambitious schedule of site visits and public hearings. On March 25, 1992, several of the Commission Members, including Congressman Green, discussed their preliminary findings at a hearing held by the Housing Subcommittee. On June 1, 1992, the Commission released its preliminary report and proposed National Action Plan in accordance with the statutory mandate.

The Committee has attempted to incorporate within the authorization bill some of the legislative recommendations made by the Commission. The Committee recognizes that this is only a partial response to the Commission's work since development of the Committee bill was far along by the time the Commission issued its report. The Committee intends to continue working with the Commission and Commission Members on a broader legislative agenda and has extended the life of the Commission, in part, to accomplish this objective.

The key Committee initiative would establish a separate funding

program to revitalize severely distressed public housing, as recommended by the Commission. The Committee agrees with the Commission that the financial and regulatory structure now provided for public housing across the country, including operating subsidies, comprehensive grants and the various restrictive regulatory provisions, simply will not allow the most severely distressed public housing developments to be addressed in other than a piecemeal fashion. The Committee also concurs that residents of these developments must be fully involved throughout the revitalization process if comprehensive efforts are to be successful. Finally, the Committee recognizes that there have been a number of instances of very successful public housing redevelopment efforts, such as redevelopment of the Commonwealth development in Boston. The Committee notes that Rod Solomon-the Deputy Executive Director of the Atlanta Housing Authority and former General Counsel of the Boston Housing Authority-provided critical technical and expert advice on this and other public housing matters throughout the legislative process.

The new program would be targeted to ``severely distressed public housing''. The term would generally be defined as meaning those developments which require major redesign, major reconstruction or redevelopment, are occupied predominantly by families with children who are in a severe state of distress, are locations for recurrent vandalism and criminal activity, and have suffered from severe management deficiencies, including those caused by inadequate operating funding. Covered developments would also be limited to those projects where the elements of distress identified above cannot be remedied through existing funding programs such as operating subsidies, modernization or other programs generally available. The Committee bill would require public housing agencies to identify those developments they consider severely distressed within ninety days, based on the definition contained in this legislation, and for HUD to review the developments submitted and publish a list of such developments within another ninety days.

The Committee recognizes that developments may be listed as severely distressed for which assistance under this new program is not available for some time. Even where planning grants are immediately available, the planning process as well as any necessary design process takes time. The Committee intends that housing authorities be required to continue to address urgent needs, and undertake modernization as practical at severely distressed developments under the Comprehensive Grant program until more extensive resources can be applied under this section.

The Committee bill would authorize HUD to award planning grants on a competitive basis. The importance of comprehensive planning was particularly emphasized by the Commission. As the Commission concluded: ``t he rehabilitation of severely distressed public housing requires substantial skills and knowledge beyond those required for standard modernization activities.''

The planning authorized under the Committee bill, therefore, would not simply cover modernization planning, but would encompass studies of alternatives for revitalization, technical or organization support to ensure resident involvement throughout planning and implementation, improvements to stabilize the development, including security investments, planning for economic development, job training and self-sufficiency activities, planning for necessary management improvements, design of a suitable replacement housing plan where this is necessary, and any other necessary aspects of revitalization of a severely distressed development. The criteria for selection, in addition to elements such as strength of the applicant, extent of resident interest, involvement of local public and private entities and potential for successful program, would include the need for and potential impact of the revitalization program. These provisions recognize that although severely distressed developments, by definition, need funds now, it will be necessary to set priorities. The criteria regarding need and impact were included to emphasize that HUD should give substantial consideration to promising proposals regarding developments clearly recognized as among the most severely distressed.

The Committee bill would also authorize the award of implementation grants. Again, these grants are to encompass not just physical redesign, reconstruction or redevelopment as necessary, but all the activities needed for comprehensive revitalization of the site. These include management improvements, transitional security, any further support as needed for tenant involvement, and provision of supportive services coordination and self-sufficiency activities. Criteria for selection would mirror those used for the planning grants.

The Committee bill would recognize that to enhance the long-term viability of formerly severely distressed developments, it may be advisable to waive or modify the applicability of various regulatory measures. These include measures governing rents (for example, restrictions on maximum rents), income eligibility (for example, limitation of new tenants to very low-income tenants), and other areas of public housing management. A PHA would also be permitted to select tenants in accordance with a local system of preferences, rather than the federal preference system. Such a local preference system would need to be established in writing and respond to local housing needs and priorities. (The deficiencies of the federal preference system are discussed in greater detail below.)

The bill would allow for establishment of cost limitations on revitalization activities and generally sets a ceiling for economic development activities, subject to exceptions for good cause, of \$250,000 per development. Experience in the successful redesign and redevelopment of public housing developments around the country, supported further by the research by the National Commission, indicates that realistic cost limitations need to be

equal to or greater than public housing development cost limitations. Such investments are justified where current sites are potentially viable and could not now be obtained, and where replacement housing options realistically are limited.

The bill would ease the rules governing the replacement of demolished public housing: a 1 for 2 requirement would apply to severely distressed public housing instead of the 1 for 1 requirement that currently applies to the general program. The Committee has continued to hear convincing arguments that the rigidities of the existing replacement requirement, and the lack of available funding, has prevented cities from dealing with distressed projects that ceased years ago to provide decent living environments for low-income families. Easing of the replacement rules is necessary since it is likely that revitalization strategies will involve the selective demolition of public housing units and that funding for replacement housing will not be sufficient to meet the demand. The Committee does not want the revitalization process for individual developments unnecessarily delayed because of the replacement requirement. The Committee believes that the exception established by the bill is fairly constrained, applying only to situations where the targeted housing no longer serves as an affordable housing resource.

The bill would adopt the Commission's recommendation that HUD establish an Office of Severely Distressed Public Housing Revitalization. The Committee concurs with the Commission that HUD's current organizational structure cannot adequately address the magnitude of the problems faced by these developments and the complexity of comprehensive solutions. PHAs are currently forced to receive several different approvals for key elements of revitalization strategies: modernization or other major reconstruction, demolition or disposition and replacement housing plans, and occupancy-related initiatives. If revitalization programs are to be successful, HUD needs to establish a separate unit whose primary mission is the rebirth of this inventory and which can act as a ``one-stop-shop'' for all necessary approvals and reviews. The Committee directs the Secretary to ensure that personnel with sufficient expertise and experience are assigned to this special unit and to use the Commission's recommendation for the level of staffing as a guide to making this allocation decision.

Finally, the bill would limit applicants for assistance to public housing agencies not designated as troubled, public housing agencies or management agents selected or receivers appointed to run housing authorities in breach of basic covenants, and ``troubled'' public housing agencies which act in concert with private non-profit organizations resident management corporations, or other entities approved by HUD.

Take the boards off.-The Committee bill would include the Administration's Take the Boards Off initiative to address the problems of severely distressed developments which are at least

50 percent vacant and administered by troubled PHAs. This initiative would allow such developments to be removed from the public housing inventory and sold to private nonprofit organization, state or local governments or PHAs.

Developments (or one or more buildings within developments, if the buildings are sufficiently separable from the rest of the development) owned by troubled PHAs would be eligible for transfer. (This summary uses the term ``housing'' to cover both developments, or public housing project, and buildings in developments.)

The law would create two classes of applicants-priority applicants and other applicants. private nonprofit organizations, representing current and former residents of public housing in the locality, would be able to apply as priority applicants, to take over ownership and restore the housing to use as assisted housing. If there were no priority applicants interested in owning the housing, States, units of general local government, and PHAs (other than the one which currently owns the housing) could apply as other applicants to use the housing to provide affordable rental or homeownership opportunities for low-income families, including the homeless

If another applicant were interested in acquiring the property, it would be required to make public notification of its interest. A resident council or priority applicant would then have a period of six months (or issuance of the next Notice of Fund Availability for the appropriate program, if that is at a later date) to apply for the housing. (If no resident council or priority applicant applied, the other applicant could apply. If, however, a resident council or priority applicant did apply, it would be given the opportunity to hire an alternative manager to acquire the housing before other applicants seeking the same housing.

The program would provide funding or redevelopment of this housing through a set-aside from the Public Housing Comprehensive Grant program. Funds would be awarded through a national competition. Only housing receiving this funding could be transferred to eligible applicants.

Priority applicants would be required to operate the housing as assisted housing, following most of the current public housing rules. The rent and income rules for public housing would continue to apply. Ongoing operating subsidies and the accrual portion of the housing's modernization funding would go directly to the priority applicant.

Other applicants would be required to operate the housing in accordance with rules similar to those in the HOME program for provision of affordable housing. If the housing were redeveloped as rental housing, families selected for the units would be required to have income not exceeding 60% of the area median

income and would be required to pay no more than the Fair Market Rent for their units. These restrictions would remain in effect for 15 years after transfer of the property. If the housing were redeveloped for homeownership, eligible families could not have incomes that exceeded 80% of the area median income and homebuyers would have to be able to afford the monthly purchase costs (principal, interest, taxes, and insurance) with 30% of their adjusted income. Windfall profit restrictions would apply for a 10-year period after sale to individual families.

The rights of existing residents in housing acquired by other applicants would also be protected, with the ownership entity receiving transitional operating subsidies for these families for a period up to three years and housing vouchers, in order to enable them to remain in the housing or move to other housing. Units in buildings sold to other applicants would be replaced on a one-for-one basis with section 8 vouchers given to the PHA that previously owned the housing. Vouchers would be given the PHA upon transfer of the housing and the PHA could use them for other purposes on an interim basis. However, it would have to make them available, at the end of the transitional operating subsidy period, to these existing residents.

A key feature of the program would be its emphasis on allowing public housing residents to choose how the housing would be redeveloped. If they would want the housing to remain as assisted housing, they may join with a private nonprofit organization to purchase the housing. If they would reside in housing transferred to other applicants, they would be able to remain as renters and their rent-to-income ratios would be protected as they would be if the housing remained in the public housing inventory. In either case, the Act would provide for a set-aside for technical assistance to help them make informed choices about their options.

Regulatory relief to public housing agencies

The Committee bill would direct the Department to review current regulations, administrative procedures, record keeping, and documentation requirements with respect to public and Indian housing operations, modernization, development, and the PHMAP program. Within nine months, the Department is to report to the Congress on its findings on which of the above activities impose unnecessary burdens on public and Indian housing agencies and what changes the Department has undertaken to reduce such burdens. The review is to be undertaken in consultation with public and Indian housing organizations and individuals, tenants, management experts, and academicians.

The purpose of this provision is to reduce governmental costs to both HUD and PHAs by reducing the administrative and paperwork burden on both. The Committee shares the commitment of the Department's leaders to redirect HUD operations to more mission-driven and less rules-driven activities. The emphasis

should be on productivity rather than process throughout the HUD chain of command and with its local partners, PHAs.

The Committee is concerned about the increasing straightjacketing of local housing agencies resulting from HUD over-regulation, excessive reporting requirements, and mirco-management. Administrators of local housing agencies have written and testified to the stifling of their creativity and innovation resulting from heavy-handed HUD rulemaking. They are unable to meet unique local needs and circumstances because of the level of detail in the multitude of HUD rules affecting their operations. The people who suffer or are denied affordable housing as a result of these cumbersome guidelines are low income Americans.

The Paperwork Reduction Act, the Regulatory Reform Act, the Grace Commission Report, and recent initiatives by the President to hold in abeyance proposed federal rules which may impede the nation's economic recovery, all point toward a need to revisit the many HUD handbooks, guidelines, rules, forms, reporting requirements, and administrative procedures with a new, rational perspective. A fresh approach to the volumes of HUD requirements now in place affecting PHAs and IHAs is long overdue.

The Committee believes that the Department should give careful scrutiny to the administrative burdens imposed by the Public Housing Management Assessment Program (PHMAP). This new procedure for evaluating and rating the performance of PHAs requires consistent application by all HUD field offices. The Department should reconsider and reduce the number of HUD rules, forms required, and frequency and scope of HUD monitoring reviews for PHAs scoring above the 90th percentile.

High performing PHAs under PHMAP should have more flexibility to internally modify their budgets without HUD approval. The Committee believes such freedom from HUD micromanagement will enable high performing PHAs to deal swiftly with local problems as they arise, forestalling more costly future ones, and improving their level of service to residents.

The Department should also carefully review the public comments on this rule as well as the more current ground-level experience of PHAs and HUD with the program.

The Committee also expects HUD to review the current staff ratio guidelines in the HUD Personnel, Modernization, and other handbooks to determine their relevance to current local circumstances in PHAs, the programs they administer, the mandates they must meet, and the special but often unanticipated resident needs they must increasingly meet.

The Department is directed to give priority attention to these requirements with a view toward reducing the costs of the time and paperwork for local housing agencies to comply with such requirements.

Public housing replacement

Section 18 of the United States Housing Act of 1937 prohibits the Secretary from approving a PHA's application for public housing demolition or disposition unless the PHA has a plan for the replacement of each public housing unit. The section permits such one-for-one replacement to be provided in total or in part through the acquisition or development of additional public housing units. The section also requires the Secretary to agree to commit (subject to the availability of future appropriations) the funds necessary to carry out an approved plan.

The Committee bill would incorporate two revisions to existing law suggested by the Administration that are designed to allow a reasonable degree of flexibility while still adhering to the basic objectives of the current statutory formulation. The changes are moderate adjustments, needed to enable HUD to apply the replacement requirements in a way that takes appropriate account of varied local situations. The Committee emphasizes that the amendments to current replacement requirements would not change the requirements governing the relocation of displaced residents. If a unit is presently occupied and displacement is contemplated, the statute would continue to require relocation to suitable, affordable housing, totally apart from any form of replacement requirement.

The Committee bill would make two modifications to the current statutory replacement requirements. First, the bill would establish a de minimis exception to the replacement rules, covering situations where the units demolished or disposed of do not exceed the lesser of (1) five units; or (2) five percent of the total number of units in the PHA's public housing inventory. The maximum exception for the largest PHA would be five units; the minimum for the smallest PHA, one unit. The Committee believes that this de minimis exception is warranted for cases where demolition or disposition is clearly justified (e.g. a fire-damaged, scattered site unit). For one to five units, replacement may be infeasible, and satisfaction of all of the statutory requirements for a replacement housing plan is far out of proportion to the situation. The Administration contended in proposing this exception that the number of units involved in such small cases has been, and is likely to remain, insignificant from either a national or local perspective. To address the concerns of Committee Members that the exception might be abused, the Committee bill would allow a PHA to use this exception only once in a five-year period.

Second, the Committee bill would permit PHAs to locate some or all of the replacement units outside of their jurisdiction, but within the same housing market. At present, section 18 restricts the location of replacement units to the PHA's jurisdiction. The amendment would permit locating some or all of the replacement units outside of the jurisdiction of the PHA but within the same

housing market area, based on a realistic look at housing needs in the real economic community, and not simply according to the boundaries of the political jurisdictions. For core-city PHAs, this might solve the problem of the unavailability of suitable replacement sites within their jurisdictions. It would allow adjoining communities to cooperate in a way that best serves the interests of low-income families and might help to open up housing opportunities in adjacent areas where the employment picture is favorable.

Preference rules

Existing law establishes statutory preferences for tenant selection under the public housing program. Specifically, the law requires a public housing agency, for not less than 70 percent of the units that are made available for occupancy in a given fiscal year, to give preferences to families that fit within the federal preference categories. The federal preference categories cover families that, at the time they are seeking assistance, occupy substandard housing, are paying more than 50 percent of family income for rent or are involuntarily displaced. The agency is then free, for any remaining units, to give preferences to families that fit within a local definition of preference categories that responds to local needs and priorities. Such ``local'' preferences are established after public hearing.

The 70/30 divide between federal and local preferences was established by the National Affordable Housing Act; a 90/10 divide had previously governed tenant selection.

As in 1990, the Committee has heard convincing testimony about the deleterious effects that the preference rules are having on the ability of public housing agencies to develop and sustain viable housing communities. The effect of the preference rules (when implemented in combination with income eligibility requirements) has been to concentrate in public housing developments the poorest of the poor. Many of these families and individuals have multiple social, health and educational problems. Clearly, the problems generally associated with the inner city poor-high rates of unemployment and teenage pregnancy, broken families, lack of adequate education, drug-use and drug-trafficking, vandalism, random violence-are magnified and exacerbated by the concentration of families with children in dense, segregated living environments.

The Committee bill would, therefore, revise the existing preference rules to require a PHA, for not less than 50 percent (rather than 70 percent) of the units that are made available for occupancy in a given fiscal year, to give preferences to families that fit within the federal preference categories.

The Committee notes that HUD has yet to promulgate a rule implementing the 1990 provisions; another indication of the Department's serious capacity problems. The Committee bill would,

therefore, direct the Secretary to issue final regulations implementing changes to the preference rules made in the National Affordable Housing Act not later than 30 days after the date of enactment of this Act.

SUBTITLE B-LOW-INCOME RENTAL ASSISTANCE

Vouchers and certificates homeownership

The Committee bill would include the Administration's proposal-long promoted by prominent low-income housing advocates such as Cushing Dolbeare-to permit recipients of section 8 rental assistance who are first-time homebuyers to use their vouchers or certificates to support homeownership. Under existing law, vouchers and certificates can be used to support homeownership only in cooperatives (and, for vouchers, mutual housing). The Committee bill would broaden the use of vouchers and certificates to include all other forms of homeownership.

Eligibility.-Under the Committee bill, a family receiving voucher or certificate assistance could select the homeownership option if it: (1) is a first-time homeowner; (2) either participates in a PHA's family self-sufficiency (FSS) program or demonstrates that it otherwise has sufficient income; (3) demonstrates that 1 or more adult members are employed; and (4) participates in a PHA administered homeownership and fair housing counseling program.

The homeownership option could be exercised by either new or existing voucher or certificate recipients. For the most part, vouchers and certificates are issued to very low-income families, though families previously assisted under the U.S. Housing Act of 1937 and certain other families are also eligible. The Federal preferences for selecting families to be assisted would continue to apply. Thus, the proposed new authority would not exclude families with the highest need; it would only make it possible for them to choose homeownership over rental assistance.

First-time homeowner.-For purposes of the proposed homeownership authority, the term "first-time homeowner" would be defined to mean-(1) a family, no member of which has had a present ownership interest in a principal residence during the three years preceding the date on which the family initially receives assistance for homeownership; and (2) any other family, as HUD may prescribe.

The Committee intends to include a family that includes an individual who is legally separated from a spouse under decree of divorce or of separate maintenance and that complies with the requirements that HUD may describe.

The purpose of including in the category of first-time homeowners those who would not otherwise qualify, but for a situation of divorce or separate maintenance is to include those who would be displaced from their owner-occupant dwelling as the result of

marital discord or other special circumstances. The Committee generally intends to pattern eligibility after the definition of ``first-time homebuyer'' contained in the National Affordable Housing Act.

Economic independence and self-sufficiency. As discussed above, the Committee bill would require that families be enrolled in the Family Self-Sufficiency (FSS) program. Those families that already have members with earned income would be excepted since they are already well on the way towards becoming self-sufficient. All families electing the homeownership option would be required to attend homeownership counseling.

The purpose of the FSS program is to coordinate the use of public housing and section 8 rental assistance with supportive service funding to enable families to achieve economic independence and self-sufficiency. The program becomes mandatory for PHAs in FY 1993.

A departure from the current FSS program is that the family would be required to attain a milestone, including having one or more members with earned income for a minimum period of continuous employment, before it could qualify for homeownership. (HUD could exempt families, such as elderly families, from the employment requirement.) As in the current FSS program, families would contract with the local PHA, setting forth milestones to self-sufficiency within five years, extendable for an additional two years for good cause. The PHA would tailor supportive services to help the family meet those milestones. As under the existing FSS program, families could be denied housing assistance if they substantially violated their FSS contract.

Families required to participate in the FSS program would also be eligible for the FSS escrow account, with several modifications. Under the regular FSS program, a family may receive the escrow balance only when the family is no longer a recipient of Federal, State, or other public assistance for housing. Families electing to use vouchers and certificates for homeownership could use up to 50% of the escrow account for a down payment and the remainder to cover the costs of major repair and replacement needs of the dwelling that arise after the family becomes a homeowner. If a family's mortgage is foreclosed, the remaining amounts of the escrow account would be paid to HUD, and the family could be required to reimburse the escrow account for some or all of the amounts used in connection with homeownership.

Amount of assistance.-For a family that wishes to exercise the homeownership option, the subsidy usually would be the difference between the payment standard established by the PHA and 30% of the family's adjusted income, which is the income contribution that the family would ordinarily make if receiving rental assistance. In no case could the assistance payment exceed the amount by which the monthly homeownership expenses, as determined in accordance with HUD requirements, exceed 10% of the family's

income (without adjustments).

For certificate families, there would be no cap on homeownership expenses, thus making the Certificate program similar to the Voucher program for this purpose. This change would be in addition to the recently-enacted authority for some certificate families to pay more than 30% of income. Otherwise the proposal would make no other changes to the Voucher or Certificate program except those changes that are necessary to allow for the option of homeownership. For vouchers, the assistance would be calculated in the same way whether a family used it for rental or homeownership.

The payment standard would be the same for homeowners and renters, as would be the adjustments in the payment standard for inflation. If a PHA does not have a Voucher program and, therefore, has not established payment standards, it would be required to establish them for this purpose. Income would be measured in the same way for renters and homeowners, except that the imputed income on the homeowner's equity would be excluded.

Housing quality standards.-As for the current rental programs, regulations would require that the dwelling being purchased meet housing quality standards (HQS) for decent, safe, and sanitary housing before any assistance payment could be made. The PHA would make annual or more frequent inspections to determine that these standards continue to be met. Assistance payments would not be made for a dwelling unit which failed to meet the quality standards.

FHA mortgage insurance.-Voucher and certificate holders exercising the homeownership option would be eligible for the FHA-insured financing. They would, in general, be given the same treatment as any other family applying for an FHA-insured loan. The dwelling would be subject to the same property appraisal, and the family would be subject to the same credit analysis.

For purposes of credit analysis, families would be treated like any other family with income received from local, State, or Federal assistance programs. This assistance qualifies for inclusion in effective income if ``the payments are expected to continue for the first five years of the mortgage and the income is received on behalf of the borrower or the borrower's immediate family.''

Voucher and certificate assistance, in general, meets both of the requirements for income inclusion. The initial term of the ACC between HUD and the PHA would be for five years. But there is no fixed limit on the term over which a family may receive assistance.

Section 203(b) mortgages to be obligations of GI fund.-While the mortgage insurance may be provided under section 203(b) of the National Housing Act, the mortgage would be an obligation of the

General Insurance (GI) Fund (in accordance with new section 203(u) and an amendment to section 519), instead of the Mutual Mortgage Insurance (MMI) Fund.

The claims cost on mortgages insured under the section 203(b) program on homes owned by families exercising the homeownership voucher or certificate option is expected to exceed the premiums received on these mortgages. These families, therefore, would be receiving a subsidy (known as a ``positive subsidy'' under Credit Reform) as the result of their FHA mortgage insurance.

The MMI Fund has a minimum capital requirements to achieve the goal of actuarial soundness, which have not yet been met. Under Credit Reform, the MMI fund has been determined to have a negative subsidy so that these capital requirements can be met. The GI Fund, however, does not have a goal of actuarial soundness. Under Credit Reform, activities in the GI Fund with a positive subsidy must receive an appropriation in the amount of the subsidy. Because the FHA mortgage insurance associated with the exercise of the homeownership option involves a positive subsidy, this insurance would be made an obligation of the GI Fund, and a request for appropriation for this subsidy is included in the FY 1993 budget submission.

Mortgagors under section 203(u) would pay the same mortgage insurance premium as other mortgagors with mortgages insured under section 203.

Other Government programs. The homeownership voucher or certificate could be used to purchase homes sold under the FHA Property Disposition (PD) Program. Other properties, such as Resolution Trust Corporation (RTC), Federal Deposit Insurance Corporation (FDIC), and State or locally-owned properties could also provide eligible single family stock. In addition, the homeownership option could be combined with programs for down payment assistance, such as those offered by State, local, or non-profit entities. State programs funded from the proceeds of mortgage revenue bonds could be used to finance dwellings being purchased with voucher and certificates.

A family could not be assisted under the homeownership option during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by HUD. The bill would require that HUD exclude the purchase of units being assisted under at least the HOME Investment Partnership Act, Homeownership and Opportunity through HOPE Act, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and the Farmers Home Administration's section 502 program. These homeownership assistance programs are designed to provide sufficient subsidy internally to meet various low-income housing needs. To combine the homeownership option with these other Federal homeownership programs would raise substantial issues regarding subsidy layering, which would impose at the very least significant administrative burdens to resolve.

Once assistance is no longer being provided (such as when operating assistance under the HOPE for Public and Indian Housing Homeownership program ends at the end of five years), a homeownership option family could purchase a unit from a family under the HOPE program.

Remaining issues.-Remaining aspects of the voucher and certificate homeownership initiative are discussed in the section-by-section component of the Committee report.

Moving to opportunity demonstration

The Committee Bill would include the Administration's proposal to extend the Moving to Opportunity (MTO) demonstration program established under HUD's FY 1992 appropriations Act for two additional years. The appropriations law set aside \$20 million (i.e., 566 certificates) for a demonstration involving five cities with populations exceeding 400,000 and in metropolitan areas with populations exceeding 1.5 million. The law requires the HUD Secretary to carry out metropolitan wide programs designed to help families with children move out of areas with high concentrations of persons living in poverty. The Secretary is to carry out the demonstration through contracts with (1) nonprofit groups for counseling and other services; and (2) PHAs for administration of the section 8 rental assistance.

The MTO demonstration is modeled on the Gautreaux program in Chicago. In *Gautreaux v. HUD*, a federal court found that HUD and the Chicago PHA had violated the Constitution by operating racially discriminatory and racially segregated public housing in Chicago. Part of the court-sanctioned remedy was to establish a program to enable minority residents of family public housing to move to privately owned rental units throughout the metropolitan area using section 8 assistance. Since 1976, more than 4,500 families have moved through this program to non-segregated communities in Chicago and 115 suburbs.

The distinctions between the Gautreaux program in Chicago and typical section 8 programs are as follows:

Gautreaux is administered by a private, nonprofit fair housing agency whereas section 8 is administered by local PHAs;

Tenants are provided assistance in locating landlords willing to cooperate;

Families receive significantly more counseling than is provided by PHAs; and

The administering agency is required to avoid over concentration of assisted families in a development or neighborhood.

The Gautreaux experiment was the subject of a recent article in *Fannie Mae's ``Housing Policy Debate''* by James Rosenbaum of

Northwestern University. Mr. Rosenbaum's analysis has discovered that ``just by moving people and without providing additional services, this program has uncovered capabilities of low-income people that were not evident in the city.' ' Moving to the suburbs clearly increased adults' employment and childrens' education and employment. The effects are particularly pronounced for children, who are much less likely to drop out of school, much more likely to go to college, and much less likely to be neither in school nor working.

The Committee Bill would extend the appropriations demonstration for FY 1993 and 1994. The bill would also revise the demonstration (and the Administration's legislative proposal) in a number of ways, pursuant to recommendations put forward by fair housing advocates.

First, the bill would delineate the range of issues that the MTO demonstration is designed to evaluate, an area neglected by both existing law and the Administration's proposals. Specifically, the program would evaluate the extent to which mobility initiatives: (1) further objectives of the Fair Housing Act; (2) enhance the short- and long- and long-term educational and employment opportunities of child participants. Finally, the program would compare and contrast the costs associated with implementing a mobility program with the costs associated with the routine implementation of the voucher and certificate programs.

Second, the bill would expand the number of families served under the demonstration. The bill would authorize HUD to reserve, from amounts made available for the Certificate program for fiscal years 1993 and 1994, budget authority to fund up to 1,500 units each year for families from existing Voucher/Certificate waiting lists who chose to participate in the MTO demonstration. These 1,500 units would be in addition to the annual allocation of units available for the area. The Committee notes that the Administration proposal recommended the use of vouchers in the demonstration; the Committee continues to believe that rental certificates are a more affordable form of rental assistance than vouchers.

Third, the bill would expand the number of metropolitan areas served by the demonstration. The bill would direct HUD to fund programs involving cities with populations exceeding 350,000 that are in consolidated metropolitan statistical areas (CMSAs) as established by the Office of Management and Budget, with populations exceeding 1,500,000. The population threshold for eligible cities would be reduced from 400,000, as provided in the FY 1992 appropriations Act demonstration, to 350,000 since it would make the following CMSA's eligible: Atlanta, Cincinnati, Miami, Minneapolis, Oakland, Pittsburgh, and St. Louis. These CMSA's may be suitable for participation under the demonstration.

Fourth, the bill would permit up to \$1.5 million of the funds appropriated for the section 106 housing counseling program in

each of FY 1993 and 1994 to be available for use for counseling and other activities in connection with the mobility demonstration. Authorizations for the counseling program would be increased by \$1.5 million to accommodate this use of funds.

The Committee notes that the Certificate ``start-up'' administrative fee would be allocated among the non-profit organization responsible for counseling families and providing other services and PHAs in the CMSA, based on their roles in the program. PHAs in the CMSA would earn the on-going fee. HUD would provide up to an additional \$1,000 per family for costs not covered by these fees, from a set-aside of the appropriation for housing counseling. For example, non-profit organizations would screen families applying to participate in the MTO demonstration for credit histories, conduct home visits to determine the willingness of families to maintain rental property, provide transportation and other search assistance, and help each family negotiate with a landlord in a low poverty area to rent to the family under the Certificate program. Any additional costs beyond those covered by the administrative fees and the counseling funds would be provided from other public or private sources.

At this point, the PHA for the jurisdiction in which the family had selected the unit would execute and otherwise administer the housing assistance payments contract with the owner. For a few months, the non-profit would continue to provide assistance to the family in adjusting to the new environment.

Fifth, the bill would require HUD to submit a report to Congress by September 30, 2004, describing the long-term housing, employment and educational achievements of the assisted families. This reporting requirement was recommended by the Administration. In addition, the Committee added a requirement that HUD submit interim reports to Congress starting 2 years after the date of enactment of this Act. The interim reports would include information on the number of persons served, the level of counseling and the types of services provided, the cost of providing such counseling and services, updates on the employment record of assisted families and any other appropriate information.

Finally, the bill would require HUD to take additional actions to expand tenant choice and mobility beyond the scope of this limited demonstration. Housing advocates have long been concerned that recipients of section 8 assistance are heavily concentrated in distressed, segregated neighborhoods and communities. The reasons for this over-concentration could be multiple: landlord discrimination, inadequate section 8 FMRs, inadequate counseling by the PHA. Significantly, section 558 of the National Affordable Housing Act requires GAO to examine, as part of a larger study on the adequacy of section 8 fair market rents, the extent of geographical dispersion of families receiving section 8 rental assistance.

The Committee bill would, therefore, direct HUD to, within 1 year, review and comment upon the GAO study, independently assess what factors impede the geographic dispersion of section 8 recipients, review the extent of counseling that section 8 recipients currently receive, implement any administrative revisions that would enhance geographic dispersion and tenant choice, and report back to Congress on HUD's findings, its administrative actions (if any) and any recommendations for additional legislative action.

Family unification assistance

The Committee Bill would authorize funding for family unification assistance at \$100 million for fiscal year 1993 and \$103.2 million for fiscal year 1994.

The family unification program, established in the National Affordable Housing Act, is designed to help families stay together when extreme housing problems threaten them with separation. The program provides section 8 certificates to families who are otherwise eligible for section 8 and whose children are either in foster care or cannot return home from foster care because their parents are homeless or lack adequate housing.

The Committee is aware of the continued crisis in the availability of affordable housing and its potential impact on families. Currently, more than 2 million parents and children are on housing assistance waiting lists around the country. The additional resources authorized by the Committee bill will help to address the growing number of families who need housing assistance to keep families together.

SUBTITLE C-GENERAL PROVISIONS AND OTHER ASSISTANCE PROGRAMS

Authorization

The Committee bill would authorize a series of important public and assisted housing programs and activities for fiscal years 1993 and 1994. These programs and activities would include: public and Indian housing development, revitalization of severely distressed public housing, vouchers and certificates, public housing modernization, property disposition certificates, loan management assistance, the renewal of expiring section 8 contracts, amendments to existing section 8 contracts, public housing lease adjustments and amendments, and public housing replacement activities.

The Committee bill would also authorize various housing counseling programs for fiscal years 1993 and 1994.

Finally, the Committee bill would also authorize the public and assisted housing drug elimination program for fiscal years 1993 and 1994. The drug elimination program provides grants to public

housing agencies and private, for-profit and non-profit owners of federally assisted housing for use in eliminating drug-related crime.

Amendments

The bill would issue one directive on-and make one amendment to-the public and assisted housing drug elimination program.

The Committee Bill would require the Department to issue a Notice of Funding Authority (NOFA) or any other regulations necessary to implement the assisted housing portion of the Drug Elimination Grant Program.

The National Affordable Housing Act expanded the Public Housing Drug Elimination grant program to include federally assisted housing and set aside a percentage of the authorized funds for this purpose. The Committee is deeply concerned that to date, the Department has failed either to promulgate regulations or to issue a NOFA for the assisted housing portion of the program. The Committee fully expects the Department to begin implementation of the assisted housing portion of the drug elimination grant program in an expeditious fashion.

The bill would also allow public housing drug elimination grants to be made for non-federally funded public housing (i.e. housing that is owned by a PHA but is not assisted under federal housing programs) if the housing is located in a high intensity drug trafficking area and the PHA demonstrates that drug-related activity at the housing has a detrimental effect on public and other federally assisted housing.

TITLE VI-PRESERVATION

Subtitle A-Prepayment of Mortgages Insured under the National Housing Act

Authorization

The Committee bill would authorize the Title VI preservation program for fiscal years 1993 and 1994. The bill would also provide set-asides for each of the fiscal years to assist in the completion of transfers under the mandatory sales program and to carry out technical assistance and capacity building efforts.

Amendments to 1990 preservation law

In general.-One of the most significant challenges facing the Congress is to preserve the affordability of hundreds of thousands of older subsidized housing units that are threatened with conversion to market-rate housing through mortgage prepayments and other methods of terminating low-income affordability restrictions.

Title II of the Housing and Community Development Act of 1987 provided a temporary, interim solution to the problem that was designed to give Congress the ``breathing room'' to consider and act upon the research and recommendations then being developed by several private sector task forces.

The ``breathing room'' created by the 1987 Act was well used. From countless hearings, task force reports and intense negotiations emerged Title VI of the National Affordable Housing Act, a permanent preservation solution that balances the interests of the owners, the tenants and the communities in which the housing is located. The preservation solution places prime emphasis on the need to retain the affordable housing inventory for its remaining useful life and, in the Committee's strong opinion, is, by far, the most cost-effective strategy available to the federal government for addressing the potential loss of this vital inventory.

The Committee believes that HUD's implementation of the 1990 preservation law has been severely deficient in several respects. First, the Department has failed to implement the law in accordance with clear statutory deadlines. Section 604(d) of the National Affordable Housing Act provided that HUD promulgate preliminary regulations 90 days after the Act's November 28, 1990 enactment date. Section 604(d) further provided for interim or final rules within 45 days thereafter, which would have been April 12, 1991. Yet HUD's preliminary regulations were delayed until May 12, 1991 and HUD's interim regulations were not published until April 8, 1992--a full year after they were mandated to be issued. HUD's dilatory implementation of such a critical component of the National Affordable Housing Act is simply inexcusable.

Second, HUD's regulations do not reflect Congressional intent in a number of provisions that are central to the preservation program, particularly those provisions facilitating the transfer of assisted properties to nonprofit groups and resident organizations. HUD's actions cannot be attributed to vague or ambiguous statutory or report language. After reviewing proposed regulations, key Congressional actors submitted lengthy comments to the Department, explaining in great detail how such rules deviated sharply from legislative intent. HUD responded to a number of concerns; curing, for example, the proposed regulation's unwarranted emphasis on resident homeownership. Yet the interim regulations have resisted Congressional wishes on a number of elements--acquisition loan terms, streamlined financing for rehabilitation costs, reimbursement of transaction costs, return on actual cash invested--that are critical if the sales component of the preservation program is to work.

Finally, and most significantly, the Administration has sought to fundamentally alter the 1990 preservation law by capping the Federal cost limit at the local section 8 Fair Market Rent, rather than 120 percent of local market rents. The Administration

contends that when the value of an incentives package exceeds the local section 8 fair market rent, it is more cost effective for the federal government to allow the owner to prepay and assist the displaced low-income families with vouchers or certificates.

The Committee bill would not incorporate the Administration's proposal. The Committee believes strongly that the issues raised by the Administration were debated at length during the 1990 housing conference and should not be reopened. The conferees considered and rejected, for example, providing vouchers where the cost of preservation is ``too high''. The conferees believed then and the Committee believes now that vouchers do not work well in the types of rental markets where prepayment is most likely; and the federal government must strive to mitigate, not exacerbate, the persistent loss of housing affordable to low-income families.

The 1990 conferees also considered and rejected using the section 8 fair market rents as a cost limit. As the 1990 Conference Report stated:

The second cost limit was developed because of a serious concern that, in some cases, there might be no correlation between the fair market value of eligible housing upon conversion and the Section 8 Fair Market Rents. Section 8 FMRs have several deficiencies for purposes of establishing a federal cost limit for the federal preservation program: they are based on the 45th percentile rent; they exclude newly constructed housing; and they generally cover large geographic areas.

Furthermore, the 1990 conferees recognized that the cost of the permanent solution would be expensive. OMB provided conferees with an estimate of the cost of preservation-\$27.4 billion over the next 20 years. Yet conferees agreed on a bipartisan basis that alternative solutions would either be more costly (i.e. providing replacement housing), subject to extended litigation (i.e. capping the value provided to the owners) or harmful to the tenants (i.e. providing vouchers).

Conferees also believed that failure to enact a strong Federal preservation strategy would have destructive consequences for affordable housing issues. States and localities would be compelled to fill the vacuum left by the Federal government with emergency preservation measures that would potentially fracture affordable housing coalitions and inhibit their ability to focus on the myriad of other housing problems.

The Committee believes that the 1990 preservation law represents a cost-effective compromise among competing interests-tenants, owners, local communities, the federal government. The ultimate cost of the preservation program will depend, however, on how well it is implemented by the Administration. The Committee has grown increasingly concerned that HUD's own incapacity may be driving up the cost of preservation solution. The HUD Inspector

General, for example, has informed the Committee that appraisals under the 1987 Act have been overinflated--due in part to the lack of expertise among HUD staff and the absence of firm guidelines. In addition, HUD is not implementing various provisions of the 1990 law which require owners with assigned mortgages to recompense the FHA insurance fund before receiving preservation incentives. The Committee believes that the Department should concentrate its efforts and energies on implementing the law efficiently, rather than on attempting to alter the law in ways that lead to the loss of affordable rental housing and the displacement of low income tenants.

Loan term.--The Section 241(f) insurance program was the center of much discussion and debate during the legislative process. Congressional discussion always assumed that the Department's practice of underwriting 241(f) loans for 40 years--established under the emergency preservation solution enacted in 1987--would continue under the permanent preservation program. This expectation is evidenced by the Conference Report to the 1990 Act, which specifically used a 40 year loan term in explaining how the section 241(f) loan would work.

Despite Congressional protestations, HUD's regulations would restrict the term for section 241(f) loans to the lesser of 20 years or the remaining term of the first insured mortgage. The Committee strongly believes that HUD's action is contrary to the general goals of the preservation program and the specific intent expressed in the Statement of Managers. Shortening the loan term will, inter alia, force more projects into the mandatory sales process and potentially lead to greater displacement of tenants in tight rental markets.

The Committee bill would require loans insured under section 241(f) of the National Housing Act to have a 40 year maturity and amortization period.

Rehabilitation financing.--Existing law--section 241(f)(6)--permits HUD to combine rehabilitation loans under section 241(d) with equity and acquisition loans under section 241(f). The conferees expected that this combination of loans could be carried out in an effective, common sense fashion--perhaps by adding the rehabilitation expenses that are mortgageable under the section 241(d) program to a section 241(f) loan.

After further examination, the Committee has concluded that the expectations of the conferees cannot be met. Various features of the section 241(d) program--statutory cost limits, additional equity requirements--are antithetical to the purposes of the preservation program. In addition, HUD's regulations do not provide a mechanism for combining the underwriting of rehabilitation and equity or acquisition loans under the section 241 program. Failure to combine these loans may make it difficult to sell one or both of the loans on the secondary market.

The Committee bill would enable loans insured under section 241(f) of the National Housing Act to cover the amount of rehabilitation costs required by the preservation plan of action and related charges. The bill would also, as a conforming amendment, strike section 241(f)(6). The Committee believes that allowing owners to receive a combined equity take-out and rehabilitation loan-and purchasers to receive a combined acquisition and rehabilitation loan-will make the preservation process more streamlined and efficient.

Appraisal guidelines.-HUD's notice on appraisal guidelines states that rental assistance contracts that survive a prepayment must be considered by an appraiser and may depress the value of a property. The Committee has learned that certain owners have responded to the notice by submitting one year notices to opt out of their section 8 contracts, in order to have no federal rental subsidies in place for their Title VI appraisal. The Committee is concerned that HUD's notice is inadvertently promoting section 8 opt-outs and refusals by owners to accept new holders of section 8 rental assistance.

The Committee bill would, therefore, require that HUD's appraisal guidelines and instructions be amended to provide as an additional assumption that existing section 8 contracts are terminated when the mortgage is prepaid. However, the Committee does not intend that this revised appraisal assumption reduced in any way any of the owners' duties under existing law to renew expiring contracts, not discriminate against certificate holders, and refrain from interfering with tenants' efforts to obtain rent subsidies.

Notices of intent.-The 1990 preservation law made residents ``full-fledged participants'' in the preservation of federally assisted housing and placed special emphasis on transferring this affordable inventory to resident councils and nonprofit housing developers. A series of notice provisions and procedural rules were designed to achieve these two related objectives. After further examination, the Committee has concluded that the preservation law's notice and procedural provisions did not go far enough in a number of respects.

First, the Committee bill would amend section 216(d) of the 1990 preservation law to require that owners file a copy of their second notices of intent to sell with the State or local government and the mortgagee and inform the tenants of the filing. The Committee notes that HUD's interim rule already requires that the second notice be sent to all the parties except the mortgagee. The Committee amendment is meant to support HUD's action with respect to providing the second notice to State and local governments and the tenants. In addition, providing the second notice of intent to the mortgagees will confirm that the property may be sold and the mortgage assumed by the purchaser.

Second, the Committee bill would amend section 216(d) to penalize

owners who fail to market the property or reject bona fide offers after submitting a second notice of intent to sell. Such owners would be barred from filing a new plan of action or notice of intent to receive incentives for two years and would be required to reimburse the reasonable expenses incurred by priority purchasers who filed an expression of interest.

Third, the Committee bill would amend section 217 of the 1990 preservation law to give tenants and the relevant state and local government access to the documentation supporting the plan of action. The Committee intends that the access to supporting documentation should include access to any pertinent analyses prepared by the owner or HUD. The rent schedule and the rent increase phase-in decision, in particular, are not included in the Plan of Action and access is needed to the computations on which they are based. The Committee provision is intended to provide tenants with access to relevant information about the project held by the owner of HUD at any point during the preservation process after the initial notice of intent is filed, so that they may fully participate in the process of developing an appropriate plan.

Finally, the subsection would amend the preservation law's transition provisions to require owners electing to proceed under the 1987 Act provisions to comply with the notification provisions contained in the 1990 Act.

Priority purchasers.-The 1990 preservation law-unlike the emergency 1987 measure-delineates a structured process for transferring the assisted inventory to new ownership. The process contains substantial risks; owners seeking to transfer their housing are allowed to prepay if no qualified purchaser makes a bona fide offer within the applicable time periods. Given the specter of prepayment and loss of affordable housing, the 1990 housing conferees fully expected the Department to establish by regulation and practice a workable transfer process.

Despite Congressional intervention during the regulatory process, HUD regulations continue to undermine the sale process established by the 1990 Act.

Three concerns are of paramount importance.

First, existing law-Section 220(d)(2)(E)-states clearly that qualified purchasers (which include priority purchasers) should receive an adequate return on any actual cash investment. The limitation of Section 241(f) insured financing to 95 percent of preservation equity raises the possibility that priority purchasers will contribute actual cash to an acquisition. The conferees did not believe that priority purchasers should be treated any differently than for-profit purchasers in the event of cash investment.

Yet HUD's regulations do not follow the legislative intent,

requiring nonprofit owners to deposit their 8 percent return in a residual receipts account. The committee bill would, therefore, amend existing law to: (1) emphasize that priority purchasers are able to receive the same incentives made available to other qualified purchasers; and (2) require that a priority purchaser receive an 8 percent return on any actual cash invested in a project.

Second, existing law-Section 220(d)(2)(F)-states that priority purchasers should receive adequate reimbursement for transaction expenses related to acquisition of eligible housing, subject to HUD approval. Conferees were plainly aware of the types of legitimate costs that priority purchasers incur during acquisition of assisted housing. The Section 241(f) program, in fact, was revised so that insured acquisition loans for priority purchasers could include any expenses associated with the acquisition, loan closing and implementation of the plan of action.

Yet HUD's regulations arbitrarily limit the reimbursement of transaction expenses in two ways: first, by setting a cap of 5 percent of preservation equity; and second, by conditioning reimbursement on ``standards applicable to insured loan transactions under this chapter.''' These limits are contrary to the legislative intent that the reimbursement be ``adequate'' for all reasonable expenses. The limits are also contrary to industry practice, because transaction expenses do not correlate with the value of size of the property acquired.

The bill would, therefore, amend existing law to require that priority purchasers receive reimbursement of all reasonable expenses associated with the acquisition, loan closing and implementation of an approved plan of action. In revising the statutory language, the Committee emphasizes that the reimbursement of all such reasonable expenses associated is not to be governed by any other program rules or standards.

Finally, the bill would recognize sponsor project oversight expenses as an eligible expense in establishing rents under the Plan of Action, and for purposes of future rent increases. This amendment reflects a recognition that many priority purchasers will be community-based nonprofits or resident-based nonprofits. Their volunteer board members cannot be expected to discharge the full range of ownership obligations. Priority purchasers must either be professionally staffed to carry out the myriad responsibilities of ownership, or they must hire professional asset managers on a fee basis. (Owner responsibilities include, for example, working with HUD and the residents, overseeing property management, retaining and working with accountants in the preparation of audited financial statements, establishing and implementing annual budgets and preparing long-range projections.) The Title VI program must provide a source of funding to defray the cost of project oversight for priority purchasers, because owners typically defray this cost from the

annual distribution or from partnership funds. Priority purchasers do not have these alternatives.

Preemption.-Section 232(a) of the 1990 preservation law generally allows HUD to preempt State or local laws or regulations that are applied only to prepayment eligible projects or are inconsistent with the provisions of the prepayment statute. Section 232(b) lists various types of laws and regulations (e.g. relating to building standards, zoning limitations) that are not preempted to the extent they are of general applicability. HUD's regulations treat the list as exhaustive and basically preclude the identification of other relevant laws of general applicability that should not be preempted. The Committee believes that HUD has misinterpreted Congressional intent. The Committee bill would, therefore, amend section 232(b) of the 1990 preservation law to clarify that existing law does not contain an exhaustive list of laws of general applicability that are not preempted.

Technical assistance and capacity building.-The 1990 preservation law does not set aside any funds to (1) help residents participate meaningfully in the preservation process; (2) facilitate the transfer of assisted housing to community based nonprofits and resident organizations; nor (3) to carry out other technical assistance efforts. This oversight was corrected partially by the FY 1992 appropriations law which set-aside up to \$25 million for ``tenant and community based nonprofit education, training and capacity building and the development of State and local preservation strategies''.

The Committee bill would authorize a \$25 million set-aside from preservation funds for each of fiscal years 1993 and 1994 to support technical assistance and capacity building efforts. The authorized program would have two components: 90 percent of the set-aside funds would be used for providing ``direct assistance grants'' to resident groups and community-based nonprofit purchasers; 10 percent would be available for other purposes, including the development of model preservation programs and local initiatives.

The Committee intends that groups controlled by residents of several projects in a locality be considered as eligible applicants for purpose of obtaining capacity development grants for resident outreach, education, and resident organization development activities.

The direct grant assistance program would be administered by regional, State and local intermediaries on behalf of HUD. These intermediaries-nonprofits, quasi-public agencies and state and local housing agencies-would be conduits for delivering funding to resident groups and purchasers.

The Committee has chosen to distribute direct grant assistance through intermediaries for a number of reasons. First, HUD's commitment to the sales component of the preservation program is

suspect. As of early July, the Department had still not distributed any technical assistance/capacity building funds appropriated in the FY 1992 appropriations law. Second, even if HUD were supportive, the Committee believes it would be an overwhelming burden for the agency to receive applications on a monthly basis and review and decide on these request monthly or even quarterly. Since each step in the Title VI program has exact guidelines, the distribution of these funds on an expeditious basis is critical. Moreover, the amount of each resident capacity grant is so small (\$30,000) that direct administration by HUD would be administratively infeasible. Finally, the Committee believes that state and local government and nonprofit intermediaries are better suited to screening applications, since these intermediaries are closer to grassroots housing providers and can sensibly evaluate each applicant's legitimacy and capacity.

Definition of eligible low income housing.-The Committee bill would bring the preservation statutes into conformance with original legislative intent and correct a drafting error in the definition of ``eligible low income housing''. In enacting the preservation program, Congress intended to include only those Section 221(d)(3) Market Rate projects that were assisted under the Rent Supplement program, but have been converted over to the Section 8 loan management program. Because of a drafting error, the statutory definition has been interpreted to include Section 221(d)(3) Market Rate projects that have Section 8 New Construction and Substantial Rehabilitation set-asides.

Windfall profits test.-Section 222(e) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 delineates a ``windfall profits test'', permitting HUD to make incentive payments available only in rental markets where there is an inadequate supply of decent, affordable housing (if HUD determines there is adequate data to permit ``objective and fair implementation'') or where necessary to accomplish the other public policy objectives of the Act.

The section instructs HUD to implement the ``windfall profits provision'' in a manner consistent with the process established by the subtitle. The Statement of Members encouraged HUD to ``apply the test early in the process so that all parties can achieve a definitive outcome within the time frame set forth in the Act.'' HUD's April 8, 1992 interim guidelines state that HUD will apply the test immediately after receipt of a Notice of Intent and before the appraisal process is initiated. The timing is consistent with legislative intent. With respect to affected properties (those located in a market area in the affordable housing list) HUD will notify the owner of the results of the windfall profits determination within 30 days.

The Committee believes that HUD's implementation of the windfall profits provision does not comport with the statutory directive contained in section 222(e). HUD has not proposed any procedure

for either notifying tenants of the preemptive denial of preservation incentives nor has it provided the tenants or public agencies with an opportunity for comment at this critical stage. As part of the windfall profits determination, HUD must assess whether other public policy objectives would be served by the provision of incentives. Specifically, HUD must investigate and make findings that the denial of incentives will not materially affect: (1) the availability of decent, safe and sanitary housing affordable to low income families; (2) the ability of low income households to find affordable, decent, safe and sanitary housing near employment opportunities; and (3) minority housing opportunities.

As HUD acknowledges, these public policy criteria require a project-specific inquiry. Affected tenants, who will have information that is highly relevant to these findings, as well as state and local government agencies, must be included in the decision making process.

The Committee bill would require HUD to notify the tenants of a preliminary windfall profits determination at the same time that the owner is informed. For a 60 day period after individual notice is mailed to each unit by HUD, comments from the owner, tenants and state and local agencies would be received. Following the comment period, and based on the record developed, the Secretary would make a final determination.

SUBTITLE B-RESTORE FOR TROUBLED MULTIFAMILY HOUSING

The Committee bill would include portions of the Administration's RESTORE proposal, an initiative designed to alter the way that the federal government addresses the needs of the troubled, federally assisted inventory.

As originally proposed, the RESTORE program was designed to replace and substantially revise an array of existing preservation programs and assistance-Flexible Subsidy, capital improvement loans, loan management set aside, property disposition subsidies. These existing programs place primary emphasis on preserving the federally assisted inventory for long-term use by low-income families and use project-based rental assistance, operating assistance and capital subsidies to meet these objectives.

The Committee concurs with the Administration that the needs of the older assisted inventory-and the families residing in this inventory-need to be addressed in a comprehensive manner. As the National Low-Income Housing Preservation Commission reported in 1988, a large portion of the older assisted inventory-some 43 percent-are likely to default by the year 2003. These properties share common characteristics: (1) they suffer from operating cash deficits because income does not cover expenses; (2) they often need repairs that the limited cash flow cannot cover; (3) owners have ceased to invest additional capital following the Tax Reform

Act of 1986; and (4) possibilities for the infusion of capital from other sources are limited, given the distressed inner-city neighborhoods in which these properties are located, the substantial tax liabilities facing owners in the event of transfer to new ownership and other negative consequences of the Tax Reform Act of 1986.

The Committee does not believe, however, that the Administration's RESTORE proposal constitutes such a comprehensive preservation proposal. The proposal, in some respects, would actually undermine existing preservation policy and exacerbate the loss of affordable rental housing. As James Grow of the National Housing Law Project, a leading tenant advocate, informed the Committee:

RESTORE is just another ploy for converting subsidized housing to vouchers, which Congress has already properly rejected for troubled public housing, subsidized prepayment projects, Section 8 contract expirations, and to date for these troubled subsidized projects. It will not successfully preserve the troubled inventory, which has suffered from a lack of resources, sound planning, competent ownership and management, and adequate oversight, technical assistance and enforcement from HUD. Residents' needs, views and interests have been largely ignored. As a substitute for HUD oversight, initiative and accountability, RESTORE proposes a disguised abdication of responsibility.

Under RESTORE, for example, the rules governing the disposition of HUD-held and HUD-owned property would be significantly weakened. Existing law, by virtue of amendments made in 1987, requires subsidized and formerly subsidized projects to remain affordable for 15 years and generally receive 15 year project based assistance. Under RESTORE, such requirements would end of projects located in softer rental markets; there, tenant-based vouchers would be provided to currently subsidized families and unsubsidized very low-income families.

The RESTORE proposal would essentially support the ``up and out'' syndrome in affordable rental housing-one factor among many that has fueled the loss of virtually millions of affordable units in the past two decades. Because of this loss, HUD's distinction among ``soft'' and ``tight'' markets is increasingly artificial. Low-income tenants face increasing rent burdens even in so-called ``soft rental markets''. In addition, the vagaries of the marketplace-with soft markets rapidly becoming tight because of economic and demographic shifts-argue for a permanent stock of housing that can remain affordable to low-income tenants for its remaining useful life. Finally, this housing is needed as a resource for those many families for whom tenant-based subsidies do not work well, and its rehabilitation may be an integral part of a community revitalization strategy. Current federal preservation policy is sound and responsible; the Committee believes it should remain so.

The Committee did find the RESTORE proposal acceptable in two important respects. First, the RESTORE proposal recommended several improvements to the Flexible Subsidy program, designed primarily to tighten allocation of scarce federal resources and enhance the involvement of residents in these older assisted units. The Committee bill would, therefore, amend section 201 of the Housing and Community Development Amendments of 1978 (authorizing the ``Flexible Subsidy'' program) by requiring the following additional elements before an owner can receive funding: (1) all reasonable attempts have been made to take all appropriate actions within the power of the owner or manager of the project to provide suitable housing for project residents; (2) the project has a feasible plan to involve the residents in project decisions; (3) the affirmative fair housing marketing plan meets applicable requirements; and (4) the owner certifies that it will comply with various equal opportunity statutes. The Committee bill would also incorporate selection criteria recommended under RESTORE proposal, and exclude projects receiving ``RESTORE'' loans from eligibility for preservation incentives. Finally, the Committee would rename the ``Flexible Subsidy'' program the ``RESTORE'' program, clearly a more appropriate title for a program designed to preserve and renovate the federal assisted inventory.

Second, the RESTORE proposal essentially recommended a marked increase in coordination among federal property disposition, rehabilitation and loan management programs. The rationale for coordinating such assistance is readily apparent-it will clarify alternative solutions and permit HUD to more effectively evaluate the impact of their decisions. The current system of denying one form of assistance only to be faced with more costly solutions a year later clearly needs to be altered.

The Committee bill would also make a series of additional amendments to the existing Flexible Subsidy (now RESTORE) program, namely to condition federal assistance on a ``remaining useful life'' low income restriction where new federal investment in a project is substantial and to give owners credit for advances made to the project during a three year period prior to the application for assistance.

The Committee bill would also require owners of assisted housing to undertake a comprehensive planning process. The Committee's action has been taken in partial response to HUD's dilatory action on the capital assessment study mandated by section 204(c)(1) of the HUD Reform Act of 1989. That provision required HUD to conduct a study ``to determine the physical renovation needs of the Nation's federally assisted multifamily housing inventory that is distressed and to estimate the cost of correcting deficiencies and subsequently maintaining that inventory in adequate physical condition.'' HUD's findings were initially due by December 15, 1990. At the behest of the Administration, that deadline was extended to March 1, 1992 by section 583 of the National Affordable Housing Act. Despite the

extension of the statutory deadline, Congress has yet to receive a copy of this critical report. Even Committee efforts to receive preliminary findings have been rebuffed by the Department.

As the HUD Inspector General has consistently reported, the Department's lack of effective information systems remain a major ``material weakness'', inhibiting the Department's ability to conduct risk management and curb mounting losses in the FHA multifamily program. The Committee hopes that enabling owners to undertake capital planning and devise preservation strategies tailored to the needs of individual projects should go a long way toward filling this information vacuum and pave the way for meaningful federal solutions. The Committee expects that HUD will link the allocation of applicable resources to the preservation strategies identified in project plans to the maximum extent possible.

Title VII-Rural Housing

In general

The 1990 Census figures indicate that nearly 62 million Americans live in rural America. 31 million people-or 13.7 percent of the total population-live in communities of less than 2,500. The other 31 million live in rural areas within metropolitan counties.

Rural areas suffer from a shortage in the stock of affordable housing, a preponderance of substandard housing, and a lack of mortgage credit. The National Housing Task Force reported that 4.3 million low income families in rural areas had housing problems of some type; nearly 2 million of these occupied rural homes that are substandard, lacking plumbing, heat or some other necessity of life. The Congressional Research Service estimates that the demand for housing in rural areas exceeds production by more than 75,000 units per year.

In recent years, the problem of homelessness in rural areas has been on the rise. The Housing Assistance Council, based on several studies, has estimated that 6-12 percent of homeless persons live outside of metropolitan areas. Although rural areas are eligible for McKinney homeless assistance through their states, advocates contend that the needs of rural homeless persons have not been adequately addressed.

Program authorizations

The Committee bill would authorize the FmHA rural housing programs at loan levels of approximately \$2.5 billion for FY93 and FY94 and grant levels of approximately \$500 million for FY93 and FY94.

Underserved areas and colonias

The National Affordable Housing Act authorized a new program to allocate housing funds to 100 of the most distressed counties and colonias each year in an immediate and concentrated fashion. The Committee bill would reauthorize the funding set-asides for underserved rural areas and colonias for FY93 and FY94. The colonias provisions would also be amended to allow housing provided outside of, but serving the residents of, a colonia to be eligible for set-aside funds. Colonias are smaller squatter communities located in the four states bordering Mexico. These communities are composed of Mexican immigrants living in near primitive conditions and often do not have basic infrastructure, water, sewers or decent housing. Because housing assisted under FmHA programs must have these basic necessities in place, it is often difficult to fully address the housing needs of colonias residents. The Committee intends to provide some flexibility so that federal programs can be used most effectively in targeting the needs of colonias residents.

Section 523 mutual and self-help housing

The Committee bill would provide permanent authorization for the section 523 mutual and self-help housing program. The program would also be amended to add the repair of 502 inventory properties as an eligible activity.

Non-profit set-aside

The Committee believes that a strong non-profit housing development sector is an important component of federal housing policy. Under the HOME program, for example, 15% of the program funds are set-aside for use by community-based non-profits. Non-profit participation in section 515 has dropped off in recent years. Between the inception of the section 515 program in 1968 and 1979, one-third of all section 515 units were developed by non-profit sponsors. Between 1979 and 1989, non-profit sponsorship had dropped to 8 percent. Currently, non-profit participation stands at 5 percent. During the same period, the sponsorship of section 515 projects by limited dividend sponsors has risen to 95 percent of all units.

In many rural communities, non-profit organizations play a vital role in providing housing and community development assistance. For example, Self Help Enterprises (SHE), located in the Central Valley of California, provides a range of services to low-income communities that are inhabited by migrant and seasonal farmworkers. SHE has not only developed more than 3,000 units of housing through the FmHA self-help housing program, it has also developed rental housing for farm worker families and provided home repair assistance to low-income households and technical assistance to communities trying to secure financing for needed community facilities such as water and sewer systems. The Committee strongly believes that organizations such as SHE-governed by boards of business, civic and community leaders-should play a substantial role in the development of

section 515 rental housing.

The National Affordable Housing Act of 1990 created a set-aside of section 515 funds for projects sponsored by non-profit developers. Each state set-aside 7 percent in FY1991 and 9 percent in FY1992 or a minimum of \$750,000 per year in states with a smaller allocation. Set-aside funds are generally made available to non-profits for six months, after which any funds

not used by non-profits are made available for projects financed by for-profit developers. The Committee bill would extend the 9% non-profit set-aside of section 515 rural rental housing funds through FY93 and FY94.

Non-profit housing providers suggested several refinements to the set-aside based upon the experience of the past two fiscal years. The Committee bill would amend the set-aside to allow non-profit project sponsors to utilize the low income housing tax credit with projects financed under the set-aside. An eligible non-profit entity would be defined to prevent ``shell'' non-profits from accessing the set-aside funds. A non-profit would have to own an interest in and materially participate in the development and operation of the project; have non-profit tax-exempt status under sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code; have among its purposes the planning, development or management of low-income housing or community development; and not be affiliated with or controlled by a for-profit organization.

The process for reallocating unused set-aside funds would also be amended. Currently, funds from states whose set-aside funds do not total \$750,000 are pooled and made available to all states in this category. States with allocations above \$750,000 are not subject to pooling of set-aside funds. The Committee bill would make funds available for eligible non-profits nationwide before reallocating unused funds on a proportional basis to the states for use by for-profit developers. This is consistent with the set-aside reallocation process under the HOME program, the low income housing tax credit and the overall section 515 program. The Committee intends to create an incentive for states to develop the capacity of the non-profit sector, not reward states that already have a capable non-profit sector. Therefore, the pooling would not begin until 1994.

Finally, the Committee bill would amend the small state minimum non-profit set-aside to allow FmHA to provide more than \$750,000 to a state if such amounts are necessary to finance a 515 project.

Housing preservation grants

The section 533 Housing Preservation Grant program has provided a successful mechanism to assist very low income families. The Committee bill would expand the eligible activities under the

program to allow grants to be used for replacement housing when rehabilitation is not practical and the owner could not otherwise qualify for replacement assistance under the section 502 loan program. The use of housing repair would remain as a priority above replacement but this increased flexibility would be available. In order to ensure that the costs per unit would not significantly increase at the expense of the number of families assisted, replacement costs provided under this program would be capped at \$15,000 per unit. This amount of assistance may be enough to assist very low income homeowner to qualify for 502 loan or other source of financing to cover any additional costs.

Rural homelessness

The Committee bill would include several provisions from legislation introduced by Senator Bumpers-S. 2181-to address the problem of homelessness in rural America.

The Committee bill would amend the FmHA property disposition program to make it easier to obtain property for transitional housing and for homeless persons to eventually qualify for lease or ownership of FmHA homes. Under current practice, FmHA may lease or sell inventory property to public and nonprofit entities for use in providing transitional housing to homeless persons. Non-profits are eligible to lease certain properties for up to 10 years for \$1 or purchase certain properties at a 10% discount off of the fair market value. The Committee bill would expand the number of properties eligible for sale or lease to nonprofits on favorable terms as transitional housing.

The Committee intends that FmHA develop outreach materials to distribute to FmHA district and state offices and conduct aggressive outreach to organizations potentially interested in leasing or purchasing property under this program. For example, FmHA should, on a regular and timely basis, distribute lists of eligible properties to organizations that have expressed interest in participating in the program when properties become available in their area.

Preservation of existing inventory

During the past several years, the Committee has been deeply involved in resolving the problems presented with the termination of low income use restrictions on federally assisted property. The Housing and Community Development Act of 1987 established a preservation program to preserve the affordability of section 515 projects financed prior to 1979 that are threatened with conversion to market-rate housing. The HUD Reform Act of 1989 established long term use restrictions for section 515 projects financed prospectively. On the urban side, the National Affordable Housing Act established a permanent solution to preserve the affordability of projects subsidized under the older section 236 and section 221(d) (3) programs.

The universe of section 515 projects funded between 1979 and 1989, however, is not subject to the preservation program established by the Housing and Community Development Act of 1987. Although this problem does not yet pose an immediate threat to the low income housing stock, the Committee believes that an early resolution will avert a potential crisis in later years. The Committee bill would extend the 1987 Act rural housing preservation provisions to section 515 projects financed between 1979 and 1989.

Implementation of the existing preservation program for projects financed prior to December, 1979 has been criticized as inconsistent and overly generous to project owners. FmHA has provided generous incentives to owners to maintain the low income use of their property even in cases where the private market would be unlikely to sustain a project at higher rent levels without federal subsidies. FmHA's monitoring of the low-income use restrictions in cases where an owner has accepted an incentive package has also been criticized. To address these concerns, the Committee bill would establish an Office of Rural Rental Housing Preservation in FmHA National headquarters to provide consistent evaluation and processing of prepayment applications.

Many 515 projects financed prior to 1979 received section 8 project-based assistance contracts. Over the years, section 8 contract rent increases have been granted by HUD to some of these projects but not approved by FmHA. These excess funds have accrued to the section 515 project reserve accounts. Although owners pay tax on the reserve accounts as project income, FmHA does not allow owners to access the funds except for project repairs. The value of these reserves are not considered in the property appraisals under the preservation program. The Committee bill would allow owners to access these reserve accounts in exchange if the long-term low-income use restrictions are extended on the project.

Disaster assistance in rural areas

The National Affordable Housing Act provided FmHA with the authority to divert rural housing funds to areas affected by a natural disaster. For this purpose, the definition of rural area is waived. The Committee bill would amend these provisions in current law to draw funds from FEMA appropriations rather than rural housing program funds. The Committee bill would also limit the waiver of the rural area definition to areas that have high concentrations of farmworkers.

FmHA appeals process

In 1978, Congress adopted legislation intended, among other things, to provide FmHA borrowers and tenants with an opportunity to administratively appeal FmHA decisions to foreclose on single-family home loans and landlord decisions to evict tenants

from FmHA-financed rental and farm labor housing. While FmHA implemented the legislation as intended in 1979, it amended its tenant grievance and appeal regulations in 1983 to exclude evictions from the administrative appeals process. Efforts by tenants to judicially overturn FmHA's 1983 amendment of the tenant grievance and appeals procedure have been unsuccessful. In addition, recent court decisions can be interpreted to give FmHA discretion to deny some homeowners facing foreclosure the right to an administrative appeal hearing prior to the foreclosure. The amendment to section 510(g) of the Housing Act of 1949 is intended to restore to tenants in FmHA rental and farm labor housing the right to administratively appeal proposed evictions prior to a landlord's initiating a state court eviction.

Rural Development Administration

The 1990 Farm bill authorized the establishment of a Rural Development Administration (RDA) within the Department of Agriculture. The RDA was chartered with the responsibility to administer FmHA programs for waste water treatment, community facilities, rural development and other programs ``as necessary''. Initially, the sponsors of this provision also proposed the inclusion of the FmHA multifamily housing programs under the RDA; the single-family housing programs would be remained under FmHA. Although this proposal was successfully eliminated, there is a considerable amount of concern in the rural housing community that the Secretary of Agriculture may use his ``as necessary'' authority to fold in housing programs into the RDA at a later date. The Committee bill would prohibit the transfer of rural housing programs to the RDA.

Rural housing reform package

This spring, the FmHA Inspector General and the General Accounting Office (GAO) both provided testimony to the House Energy and Commerce Committee and the House Banking, Finance and Urban Affairs Committee identifying vulnerabilities in the section 515 rural rental housing program.

The FmHA IG presented the findings of audit work focused on loan approvals, project construction and project operations in the section 515 program. These findings indicated that FmHA needed improved internal controls to reduce the potential for abuse in the section 515 program. The IG made several recommendations, many of which have already been adopted by FmHA or are now the subject of proposed regulations. The IG is also investigating cases referred by FmHA involving possible fraudulent activity by specific borrowers.

The GAO testimony, developed in response to a request from Congressman John Dingell, addressed both the potential for abuse in the section 515 program and the potential for developers to receive excess profits through the program. The GAO concurred with the FmHA IG's findings and recommendations for improving

FmHA internal program controls. The focus of the testimony, however, was on developer profit in three case studies; the report concluded that developers receive excessive profit under the section 515 program. The Committee reviewed this report carefully and remains seriously concerned with GAO's analysis and characterization of profit under the 515 program.

In developing its finding that ``profits represent ed returns of 780 to 970 percent on the developers' initial cash investment'', the GAO treated ``profit'' and ``return on investment'' as interchangeable concepts. Such an approach has several deficiencies. First, the development and construction of a multifamily housing project is not a passive financial investment and therefore is generally not viewed in terms of return on investment. Unlike a passive investment, development of low-income housing involves substantial services rendered and is often an involved, time-consuming, potentially risky undertaking.

Second, there is a substantial difference between gross profit and net profit which the GAO analysis does not recognize. Under the FmHA section 515 loan, only a 8-12% builder fee and ``hard'' overhead costs are permitted. A developer fee and ``soft'' overhead costs of project development must be deducted from what the GAO calls ``profit''.

Third, the GAO's conclusions that profits under the section 515 program are excessive are based on their comparison with profits considered excessive under the Section 8 Moderate Rehabilitation program. The two programs are markedly different, however. Section 515 projects involve considerable up-front construction or acquisition investments but have generally limited operating revenues and 50 year low income use restrictions. The section 8 moderate rehabilitation program required relatively minimal investments to undertake light rehabilitation, unrestricted rents and short low income use requirements. The investment of time, risk and equity involved in a 515 project is more substantial than the mod rehab program and therefore needs a larger up front incentive to attract private sector participation in the program.

While disagreeing with the general methodology, conclusions and characterizations contained in the GAO testimony, the Committee staff pursued a series of meetings with the Federal Housing Administration, the GAO, the National Council of State Housing Finance Agencies and rural housing developers to discuss the foundations and conclusions of this audit work. On the basis of this subsequent research and discussion, the Committee believes that both the FmHA IG and the GAO did discover some significant program vulnerabilities. The Committee bill thus includes a number of reforms to strengthen the section 515 program.

Equity contribution/operating reserves.-The Committee bill would increase the maximum allowable owner equity contribution for 515 loans and require that operating reserves be in the form of cash. Since 1988, owner downpayment requirements have statutorily

limited to 3% of the loan. Prior to that, FmHA commonly required a 5% downpayment. In response to concerns about the section 515 program, FmHA requested that this limit on maximum equity contribution be eliminated. Instead, FmHA would have used ``market studies, expected returns, size and location of project to determine the percentage of investment required of the developer.'' The Committee rejected this open-ended proposal but did increase the maximum equity contribution required of borrowers from 3% to 6%, except for projects developed in areas of extreme poverty and substandard housing or projects not developed in conjunction with the low income housing tax credit.

The purpose of this change is twofold. First, FmHA would be provided greater flexibility to establish equity contribution levels consistent with total expected returns. As is commonly accepted practice in many aspects of the housing industry, expected profit would be higher for projects involving more risk-such as those in difficult-to-develop areas or those without the additional subsidy provided by the low income housing tax credit. Second, FmHA could reward project sponsors willing to develop housing in the neediest areas-those with higher-than-average incidence of poverty and substandard housing. While section 515 projects are developed in markets with demonstrated low income housing need, many of the neediest communities go unserved. The Committee attempted to address this issue with the set-aside for underserved areas established in the National Affordable Housing Act; this provision should provide an additional tool to accomplish this purpose. The Committee bill would also require FmHA to establish a process for coordinating the selection of projects under section 515 with the housing needs and priorities as established in a state's comprehensive housing affordability strategy (CHAS) and low income housing tax credit allocation plan.

Under the section 515 program, borrowers must provide a 2% project operating reserve. This reserve may be in the form of cash or irrevocable letter of credit. The Committee bill would eliminate the option to use a letter of credit for the project reserves.

Identity of interest.-The FmHA Inspector General uncovered several examples where borrowers also performed general contractor and subcontractor functions, allowing them to receive several layers of profit. In some cases project costs were inflated. The Committee expects FmHA to expand its regulatory definition of ``identity of interest'' arrangements to include family and indirect affiliations. The Committee further expects that FmHA will limit profit and overhead expenses to the general contractor when more than 50% of a project's supplies are subcontracted out to one supplier or when more than 75% is subcontracted out to less than three entities.

Another recommendation of the FmHA Inspector General was to provide independent certification of project costs when identity

of interest relationships exist among entities involved in project development or management. FmHA requested the authority to charge a user fee on section 515 loan applications to cover the costs of such certifications and other administrative costs such as property appraisals, market surveys, and inspections. The Committee rejected the imposition of a user fee on 515 borrowers to pay for program administration. The Committee agreed, however, with the recommendation that independent cost certifications be performed where necessary. The Committee bill would authorize FmHA to finance such audits as an eligible program cost. The Committee expects that FmHA would routinely request independent cost certifications for transactions over \$1.5 million involving identity of interest relationships and request audits for other transactions on a random basis. FmHA would also be authorized to conduct a multi-state study comparing negotiated bid prices to competitively bid prices in 11 states and report to Congress on the results within 18 months of enactment.

Coordination between FmHA and State HFAs. The Committee uncovered significant inconsistencies between information received by FmHA offices and state housing credit agencies on their respective program applications for the same project. These documents provide the basis of judgments on reasonable project costs, subsidy needs and profit. The Committee also found that allowable practices and project expenses varied considerably among FmHA state offices across the country.

To address both of these concerns, the Committee bill would require FmHA to establish standard guidelines for allowable project costs among state offices. FmHA would also be required to develop uniform procedures for identifying and sharing information on project costs, builder profit, identity of interests relationships, and other factors with housing credit agencies allocating low income housing tax credits to section 515 projects. The Committee is pleased to note that since this spring, FmHA, the National Council of State Housing Finance Agencies and individual state credit agencies have actively embarked upon efforts to improve coordination between the section 515 program and the low income housing tax credit program.

Rural rental housing vouchers

The Committee bill would establish a rural housing voucher program under the Farmers Home Administration to provide rental assistance to very low income families. In some rural areas, the largest housing problem is one of affordability, not availability. A voucher program would provide an additional tool to meet the housing needs of residents of such areas. The Committee notes, however, that most rural areas do not have an adequate supply of vacant housing; vouchers are virtually useless in communities without vacant rental stock. The Committee has, therefore, rejected the Administration's recommendation to shift funds away from rural housing development and towards the use of rural housing vouchers. The Committee bill would authorize the

rural voucher program at \$140 million for FY93.

The Committee expects the FmHA to coordinate the voucher program with the section 515 rural rental housing program, the section 533 housing preservation grants program and the rental assistance programs administered by HUD.

Site acquisition and development

The Committee bill would amend the section 524 site acquisition and development program to enable FmHA to make grants to non-profits to capitalize revolving loan funds to carry out eligible program activities.

Subdivision approval

The Committee bill would amend the rural housing statute to require FmHA to accept subdivision approvals made by local, county or state agencies.

TITLE VIII-HOUSING FOR PERSONS WITH SPECIAL NEEDS

SUBTITLE A-SUPPORTIVE HOUSING FOR THE ELDERLY

Authorization/amendment

The Committee bill would authorize federal housing programs that serve low-income elderly persons for fiscal years 1993 and 1994, namely the section 202 program, the revised congregate housing services program and the HOPE for Elderly Independence program. The bill would also amend the provision governing selection criteria for section 202 funds to require HUD to take into consideration the availability of public housing for the elderly and the vacancy rates for such facilities.

SUBTITLE B-SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

Authorization

The Committee bill would authorize funding for the section 811 program for fiscal years 1993 and 1994.

SUBTITLE C-SUPPORTIVE HOUSING FOR THE HOMELESS

Authorization

The Committee bill would authorize funding for the federal homeless programs for fiscal years 1993 and 1994: the Emergency Shelter Grants program, the Supportive Housing Demonstration program, the Supplemental Assistance for Facilities to Assist the Homeless program, the section 8 SRO program, and the Shelter Plus Care program.

Safe Havens for the Homeless

The Committee bill would include the Administration's proposal to establish a new, competitive demonstration program, known as ``Safe Havens for the Homeless''. The program would evaluate whether small residential facilities that provide very low cost permanent housing would be successful in attracting seriously mentally ill persons who have been unwilling or unable to participate in existing treatment programs like Transitional Housing or Shelter Plus Care.

Key experts on homelessness believe that there is a gap in the federal programs designed to address homelessness. On the one hand, emergency shelter programs provide short-duration shelter, many in barracks style environments. These shelters are often frightening places for seriously mentally ill persons. They are crowded sites that offer no safety, peace, or privacy. Assault and theft are common, and the seriously mentally ill, due to their vulnerability, are all too often the victims. The skills needed for survival on the streets (such as the need to mistrust strangers and use hostility as a defense) differ greatly from those needed for accommodations indoors. Many seriously mentally ill persons need not only shelter from the harshness of street living but also time to reflect and learn to trust helpers before they are ready and able to adhere to rules and program requirements.

On the other hand, programs such as Transitional Housing and Shelter Plus Care are specifically designed to provide comprehensive, long-term supportive services designed to help homeless persons achieve greater self-sufficiency. These programs carefully screen potential residents to determine their commitment to accept and complete treatment programs and work toward the goal of greater independence. Understandably, they do not accept persons unwilling or unable to make these commitments.

The Safe Havens proposal is designed to fill this gap in federal efforts. It operates on the premise that for many seriously mentally ill homeless persons who have been living on the streets, the transition to stable housing is best made in stages, starting with a small, highly supportive but low-demand environment where they can live. Safe Havens is designed to offer the ``portal of entry'' to the service system for homeless people with serious mental illness.

The Committee believes that this new approach would provide an alternative to the nomadic and often dangerous life being led by seriously mentally ill homeless persons who are not ready to enter high-demand treatment programs. There is a public benefit to this as well: there will be fewer homeless persons in public spaces and cycling through jails, emergency rooms, and emergency shelters.

A Safe Haven program would provide the opportunity to test this new approach. Providing a stable residence will end the necessity

for these people to carry their possessions in bags and shopping carts wherever they go. They will have a place to stay other than parks, transportation facilities, libraries, jails, alleys, abandoned buildings, and the street. Protection from the elements will reduce their presence in hospital emergency rooms. The alcohol- and drug-free environment of the Havens should reduce their use of these substances. In addition, a stable living environment in combination with the friendship of the staff at the Havens may encourage the trust that is needed to engage them in treatment programs.

The Committee believes this approach is sorely needed and holds great potential to meet the needs of this difficult-to-serve population. Failure to develop a means to deal with this element of the population means failure to achieve the objective of ending homelessness.

The Committee bill would generally incorporate the Safe Havens demonstration in the form proposed by the Administration. A number of key revisions have been made in response to concerns raised by a wide coalition of homeless advocates and providers. First, funding for the new program would not come at the expense of other McKinney homeless programs. The Administration recommends cutting the Emergency Shelter Grants program by approximately \$55 million at the same time it calls for a \$50 million Safe Havens. The Committee has strongly rejected this suggestion. As one observer noted, "While we all have some discomfort with emergency shelters, they are an essential piece in dealing with the problems of homelessness and will remain so for the foreseeable future." Federal funds for emergency shelters are particularly needed at a time of economic recession, when states and localities are scaling back safety net programs.

Second, the program's eligible activities would be expanded by permitting funds to be used for (1) acquisition and acquisition and/or rehabilitation (as under other McKinney programs); (2) outreach activities; and (3) a portion of the costs of the required supportive services (i.e. low-demand mental health care management).

Third, compliance with the matching requirements would be eased by allowing federal grant funds to be counted as part of the required match-as is done under the Shelter Plus Care program.

Fourth, transition to a Safe Haven would be eased by permitting the occupancy charge to be phased in or reduced based on the type of accommodations provided.

Fifth, a Safe Haven would be limited to private or semi-private accommodations; group accommodations would not be allowed.

Sixth, the bill would clarify that HUD can test various types of Safe Havens including those that are combined with drop-in centers and/or are located in existing emergency shelters.

Finally, eligibility for SSI and Medicaid benefits would be preserved by providing that a Safe Haven is neither a ``public institution'' nor an ``institution for mental diseases'' within the meaning of the Social Security Act.

The other elements of Safe Havens have generally been retained in their original proposed form. A Safe Haven would be the size of a small shelter, serving no more than 25 persons. It would offer private or semi-private accommodations, as well as other resources (e.g. telephones, mailing address, a place to lock up and store belongings). A Safe Haven would be subject to State and local building codes. Alcohol and illegal drugs would not be permitted on the premises.

A Safe Haven would afford more privacy than the typical emergency shelter. In addition to the smaller size and increased privacy of a Safe Haven as compared with the typical emergency shelter, the critical difference would be the absence of time limits on the duration of stay. Residents would not be required to leave after a given time, such as 30 days, nor would they be required to vacate the premises during the day.

A Safe Haven would provide low-demand, full-time mental health case management. Staff would be familiar with the community resources for housing, medical and mental health treatment, and other social supports, and would be available when residents are ready to seek assistance. The hope is that after living for a while in the stable environment of a Safe Haven, and coming to trust the staff, residents would be more willing and able to participate in supportive service programs, such as mental health treatment, and would start to move toward a more traditional form of permanent housing. Their agreement to participate in such programs, however, would not be required.

Eligible program activities under the Safe Haven program would include: the rehabilitation, acquisition or acquisition and rehabilitation of a structure for use as a Safe Haven; leasing of a building or part of a building for use as a Safe Haven; costs of operating the Safe Haven, including the cost of 24-hour management; and costs for administration, outreach, low demand mental health case management, and other activities including the modification of an existing facility to create a Safe Haven. On-site management staff would ensure the safety of the residents and the cleanliness of the facility.

A major aim of the program would be to demonstrate whether Safe Havens are sufficiently attractive to seriously mentally ill homeless persons to get them off the street and into this type of housing. A second aim would be to demonstrate the extent to which residents are eventually willing to be engaged in treatment programs and to move toward a more traditional form of housing after a period of stabilization in the Haven. Third, the program would demonstrate whether Safe Havens are cost-effective in

comparison with other alternatives for seriously mentally ill homeless persons. Finally, the program would demonstrate the various ways in which Safe Havens may be used to provide accommodations and low-demand mental health case management for eligible persons.

SUBTITLE D-HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Authorization/amendments to existing law

The Committee bill would authorize the AIDS Housing program established by the National Affordable Housing Act for fiscal years 1993 and 1994. The bill would also amend existing law by specifying that the Centers for Disease Control would determine the incidence of AIDS for purposes of allocating formula funding. The Committee intends that the March 31, 1992 number of cumulative AIDS cases, as determined by the Centers for Disease Control, should serve as the eligibility criteria for fiscal year 1993. This is consistent with the way the Ryan White CARE Act determines eligibility for its formula distribution of funds.

Finally, the bill would require that metropolitan areas designate their chief elected official to receive grant funds, similar to the process established in the Ryan White CARE Act.

TITLE IX-COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

SUBTITLE A-COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND PRESERVATION

Background on CDBG

The eighteen-year old Community Development Block Grant (CDBG) program helps local communities foster viable neighborhoods by improving housing, community facilities and public services, and expanding economic opportunities. The program focuses especially on helping low and moderate income families, preventing or eliminating slums and blight, and meeting urgent community development needs.

Under the CDBG program, communities may use up to 15% of their funds for public services such as employment, crime prevention, education and recreation needs. The Committee would like to clarify that local programs to keep schools open during the evening hours, in order to provide public facilities for sports, music, and other student activities, are an eligible activity and appropriate for funding under the CDBG program. This expanded use of school facilities could help reduce crime as well as enhance educational opportunities.

Program authorizations

The Committee bill would authorize funding for the CDBG program at \$3.9 billion in FY93 and \$4 billion in FY94. Set-asides for

work-study, historically black colleges, and insular areas would also be authorized. The section 108 loan guarantee program would be authorized at \$300 million in each of FY93 and FY94.

Homeownership assistance sunset

The National Affordable Housing Act, added direct homeownership assistance (such as interest subsidies, downpayment assistance, closing costs assistance) as an eligible activity under the CDBG program. The authority for this new activity is scheduled to expire at the end of October 1992. The Committee bill would eliminate the sunset provision so that homeownership assistance would be a permanently eligible program activity.

CDBG/State set-aside for technical assistance

Under current law, states are allowed to use up to 2% of their CDBG funds for administrative expenses. Over the years, increased administrative demands of the CDBG program have put further strains on this cap. Because the state administers the CDBG program for small nonentitlement communities, the state must often provide extensive technical assistance to grantees. The Committee bill would allow states to set-aside 1% of program funds for technical assistance to local governments and non-profit program recipients.

Elimination of non-housing community development plan

CDBG grantees are required to prepare both a community development plan and a comprehensive housing affordability strategy (CHAS) to document their needs and outline their plan for resource allocation. The National Affordable Housing Act added a requirement that communities prepare a non-housing community development plan in addition to the plans previously required. Communities have testified that this requirement is redundant and time consuming. The Committee bill would eliminate this extraneous requirement.

Loans of CDBG funds

The Committee has become aware that HUD regulations have limited loan assistance under the CDBG program to housing rehabilitation efforts or assistance to for-profit entities. Under the regulations, a community would be able to provide a direct grant to an entity to carry out certain eligible program purposes but would not be able to make a loan to the same entity for the same purposes. The Committee bill would override the HUD regulations to ensure that grantees could make loans to any eligible entity and for any eligible purpose for which a grant would be permitted.

CDBG code enforcement

Since the inception of the CDBG program, code enforcement has been an eligible use of CDBG funds and until recently, HUD has

been flexible about allowing code enforcement under CDBG as part of efforts to improve poverty areas or to prevent marginal areas from deteriorating. More recently however, the Committee has learned that some HUD regional offices have attempted to unduly restrict the flexibility localities were provided under the original 1974 CDBG Act by substituting their judgment for what the locality determined is needed to justify code enforcement. The Committee Bill would clarify that code enforcement is an eligible CDBG activity and would permit consideration of private as well as public improvement, existing or planned, in allowing the locality to decide what activities, if any, along with code enforcement may be expected to arrest the decline of an area. This change is needed to clarify existing law and to express Committee support for CDBG code enforcement activities in connection with a variety of public and private activities as appropriate including private rehabilitation and non-profit community efforts as well as public improvement projects.

CDBG set-aside for colonias

Colonias are small squatter communities located in the four states bordering Mexico. These communities generally consist of Mexican immigrants living in near primitive conditions and are often in desperate need for basic infrastructure and sewer facilities as well as decent housing.

The National Affordable Housing Act created a set-aside of CDBG funds for colonias and limited the use of these funds to the planning of infrastructure and housing needs. Funds could not be used for direct investment. The Committee bill would reauthorize the set-aside for colonias and amend it to allow grants to be made for any CDBG-eligible activity that serves the needs of the residents of the colonias-particularly those related to housing and water and sewage facilities. The Committee hopes that this revision will enable the relevant states and localities to address the needs of these areas in an expeditious and concentrated manner.

Approval of multi-jurisdictional agreements

Under current law, the HUD Secretary must approve multi-jurisdictional agreements among both entitlement communities and non-entitlement communities. The Committee bill would allow states to approve multi-jurisdictional agreements among non-entitlement communities that receive funding through the state's small cities CDBG program. The HUD Secretary would retain approval authority for entitlement communities that receive funds directly from the federal government.

Neighborhood-based non profits

The Committee bill would expand the definition of eligible non-profit entities under the CDBG program beyond ``neighborhood-based non-profits'' to ensure that broader-based

non-profits serving rural areas would be eligible for funding.

Economic development

In general.-The Community Development Block Grant (CDBG) program remains one of the most important federal tools for promoting revitalization in distressed areas. The Committee intends to retain the flexibility of the program, which allows states and localities to use their funds for activities that benefit low and moderate-income persons, prevent slums and blight, or meet urgent community needs. At the same time, the Committee intends to enhance the ability of states and localities to use CDBG funds for economic development activities.

Economic development was added as an eligible activity under the CDBG program in 1981. In recent years, however, the Department has issued administrative rules and other policy guidelines that impose unnecessarily burdensome standards and documentation requirements for economic development activities. These standards and requirements have effectively prohibited or severely curtailed many activities which would have created significant public benefits. They have also served to diminish the flexibility of states and localities to determine local priorities, as intended by Congress when the original CDBG program was created.

The Committee bill would make several modifications to the CDBG program to ease the burdens associated with economic development activities and to provide the Department with sufficient direction to compel changes in current administrative rules.

Eligible activities.-The Committee bill would allow CDBG funds to be used for technical assistance to public and private non-profit entities to carry out neighborhood revitalization or economic development. Current law allows CDBG funds to be used to provide technical assistance and capacity building only to for-profit entities. HUD has not allowed non-profit organizations to receive CDBG funds for technical assistance and capacity building even though non-profit organizations are becoming increasingly important in neighborhood revitalization activities. The Committee believes that allowing non-profit organizations to receive CDBG funds for technical assistance and capacity building will improve the managerial and administrative capabilities of these organizations and make them more effective in carrying out CDBG activities. The Committee bill would exempt from planning or administrative cost limitations the provision of technical assistance to public or non-profit organizations. The Committee also intends to clarify that expenses associated with building the long term capacity of grantees and subgrantees to implement economic development activities should be considered direct program expenses, rather than administrative expenses. The Committee believes that such capacity building activities enhance the effectiveness of grantees and subgrantees in carrying out CDBG activities and creating public benefits.

Rebuilding distressed neighborhoods.-Grantees have criticized the current CDBG definition of low and moderate-income as unworkable for economic development activities. The program requires grantees to use the Section 8 income definitions, which rely on family income rather than individual income to determine a beneficiary's financial status. Consequently, a business owner receiving CDBG assistance must determine not only the income of the person applying for a job but also the income of all of the members of his/her household in order to document a low or moderate-income hire. This requirement has been found to be administratively burdensome for many businesses and grantees. The Committee bill would ease this regulatory burden by creating a presumption that activities carried out in census tracts which meet specified criteria also meet the national objective of benefiting low- and moderate-income persons.

Appropriateness test.-The Committee bill includes a provision intended to clarify when assistance to a for-profit entity is appropriate. CDBG grantees have experienced significant difficulties in funding economic development projects since HUD issued a 1987 administrative rule on the topic. The rule required projects to meet a "necessary and appropriate" standard when assistance is provided to a for-profit business. Grantees indicated to the Committee that this standard was administratively burdensome and discouraged grantees from using CDBG funds for economic development activities. In 1990, Congress directed HUD to adopt a less cumbersome "appropriateness" standard. However, despite Congressional directives, HUD has failed to revise the regulatory guidelines and to implement the change. The appropriateness analysis has been interpreted by many to be a "but for" test in which a grantee must prove that "but-for the CDBG assistance, the project could not go forward." This test has had the effect of disqualifying assistance to activities that could create substantial public benefits. The Committee bill would prohibit HUD from limiting assistance to activities for which no other forms of assistance are available or which could not be accomplished but for that assistance. In determining the amount and appropriateness of assistance to a for-profit entity, the Committee intends that the Department focus on whether the amount of assistance is appropriate relative to the amount of public benefit expected to be derived, rather than on whether the assistance is necessary for a project to go forward.

Although the CDBG program is intended to provide states and localities with flexibility to determine community needs and whether or not assistance is appropriate, grantees have informed the Committee that HUD often becomes involved in determining whether assistance is appropriate prior to an activity receiving assistance. In order to preserve the intended flexibility and decentralized nature of the program, the Committee bill would require HUD to ensure that grantees have an effective mechanism in place to determine that an assisted activity is financially

viable and that assistance is appropriate relative to the public benefit to be created. The Committee recognizes, however, that due to differences in community needs, size or capacity, some states and localities may not wish to pursue a significant volume of economic development activities. Therefore, the Committee intends HUD to exercise flexibility in prescribing the standards such appropriateness determination mechanisms must meet.

Small and micro-business initiative.-The Committee bill would facilitate the development of small and micro-businesses through the use of CDBG-assistance. Small and micro-businesses can play a significant role in neighborhood revitalization and job creation or job retention strategies. Grantees have informed the Committee that current statutory and regulatory requirements should be revised so that CDBG can be more effectively used for small and micro-business development. The Committee bill would require HUD to modify current regulations that impede the development of these enterprises. HUD would also be required to minimize the paperwork and regulatory burdens and to incorporate additional flexibility into the appropriateness standards. The Committee bill would exempt from administrative cost limitations training, technical assistance, or other support service costs associated with helping grantees or subgrantees develop the capacity to provide assistance for small and micro-business development activities.

Development directive.-The Committee bill would direct HUD to implement an on-going training program for Department personnel involved in economic development activities. Last year, the HUD Inspector General completed a report that audited several grantees involved in economic development activities. The audit found that the grantees did not adequately demonstrate that (1) assistance provided to businesses was necessary and appropriate; or (2) jobs were created or retained for low and moderate income persons. The Inspector General attributed these failings to: (1) lack of consistent implementation of regulations and guidelines by HUD personnel; (2) lack of adequate technical assistance to grantees by the Field Offices; and (3) poor underwriting caused by inadequate training. The Inspector General's report also raised the question of whether HUD currently possesses the capacity to effectively evaluate economic development projects. The audit indicates a great need to provide better technical assistance and training to the HUD personnel responsible for implementing and monitoring these activities. The provision contained in the Committee bill would ensure: (1) that HUD staff possess a solid understanding of economic development activities; and (2) that regulations and guidelines are implemented consistently. The Committee bill would require the Secretary to use funds recaptured through the Urban Development Action Grant program to carry out this requirement.

Job quality study.-The Committee bill would require the Comptroller General to conduct a study on the types and quality of jobs created or retained through CDBG assistance, and to report its findings to the Congress. A persistent criticism of

job creation and retention activities funded through CDBG is that they tend to encourage the development of low-wage, low-skill and dead-end jobs. Generally speaking, these jobs do not promote the development of marketable skills and the long run economic well-being of CDBG's intended beneficiaries. Economic development activities designed to create or retain job opportunities should, to the greatest extent possible, improve the upward mobility of low and moderate-income persons. The Committee recognizes, however, that the development of low-wage and low-skill jobs can also be a viable economic development strategy. This is particularly true in neighborhoods where limited employment opportunities exist or in those situations where the intended beneficiaries lack job skills, education, or have limited employment histories. The Committee does not wish to imply that these economic development strategies should be prohibited. The Committee is interested in an analysis and recommendations on how the CDBG program can be more effectively used to promote more skilled job opportunities.

Neighborhood development demonstration

The Neighborhood Development Program has been authorized, on a demonstration basis, since 1983. The program has traditionally received \$2 million annually to provide grants to 40-45 non-profit, community-based organizations in poor neighborhoods to rehabilitate housing, develop local businesses, create jobs and improve neighborhoods. The non-profits receiving federal assistance must contribute matching grants raised from private sources such as churches, local businesses, other non-profits or community residents. This program has been very successful in stimulating strong community involvement in local neighborhood improvement efforts and in developing the capacity of community-based groups to undertake sound housing and development projects. The Committee bill would authorize the Neighborhood Development Demonstration Program as a full-fledged program rather than a demonstration. Because the number of non-profits who have entered the program over the years has grown considerably, the limitation on multiyear grants recipients would be lifted from 30% to 50%. The program authorization would be increased from \$2 million to \$2.5 million in FY93 and \$3 million in FY94. The maximum grant award under the program would be also increased from \$50,000 to \$75,000, but only if appropriations for the program exceed 3 million.

The Committee bill would also rename the Neighborhood Development Program after the late Senator John Heinz, in recognition of his contributions to the issues of affordable housing and citizen-based neighborhood revitalization. Throughout his congressional career, Senator Heinz took a deep and active interest in housing and urban development issues. His tireless work to address the continuing shortage of adequate and affordable housing are well remembered by this Committee.

John Heinz's involvement with the Neighborhood Development

Program began in the early 1980's. Senator Heinz deeply believed in the principle of community-based redevelopment of distressed neighborhoods and the involvement of area residents in the decisions that affect their future. The Neighborhood Development Program is built on these principles and the Committee believes it is fitting that the lasting contribution of Senator Heinz be recognized by redesignating the Neighborhood Development Program in honor of his memory.

Neighborhood Reinvestment Corporation

The Committee Bill would authorize the Neighborhood Reinvestment Corporation at \$40 million for fiscal year 1993 and \$41 million for fiscal year 1994. The Neighborhood Reinvestment Corporation provides technical support to community-based development organizations, and serves as a catalyst for attracting private and public resources to these entities.

Neighborhood Reinvestment helps to provide a network of community-based development organizations that often serve as the primary vehicles to efficiently and effortively channel resources into economically disenfranchised neighborhoods. These efforts result in stabilized neighborhoods, job creation and a stake in the future for community residents.

The additional resources authorized in the Committee Bill would be used: to expand the capacity of existing community development organizations as well as to expand the number of organizations served; to attract additional investment in affordable housing; and to enhance the nature and level of the training and technical assistance provided.

SUBTITLE B-REGULATORY PROGRAMS

National Commissions

The Committee bill would: (1) specify that appropriations for the Manufactured Housing Commission shall remain available until expended; (2) authorize \$500,000 for the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing and extend the term of the Commission for an additional 12 months to complete its work; and (3) authorize \$250,000 for the National Commission on Severely Distressed Public Housing and extend the Commission's term for an additional 6 months to complete its work.

SUBTITLE C-MISCELLANEOUS PROGRAMS

Fair Housing Initiatives Programs

Summary.-Section 932 of the Committee Bill would reauthorize the Fair Housing Initiatives Program (FHIP) and would include refinements to take account of the expanded coverage of federal fair housing and fair lending laws and the increased evidence of

discrimination in the housing markets.

FHIP provides the primary support for private fair housing enforcement efforts around the nation and allows private fair housing groups and other nonprofit organizations to carry out testing and related enforcement activities under the Fair Housing Act.

The Committee Bill would improve testing and enforcement under FHIP to allow for: large scale investigations of fair housing violations over a multi-year period; special projects such as the development of models to respond to new forms of discrimination; and broader investigative activities such as mortgage lending.

Resources would be provided to help organize and build the capacity of new and existing fair housing enforcement organizations, particularly in unserved and underserved areas of the country, or where large concentrations of protected classes exist. Support for education and outreach activities (at the national, regional, local and community levels) would be strengthened.

The Committee Bill would also significantly increase the authorization levels for FHIP from \$6.3 million a year to \$21.6 million a year in fiscal year 1993 and \$26 million in fiscal year 1994.

In revising the FHIP program, the Committee consulted with representatives of organizations engaged in fair housing activities, including the National Fair Housing Alliance, an umbrella organization for fair housing organizations nationally, the National Council of La Raza, the NAACP Legal Defense Fund, the National Association of Realtors as well as the Assistant Secretary for Fair Housing and Equal Opportunity at the Department of Housing and Urban Development.

The Fair Housing Act of 1968.-Congress enacted the Fair Housing Act as Title VIII of the Civil Rights Act of 1968, following urban unrest of the mid-1960s and in the aftermath of the assassination of the Reverend Dr. Martin Luther King, Jr. The law prohibited discrimination in the sale, rental, and financing of housing and in the provision of brokerage services. Although the 1968 Act declared a clear national policy against discrimination in housing, it provided only limited means for enforcing the law. Under the 1968 law, HUD was authorized to investigate housing discrimination complaints, but could use only "informal methods of conference, conciliation and persuasion" in an attempt to resolve them-HUD had no power to sue violators. This conciliation process was widely criticized because if either party refused to enter into a settlement, HUD was left with no further role in enforcement. This left the victim of discrimination with the costly and time-consuming task of bringing legal action as the only means of obtaining relief. The Department of Justice did have some authority to bring housing discrimination suits; however, that authority was of limited or no use to an individual

because it was restricted to suits raising issues of national importance and involving a pattern and practice of discrimination.

The 1988 amendments.-In 1988, Congress passed amendments to the Fair Housing Act which (1) extended coverage of the protections of fair housing to families with children and persons with disabilities, and (2) greatly improved HUD's enforcement capabilities under the Fair Housing Act, allowing HUD to prosecute complaints on behalf of individuals before administrative law judges. If either party elects to have the case tried in federal district court, the Department of Justice brings the action on behalf of the complaining party.

The heart of the 1988 amendments is the complete rewriting of the enforcement provisions of the 1968 Act. Under the new law, HUD's role in investigating complaints of discriminatory housing practices is significantly enhanced. HUD is also given authority, for the first time, to bring administrative actions to remedy discrimination, as well as authority to refer pattern and practice and zoning and land use matters that cannot be resolved administratively to the Department of Justice for litigation.

Continuing evidence of discrimination.-Despite two decades of enforcement under the Fair Housing Act, evidence continues to mount of widespread and pervasive discrimination against African Americans, Hispanics and other minorities, women, families with children and persons with disabilities in the home mortgage lending and rental housing markets.

As recently as May 1992, a report on the role of financial institutions in lower income and minority communities in the Los Angeles area found that banks and savings and loans associations make fewer and smaller loans in African-American and Latino neighborhoods than in white neighborhoods in which residents have comparable incomes.\2\ (FOOTNOTE)

(FOOTNOTE)\2\ ``Taking It To The Bank: Poverty, Race, and Credit in Los Angeles,' ' Fair Housing Congress of California, 1992.

Amendments contained in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), expanded the Home Mortgage Disclosure Act so that mortgage bankers, as well as banks, thrifts, and credit unions, must disclose acceptance and rejection rates for mortgage loan applicants according to the applicants' race, gender, and income level. Previously, data was collected only by census tract and only for loans approved. Language included in FIRREA also provided that starting in June 1990, non-numerical ratings and written evaluations of bank and thrift compliance with the Community Reinvestment Act would be publicly disclosed.

In October 1991, data collected under the expanded HMDA requirements disclosed evidence of pervasive discrimination in the Nation's mortgage lending markets. The data showed that

minority loan applicants are routinely rejected from two to four times more frequently than their white counterparts.

The National Housing Discrimination Survey (HDS) released by HUD in August 1991, demonstrated that the overall incidence of discrimination is at least 50% for both Hispanic renters and Hispanic homebuyers and even higher for African American renters and buyers.

A GAO study recently revealed that the number of mortgage loans purchased by Fannie Mae and Freddie Mac (the housing government sponsored enterprises), per homeowner, declined as the percentage of minorities in a neighborhood increased and the income level of the neighborhood decreased.

This growing body of evidence served, in part, as the impetus for Committee action in reauthorizing and refining the FHIP program.

Inadequate resources.-Despite the continued existence of housing discrimination nationally, the resources available to support the effort of fair housing organizations remain limited. Since 1987, the FHIP program has received funding of approximately \$6 million per year. In FY 1990, this amount supported only 28 grants to private enforcement groups nationally.

In addition, the majority of fair housing activity has been concentrated in certain urban centers (primarily in the northeast, the midwest and California), while fair housing enforcement activity in the South and the Southwest remains woefully inadequate. At present there are only a total of three fair housing groups in the south, located in Atlanta, Miami and Memphis.

At the same time, the need for additional fair housing enforcement organizations continues to increase. The National Fair Housing Alliance reported to the Committee that as of May 1992, it had received requests from state and local governmental agencies, community groups, civil rights attorneys and individuals in more than 39 cities across the country, including 10 in the south, for assistance in establishing new fair housing agencies.

Enforcement activities currently funded under FHIP do not adequately reflect either the addition of families with children and persons with disabilities as protected classes under the Fair Housing Act or the growing subtlety and sophistication of housing discrimination. Data submitted by fair housing agencies on their recent enforcement experiences supports the need to allocate resources to foster the continued development of prototypes which respond to these new and sophisticated forms of discrimination.

Fair Housing Initiatives Program/Evolution.-The growth and increased effectiveness of fair housing organizations prompted HUD to join with the National Committee Against Discrimination in

Housing in 1978, to undertake a Fair Housing Enforcement Demonstration Project, to test whether establishing a formal relationship between HUD and local private fair housing groups would make enforcement of the fair housing laws more effective. Under the two-year demonstration, eight private nonprofit organizations received modest grants to receive and record complaints of housing discrimination; to conduct tests and other investigative work related to specific complaints; to conduct fair housing testing studies to uncover discriminatory practices; and conduct education and outreach.

In addition, the midwest fair housing groups developed a working relationship with the HUD Region V Office in Chicago whereby the groups could contact HUD by telephone to report a complaint that required immediate action. The fair housing agencies provided HUD with test reports and other evidence to support the claims and HUD employed a ``rapid response'' system by sending an investigator into the city within days of receipt of the complaint.

Region V began to receive and successfully resolve more complaints of housing discrimination than any other region in the country. The success of this public/private partnership played an important role in the creation of the FHIP initiative. It provided a viable alternative to federal district court to resolve these matters. The speed and efficiency also helped to restore the faith of victims of housing discrimination that the ``system'' within the government actually worked.

The success and efficacy of the demonstration program served as the precursor to the Fair Housing Initiatives Program (FHIP), authorized in the Housing and Community Development Act of 1987.

Current FHIP Program.-FHIP was enacted to: (1) help increase public awareness of the rights and remedies available under the Fair Housing Act; (2) conduct outreach to person protected by the Act; and (3) assist private fair housing groups and other nonprofit organizations to carry out testing and related enforcement activities. FHIP has proven an important tool in the fight against discrimination.

Under FHIP, private fair housing organizations work within local communities nationwide to promote fair housing through education, outreach, litigation, conciliation, and research into the nature, extent and effects of housing/lending discrimination.

Private fair housing organizations evolved in response to the need for increased enforcement of as well as education about rights under the nation's fair housing laws. These organizations began to gradually achieve marked success in combating housing discrimination and were primarily responsible for the development of a critical investigative tool-fair housing testing.\3\ (FOOTNOTE)

(FOOTNOTE)\3\ Fair housing testing is described as akin to undercover investigative work. As described by the US Supreme Court, ``testers' are individuals who, without an intent to rent or purchase a home or apartment, pose as renters or purchasers for the purpose of collecting evidence of unlawful steering practices.' ' Havens Realty Corp. v. Coleman, 455 U.S. 363, 373 (1982). Private fair housing enforcement organizations won a tremendous victory in 1982 when the Supreme Court ruled that both the organizations and testers have standing to bring suit to enforce the Fair Housing Act. Havens at 373-379.

Despite the expanded capacity of both HUD and DOJ under the 1988 amendments, it is private fair housing enforcement organizations which continue to remain on the ``cutting edge'' with respect to challenging housing discrimination (including discriminatory rental, sales, advertising, mortgage lending and appraisal practices).

The housing discrimination complaint load for HUD and for fair housing groups has increased dramatically. Both HUD and Justice are currently contracting with private fair housing groups to conduct limited testing in complaints received outside of the immediate geographic jurisdiction of the private fair housing groups. For example, the Department of Justice has contracted groups in the South, Midwest and Northwest to have these groups assist the Department with testing in their respective states and in adjoining states as well. HUD has contracted with the Portland, Oregon fair housing center for limited testing in complaints received from the state of Washington.

The Committee is aware, however, of the impracticality of expanding testing so far out of the immediate jurisdiction of private fair housing groups given the limited resources presently available for the FHIP program.

Legislative proposal.-The revisions to the FHIP program contained in the Committee Bill are designed to reflect the expanded coverage of federal fair housing and fair lending laws; to respond to the increased evidence of discrimination in the housing markets and to address the scarcity of available resources to meet current needs.

Enforcement.-The Committee bill would provide resources for enhanced private enforcement initiatives including large scale investigations and enforcement; systemic investigations, such as mortgage lending, real estate sales, and housing advertising; special projects, such as the development of prototypes to respond to new or sophisticated forms of discrimination or to address issues unique to newly protected groups; and fair housing testing, particularly in areas where no organization with testing capacity exists.

Capacity building.-The Committee bill would acknowledge the need for new fair housing enforcement organizations throughout the

country, particularly in unserved and undeserved areas of the country, or where large concentrations of protected classes exist. In addition, the Committee bill would acknowledge the need to enhance the capacity of existing fair housing organizations to improve testing; to train staff in fair housing issues and in general to more adequately respond to housing discrimination complaints. The Committee bill would direct resources specifically for capacity building.

Education and outreach.-The Committee bill would increase support for education and outreach activities at the national, regional, local and community levels. Education and outreach programs have proven increasingly effective not only in making people more aware of their rights under the fair housing act, but also in identifying the many forms that housing discrimination can take.

The National Fair Housing Alliance noted that media products produced on a national level are best marketed on the local level. For example, the State of Pennsylvania reported that the national media campaign products played a major role in increasing the complaint load and demonstrating to the state legislature the need for stronger fair housing laws.

Economic opportunities for low and very low-income persons

Defects in current law.-Section 3 of the Housing and Urban Development Act of 1968 currently requires the Secretary of Housing and Urban Development to direct, to the greatest extent feasible, opportunities for training and employment arising in connection with projects receiving federal housing or community development assistance to lower income persons residing within the unit of local government or metropolitan area in which the project is located. The law also requires that contracts for work to be performed in connection with such projects be awarded, to the greatest extent feasible, to business concerns located in or owned in substantial part, by persons residing in the same metropolitan area as the project.

Committee investigation revealed that Section 3 has not been vigorously enforced. The lack of enforcement is illustrated by the fact that the regulations implementing Section 3 have not been revised since their initial promulgation, even though the statutory language was significantly amended in 1980. Although the Committee believes that the lack of enforcement of Section 3 has resulted in part from lack of attentiveness to the provision by the Department, the Committee also believes that enforcement has been made difficult by the statutory language, which fails to reflect the changes in housing and community development laws in the last decade and is vague in its focus and scope.

Increased enforcement.-The Committee bill would revise the language of Section 3 to make the statute more enforceable and to clarify the scope of its application. The Committee bill would explicitly require the Secretary to promulgate new regulations

within 180 days. The Committee intends this deadline to be followed and believes that strenuous enforcement of Section 3 is critical to national urban policy.

Increased targeting.-The Committee believes that, under current law, Section 3 is insufficiently targeted. The Committee bill would therefore explicitly define low and very low income persons as the intended beneficiaries of Section 3 preferences and would establish orders of priority within that broad group of beneficiaries. The Committee intends that, where feasible, Section 3 should enable federal housing and community development projects to promote overall neighborhood revitalization. The Committee bill would therefore give preference for economic opportunities created by public housing assistance to public housing residents and give preference for economic opportunities created by other projects to residents of the neighborhoods in which the projects are located.

The Committee bill would also give preference to Youthbuild programs receiving assistance under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act and to participants in such programs. The Committee included this preference to further the subtitle's goal that Youthbuild programs be integrated to the maximum extent feasible with other federal housing production programs.

Narrowed scope.-The Committee bill would limit the scope of application of Section 3 in order to increase its enforceability. Under current law, Section 3 applies to all direct assistance programs, even though enforcement in certain rental assistance programs and economic development programs presents severe administrative difficulties. The Committee believes that the inadequacy of current enforcement results in part from the administrative difficulties caused by the broad scope of the statute. Therefore, the Committee bill would specify those public and Indian housing program to which Section 3 applies and would limit the statute's application in other programs to "bricks, and mortar" projects. The Committee intends that this narrowing in scope will result in a concomitant deepening of enforcement of the statute.

Relationship to existing laws.-The Committee bill would also clarify that Section 3 is not intended to preempt current Federal, state, or local procurement regulations or laws or regulations requiring affirmative action to promote hiring of minority employees or use of minority contractors. However, the Committee intends that full force be given to the preference created by Section 3 to the extent that preference does not conflict with existing laws or regulations.

Study of section 3 of the 1968 act

The Committee bill would require the Secretary to report to Congress on efforts to enforce Section 3 and on external factors affecting enforcement, including training needs of targeted

employees, technical assistance needs of targeted businesses, barriers created by procurement regulations, coordination difficulties with labor unions, and resource limitations of recipients of federal assistance who must comply with Section 3.

The Committee included the study because the Committee is concerned that, even as revised, Section 3 may not be fully effective because of external impediments. In particular, the Committee is concerned that increased resources to train low income people and to provide technical assistance to businesses that benefit them may be needed in order to achieve the goals of Section 3. The Committee is also concerned that procurement regulations, primarily at the Federal and state level, impede giving priority to contractors that provide economic opportunities for low- and very low-income people. The Committee intends that the Secretary's report shall review these and related issues and suggest legislative changes to further the goal of directing economic opportunities created by federal housing and community development assistance to low- and very low-income people.

Study on the impact of military base expansion

As the nation's military conversion program accelerates, some bases, such as Fort Lewis in Tacoma, Washington, will actually grow because personnel and facilities will be consolidated from other areas. Communities such as Tacoma will bear the brunt of this expansion, and will more than likely face significant housing shortages. This purpose of this study is to examine the ability of the public and private sectors to meet this increased demand, and to evaluate the impact of increased demand on housing availability and affordability for both homeowners and renters. The Committee directs the Secretary to conduct the study in consultation with state and local housing officials, non-profit housing organizations, local financial institutions, and those Department of Defense officials involved with the base expansion. The Committee intends that particular attention be given to regions such as the City of Tacoma (WA) and Pierce County (WA). Community Outreach Partnership Act

The Committee bill would establish a five year demonstration program designed to facilitate the development of linkages between institutions of higher education and local communities in solving urban problems. Across the nation, there are many colleges and universities that already plan an active role in helping communities address local problems. However, these activities tend to occur on an ad hoc basis rather than through an on-going program of community outreach. Although institutions may encounter similar situations in different communities, no established mechanism currently exist to allow institutions to exchange information on problems or problem-solving strategies. The Committee believes that institutions of higher education can play an important role in helping to build the capacity of community groups to solve urban problems and that the federal

government should help to facilitate these linkages.

The Community Outreach Partnership Act (COPA) is intended to provide support for research and community outreach activities to solve locally identified urban problems including housing, infrastructure, economic development, job-training, health care, education, crime prevention and community capacity building. COPA is modeled after a successful program operated by Michigan State University's (MSU) Center for Urban Affairs. MSU's program conducts research, develops instructional programs and facilitates public service projects in urban areas. Many institutions of higher education including Wayne State University in Detroit, University of Alabama at Birmingham, Cleveland State University, and the University of South Florida have provided leadership in research and public service projects on urban issues. The activities of these institutions and others could be expanded through COPA to provide outreach to local communities. The Committee bill is intended to plant the seeds of a formal network among institutions of higher education, federal, state and local governments, and communities, to exchange information and develop strategies to address problems confronting the nation's cities and neighborhoods.

The program has three primary objectives: outreach, research and exchange of information. Through its outreach activities, institutions of higher education would work with local communities to identify problems, develop problem-solving strategies and plans, facilitate public service projects, and develop instructional programs and training for community leaders. Research activities would focus on topics which have practical application for solving local problems. The Committee bill would also establish a national clearinghouse through which institutions of higher education and communities can share research findings and information about successful problem solving strategies.

Community development lending study

The Committee bill would require the Board of Governors of the Federal Reserve, in consultation with other federal regulators, to conduct a study comparing lending in low-income, minority and distressed neighborhoods to lending activity in other neighborhoods. The lending community has long contended that it is reluctant to lend in the former neighborhoods because it is perceived that these activities are riskier, will lead to greater loan losses, lower profitability, and place the federal deposit insurance funds at greater risk. However, anecdotal evidence provided to the Committee by community groups and lenders involved in community development lending activities indicate that these activities have not resulted in greater losses or increased risk to the federal deposit insurance funds. The purpose of this study is to provide a solid base of analysis from which policy makers can make informed decisions on the risks presented by lending in different neighborhoods. In particular,

the study would focus on whether community development lending has presented real losses to the deposit insurance funds which are greater than the risks presented by other activities.

Community development banking study

The Committee bill would require the Board of Governors of the Federal Reserve System and the Secretary of the Department of Housing and Urban Development to jointly conduct a study on ``community development banks''-insured depository institutions that focus on revitalizing low-income and chronically distressed neighborhoods by investing directly in those communities. They are an innovative mechanism for bringing private capital into low income communities. These institutions have developed a strong track record of successfully spurring revitalization in distressed areas.

The term community development ``bank'' is somewhat of a misnomer. Typically these institutions are a holding or parent company, consisting of several subsidiaries or affiliates including a federal depository institution. The non-depository subsidiaries or affiliates usually carry out activities that depository institutions are prohibited from undertaking, but which support the community development mission of the parent institutions. The regulated depository within a development bank must operate in compliance with the safety and soundness requirements of all federally regulated depository institutions.

The study would examine the track record and accomplishments of these institutions and explore the factors which contribute to their ability to promote revitalization, increase access to capital in traditionally under-served neighborhoods and improve economic opportunities for low-income and minorities. The report would also evaluate whether the activities undertaken by these institutions pose any unusual risks to the federal deposit insurance funds. Finally, the report would examine the extent to which these institutions can be replicated in other areas or neighborhoods and recommend actions the Federal government could take to facilitate the further development community development banks.

In recommending actions to facilitate the development of new institutions, the Board of Governors and the Secretary would also take into consideration the recommendations of the 1988 report of the Rouse-Maxwell Task Force on Affordable Housing. The Task Force recommended developing a major national demonstration program to seed new community development banks.

Flood control restoration zone

The Committee bill would establish a new zone under the flood insurance program for communities in which an existing flood control system, that previously had provided 100-year frequency flood protection, no longer does so.

Eligibility for restoration zone.-Communities would be eligible for this zone designation and considered to be in the process of restoring full flood protection if (1) the flood protection system has been deemed restorable by a federal agency, in consultation with the local project sponsor on the basis that no major impediments exist or the cost-benefit relationship is favorable; (2) a minimum level of flood protection is still provided to the community by the discredited system; and (3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a plan negotiated between the community and FEMA. The community would have to develop a schedule of significant milestones to demonstrate progress towards project completion.

The Committee expects that the scope and construction schedule of the flood protection system would be determined by the federal and non-federal sponsors of the project. The Committee intends that FEMA would recognize that schedule and would accommodate legitimate and necessary changes in the schedule for reasons such as delayed federal funding, environmental changes, additional studies required, or other delays beyond the control of the local community.

Ineligibility.-A community would be ineligible for the restoration zone designation if: the flood control system is determined to be unrestorable; funds are not appropriated for the project within a reasonable time period; the community cannot fulfill its share of the project cost; or the community has not made sufficient progress according to its own timetable through reasons within its control.

Implications of restoration zone.-With the advance of technology and the increase in development, FEMA estimates that six to eight communities will have flood protection projects decertified per year. The Committee is particularly aware that parts of Sacramento and Los Angeles counties have had flood control projects decertified and that these areas are eligible for designation as a restoration zone. Communities such as these that meet the eligibility criteria as of January 1, 1992 would remain eligible for c zone rates for any policy written prior to promulgation of final regulations for this section. For such communities, the Committee bill provides that (1) the elevation for new construction in these AR zones would not exceed three feet above existing grade, and (2) no elevation of improvements to existing structures would be required, regardless of the value of the improvements.

The Committee expects that FEMA would develop flexible elevation requirements allowing for less than three feet elevation for circumstances such as when lot size or access considerations limit the ability to elevate grading, or when the increment of additional flood protection obtained is not warranted given the length of time new structures will be subject to the temporary

flood hazard when determining elevation requirements.

The Committee directs that a maximum two feet elevation requirement would be appropriate for new structures that are permitted in a restoration zone that would be restored to adequate flood protection in less than 10 years. The Committee has received comments from several sources that the increment of cost between two and three feet is relatively large.

The Committee bill would provide 24 months for FEMA to develop and promulgate floodplain management and flood insurance premium regulations. The Committee intends that the regulations allow for the reconstruction or restoration of structures due to damage or destruction as the result of fires, earthquakes, or vandalism. The Committee is concerned about the economic impact of flood plain management requirements on a temporary flood hazard area. The Committee believes that property owners and the general public should be made aware of the temporary flood hazard, and measures must be taken to mitigate that hazard. However, these floodplain management measures should not deter property improvements or impose severe economic hardship.

Energy-Efficient Mortgage Pilot Program

The National Affordable Housing Act of 1990 included important provisions to improve energy efficiency in housing. The Act required the Secretary of HUD, in consultation with the Secretary of Energy, to promulgate a uniform plan to make housing more affordable through mortgage financing incentives for energy efficiency by November 1992. The Committee is aware that HUD has formed a task force to make recommendations and looks forward to the promulgation of a uniform energy efficient mortgage (EEM) program by November 1992.

However, because of the limited utilization of EEM programs, the Committee Bill would require the establishment of a five-state EEM pilot program designed to seek innovative implementation strategies that might help overcome barriers to the effective utilization of current EEM programs.

The provision contained in the Committee bill would provide that the program be evaluated on an ongoing basis and be extended nationwide within two years unless the Secretary of HUD demonstrates to Congress that such an extension would not be practicable. Federal mortgage assistance programs currently offer EEM mortgages, but these programs are not widely utilized. The Committee believes that a pilot program will help increase public awareness of the benefits of EEMs and answer remaining questions about their application.

The Committee continues to believe that EEMs allow a home-buyer who is unable to pay the up-front costs of energy efficiency improvements to take advantage of the savings gained from efficient energy use. EEMs increase housing affordability,

complement utility demand-side management programs, and further the environmental, national energy security and economic goals associated with reduced energy consumption.

HUD implementation of energy efficient construction standards

The Committee is seriously concerned with the failure of the Department of Housing and Urban Development to meet a statutory mandate included in the National Affordable Housing Act of 1990, requiring HUD to promulgate new energy efficiency standards by November 28, 1991. These standards are to meet or exceed the most recent edition of the CABO Model Energy Code applicable to newly constructed HUD assisted and FHA insured housing. The statutory deadline passed more than seven months ago and HUD has still not issued the standards, violating an explicit legal requirement.

The Committee is deeply troubled with HUD's apparent disrespect for legal mandates. Efforts by the members of this Committee to understand and work with HUD to overcome legitimate obstacles and to revitalize the objectives established by the laws of this nation have been continually rebuffed by agency officials.

Issuance of the new construction energy conservation standards is not dependent upon the Secretary of HUD's recommendations for a uniform plan to make housing more affordable through mortgage financing incentives for energy efficiency, which is required to be presented to Congress by November 28, 1992. The new construction energy conservation standard deadline of November 28, 1991 is not a matter within the discretion of the Secretary, it is a statutory requirement. The Committee believes that the Secretary should not delay further the implementation of this important energy conserving policy, and should immediately issue the new construction energy conservation standards as required by law.

Prohibition of lump-sum payments

The Committee bill would prohibit the lump-sum payment of relocation assistance to any displaced residential tenant in connection with any program administered by HUD, except where necessary to cover moving expenses or a downpayment or related expenses associated with the purchase of a replacement residence.

Under current law, tenants dislocated due to the demolition of their government housing are entitled to moving expenses and funds to cover housing expenses for up to four years. Under certain circumstances, tenants have been allocated payments for long-term rental expenses in a lump-sum payment. There is no oversight to ensure that this money is used for housing purposes and often no counseling to assist tenants with those decisions. This method of payment provides the opportunity for waste and abuse of government funds. The Committee bill would continue the protections for displaced individuals but in a fiscally responsible manner. It would not cut benefits and it would not

impede local control of the process. It would simply eliminate the opportunity for scarce federal housing dollars to be used for non-housing purposes.

Smoke detectors

The Committee bill would require HUD, not later than 30 days after enactment of this Act, to publish regulations to require the installation of smoke detection devices in HUD-assisted housing. The bill would contain a modified version of legislation introduced by Senator D'Amato. The Senator's legislation, the Fire Safety Enhancement Act of 1991, would direct the HUD Secretary to modify HUD's current housing quality standards and minimum property standards to require the installation of working smoke detectors in HUD-assisted housing. The Senator's legislation was developed to address a problem illustrated by a tragic fire that killed three young children and their grandfather in Port Jervis, New York. The family was receiving federal assistance under the voucher program.

HUD's current regulations do not require the existence of working smoke detectors in housing occupied by voucher holders or in other HUD-assisted housing. Because of this loophole, much of our Nation's stock of federally assisted housing may be unsafe because of the lack of sufficient fire detection devices. According to the National Fire Protection Association, the presence of smoke detectors in homes reduces by one-half the risk of a resident dying in a fire.

TITLE X-RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION

Title X, the Residential lead-Based Paint Hazard Reduction Act of 1992, would expand significantly the commitment of the federal government to reduce and eliminate lead-based paint hazards in older housing. The title is an outgrowth of 20 years of residential lead poisoning prevention legislation and oversight. It is intended to greatly increase public awareness of the hazards posed by lead-based paint to young children and pregnant women, and it is intended to increase the capacity of the private sector to reduce lead poisoning hazards safely and effectively. It is also intended to clarify the responsibility of the federal government to protect residents of housing associated with the federal government from the hazards of lead-based paint.

Summary

Over the past five years, there has been tremendous growth in the health community's understanding of the effects of low-level lead poisoning and the role of lead-based paint in causing the disease. The technology to test for lead hazards and lead content in paint has improved, and more cost-effective methods of reducing and eliminating these hazards have been developed. Many of the advances have been achieved through HUD and EPA research, extensive hazard reduction efforts in Maryland and Massachusetts,

and HUD's public housing lead-based paint inspection and abatement program.

Despite these advances, very little is being done to reduce lead poisoning hazards in private and assisted housing and housing sold to the public by the federal government. This is so despite recognition by the Department of Health and Human Services that lead poisoning is the ``number one environmental health hazard facing American children'' and a change in the Centers for Disease Control's definition of lead poisoning which increases by tenfold the number of children considered at risk of permanent harm.

Title X reflects an attempt to expand federal efforts to control lead hazards beyond public housing. While this bill builds on the experience gained through the public housing abatement demonstration, it does not replicate that model. The Committee has determined, based on consultation with a broad spectrum of experts, to institute a new approach. The Committee believes this new paradigm will prove more workable and cost-effective, and will extend protection from lead poisoning hazards to more children in a shorter period of time.

Evolution of the title X approach

Momentum has been building steadily for an overhaul of the federal government's lead based paint policy. Following amendments to the Lead-based Paint Poisoning Prevention Act in 1987 and 1988, numerous actions have been taken by the House and Senate HUD, VA and Independent Agencies Subcommittees to spur action on the residential lead hazard problem. With the publication in December, 1990 of HUD's congressionally mandated report, ``A Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing,''' the Housing Subcommittee began work on a legislative initiative that eventually evolved into Title X of this bill. HUD's ``Plan'' documented the extent of the lead-based paint problem in private housing, and analyzed the correlation between income, age and location of housing and poisoning risk. It also attempted to estimate costs for inspecting and abating hazards in various types of housing.

The Housing Subcommittee held a hearing in October, 1991 to announce its plan to move forward with a legislative initiative and to obtain expert advice to help craft its bill. Lead and housing specialists stressed the need for a flexible, targeted approach for protecting children from exposure to lead hazards while maintaining housing affordability. David Jacobs, CIH, an environmental research scientist with the Georgia Institute of Technology and a consultant to the EPA, testified that ``we now possess a good working knowledge of what constitutes safe and effective planning, testing and abatement.'' What is missing, he said, is a framework of workable, enforceable regulations to enable the lead hazard industry to develop.

Senator Cranston, joined by Senators D'Amato, Sarbanes, Kerry, Lieberman and Akaka, introduced the ``Residential Lead-Based Paint Hazard Reduction Act of 1992'' on March 11, 1992. A hearing was held March 19th to discuss the bill as introduced, and to hear suggestions for refining it. In response to the hearing and answers to follow-up questions, refinements were made and S. 2341 was incorporated into this bill. A series of negotiations between members of Committee staff and the Administration, representatives of the housing industry and children's health advocates resulted in further modifications. The Committee believes that the resulting compromise meets nearly all of the objections raised by industry and the Administration. The Committee expects that the few remaining points of disagreement will be worked out before floor consideration.

The scope of the problem

Since the passage of the Lead-based Paint Poisoning Prevention Act in 1971, medical attention has turned from the devastating but relatively rare cases of massive lead poisoning to the much more common problem of low level lead poisoning. Numerous studies have documented the long-term harmful effect of exposure to very small amounts of lead. Lead-contaminated dust from deteriorating lead-based paint in housing has been determined to be the leading source of this exposure.

The effects of significant exposure to lead, according to the CDC, range from subtle behavioral change to coma and death. The symptoms of chronic, low level lead poisoning include permanent learning and reading disabilities, reduced attention span, hyperactivity and hearing loss. Effects on a child's stature, ability to metabolize vitamin D and blood production have also been documented. Early exposure to lead is correlated with lower IQ scores, shorter attention spans, difficulty maintaining balance, and antisocial behavior including violence and delinquency.

A study completed in 1990 concluded that young adults who had been exposed to low levels of lead as children were seven times more likely than average to drop out of school and six times more likely to have reading disabilities. The impact on educational achievement, special education costs, crime and law enforcement, welfare and health care, productivity, and GNP caused by undetected lead poisoning is undoubtedly enormous, but much more difficult to quantify.\4\ (FOOTNOTE)

(FOOTNOTE)\4\ See CDC's Strategic Plan for the Elimination of Childhood Lead Poisoning for a rough cost-benefit analysis.

Numerous studies confirm that low-income minority children suffer the highest rates of lead poisoning. HUD and the Agency for Toxic Substances and Disease Registry (hereinafter ATSDR) report that the rate of lead poisoning among poor, inner city black children

approaches 70 percent. Testimony presented at the Housing Subcommittee's March 19, 1992 hearing, attributed this phenomena to the high numbers of poor African-American children living in older, dilapidated housing and receiving inadequate nutrition, which increases absorption of lead.\5\ (FOOTNOTE)

(FOOTNOTE)\5\ See testimony of Lisa Mihaly for the Children's Defense Fund and Alice Brown for the NAACP Legal Defense & Educational Fund, Inc. before the Housing Subcommittee on March 19, 1992.

Lead-based paint which was not outlawed until 1978, is present in 75 percent of the housing stock-some 57 million American homes. Since exposure to lead is primarily caused by ingesting paint dust or chips, deteriorating leaded paint presents the most serious health risks. HUD has determined that almost 20 million homes contain deteriorating lead-based paint or excessive lead dust levels, and 3.8 million of these units house children under 7 who are most at risk of permanent damage from exposure to lead.

HUD's response to congressional mandates to address residential lead hazards

Over the past 20 years, Congress has enacted a steady stream of measures intended to eliminate residential lead-based paint as a source of childhood poisoning. Current federal laws and regulations, if enforced, would require substantial federal efforts to reduce lead-based paint hazards in public housing and federally owned, assisted and insured-housing. Despite the legislative mandates, it appears evident that little has been done and lead-based paint hazards remain a serious problem in much of the federally owned and federally assisted inventory. With the notable exception of public housing, there is little evidence that owners and residents of housing assisted by the federal government are receiving accurate information or help in reducing lead-based paint problems.

Public housing.-With congressional prodding, HUD has made significant progress in implementing a lead abatement and hazard control program. The Department is training public housing agency staff to comply with the lead abatement law and has changed its system for allocating modernization funding to speed implementation of lead inspection and abatement requirements. HUD has recently published a protocol for the conduct of risk assessments and the interim control of lead hazards pending permanent abatement. The Committee welcomes these actions, and intends that the Department would go forward with the public housing abatement program as it implements the new requirements of Title X.

Disposition of federally-owned housing.-While existing HUD regulations require inspection for ``defective paint surfaces'' and covering or removal of these surfaces prior to the sale or transfer of residential property, it is clear that HUD field

office practice does not always conform to the regulations. A real estate contract addendum provided by the Department to the Housing Subcommittee indicates that the Department in some cases cancels contracts with families with young children rather than comply with its lead regulations.\6\ (FOOTNOTE) The form also indicates that purchasers may be required to agree to hold HUD harmless in cases where the Department is ``unable to test the property for the existence of lead-based paint''. HUD requires the addendum for contracts to sell HUD-owned pre-1978 single family homes.

(FOOTNOTE)\6\ While the Committee is not familiar with how this clause is used in practice, it is concerned about the Fair Housing Act implications of HUD's reservation of the right to refuse to contract with families with small children. Further evidence that HUD disposes of FHA properties without treating existing lead hazards is provided by a March, 1991 study conducted by the General Accounting Office. It reported that HUD field offices are generally denied authority to make repairs to homes in the FHA inventory prior to sale. While repairs are permissible in certain circumstances, violation of federal lead paint standards is not one of them.\7\ (FOOTNOTE)

(FOOTNOTE)\7\ GAO found that under HUD's FHA property disposition program, HUD's field offices are authorized to make repairs ``only when staff and contractor resources are available and if (1) repairs would definitely net a greater return; (2) repairs are necessary to meet FHA-insurance property standards in areas where conventional financing is unavailable; (3) the condition severely impedes sale; or (4) repairs are needed to comply with enforced local codes and ordinances (emphasis added).'' GAO found the Veterans Administration policy is increasingly to sell properties ``as is'' and the policies of the Farmers Home Administration and the Resolution Trust Corporation permit limited repairs, but do not require compliance with federal lead law and regulations. U.S. General Accounting Office, ``Property Disposition: Information on Federal Single-Family Properties,' GAO/RCED-91-69, page 29.

Federally-assisted and federally-insured housing.-While HUD appears to lack hard data on the scope and extent of its inspection and hazard reduction activity in the federally assisted and federally insured inventory, anecdotal evidence reveals major problems with the enforcement of requirements established by the Lead-Based Paint Poisoning Prevention Act (hereinafter ``LPPPA''). Antoinette and Timothy Burke, homeowners from Pennsylvania, testified before the Housing Subcommittee that HUD approved their house for FHA mortgage insurance despite the presence of defective lead-based paint. In answer to Subcommittee questioning, HUD indicated that while numerous federal insurance programs provided funding to address lead-based hazards, the Department has made ``no special effort * * * to inform lenders and prospective borrowers about their ability to use insured funds for lead-paint activities.'' Based on HUD's answers to the

Subcommittee and anecdotal evidence, it appears that the Department also makes no special efforts to inform owners of housing receiving project-based assistance of the obligations imposed by the LPPPA.\8\ (FOOTNOTE)

(FOOTNOTE)\8\ See ``Questions and Answers on Lead Paint Hazard Prevention Prepared for Senator Alan Cranston,`` HUD, Feb. 21, 1992.

Private housing.-The fundamental disagreement in approach between HUD and the Committee is reflected most clearly by Administration and Congressional proposals for funding lead hazard reduction in low income private housing. Where HUD suggests slashing the budget to less than half of its current level, the Committee voted to expand the program by a factor of five. Assistant Secretary Joseph Schiff, testifying before the Housing Subcommittee last March, said the Department's opposition to the Subcommittee's expanded grants program was grounded on its view that state and local governments and the private sector in many states suffer from a ``capacity gap.``\9\ (FOOTNOTE) The Committee, on the other hand, views the lack of current activity as the primary justification for expanding the federal program. The Committee believes it is the federal government's role to ``prime the pump`` to encourage states, localities and business to make the initial investment required to enter the lead reduction field as well as to provide leverage to insure adequate quality control.

(FOOTNOTE)\9\ Assistant Secretary Schiff testified that the Administration was also concerned that basic technical questions about how to test and abate safely and cost effectively still exist. However, this argument appears to ignore HUD's very detailed interim guidelines for lead testing and abatement in public housing and the existence of five EPA-sanctioned regional training centers for lead contractors and supervisors.

The Residential Lead-based Paint Hazard Reduction Act of 1992

The Residential Lead-based Paint Hazard Reduction Act is intended to redirect federal lead-based paint policy to acknowledge the scope of the residential lead poisoning problem and to begin to solve the problem aggressively and systematically according to rational priorities. The Committee views progress in the following areas as critical; setting priorities and targeting resources where they are needed most; increasing resources devoted to correcting hazards; overcoming technical obstacles through research and evaluation; increasing awareness of hazard prevention through public education; building an effective private sector infrastructure; and reducing uncertainty over liability by signalling standards of care for landlords.

It should be made clear at the outset that Title X is not intended to ``solve`` the vast problem of childhood exposure to hazardous amounts of lead from residential lead-based paint. Lead

paint is present in tens of millions of U.S. housing units, and some 2 to 3 million young children have levels of lead in their bodies sufficient to cause neurological damage. This title is intended to provide a transition to support more effective strategies for eventually eliminating lead-based paint hazards in housing as a source of childhood lead poisoning. As a transition bill, Title X attempts to remove all major obstacles to progress, making important changes in approach and laying the foundation for more cost-effective and widespread activities for reducing lead-based paint hazards.

Sec. 1004 definitions: A more workable framework for reducing hazards

Title X radically alters the federal paradigm for identifying and treating lead-based paint hazards. It does this by targeting federal efforts to the reduction and elimination of actual, not potential hazards, and by permitting interim hazard reduction measures, rather than full hazard elimination, in situations where this approach is both protective and cost-effective.

Lead-based paint hazards.-The current statute requires HUD to ``establish procedures to eliminate as far as practicable the hazards of lead-based paint poisoning'' in certain HUD-associated housing. These procedures, at a minimum, include ``appropriate measures to eliminate as far as practicable immediate hazards due to the presence of accessible intact, intact, and nonintact interior and exterior painted surfaces that may contain lead in any such housing in which any child who is less than 7 years of age resides or is expected to reside,'' and provision of a pamphlet warning of the dangers associated with lead-based paint poisoning. While Title X retains the elimination of hazards to the extent practicable as its ultimate goal, it sets up a more practical and specific framework for approaching this goal. The Committee believes that by clarifying what is meant by ``as far as practicable'', and by establishing realistic, cost-effective procedures for achieving hazard reduction, Title X will speed the clean-up of lead paint hazards in housing and greatly decrease the incidence of childhood lead poisoning.

The most fundamental change in approach between the current LPPPA and Title X is reflected in the new definition of ``lead-based paint hazard''. The current statute defines immediate hazard to include the presence of intact paint that may contain lead. Title X makes two major changes. First, it limits the definition of hazard, and thus the scope of the bill, to actual hazards-conditions ``that cause exposure to lead * * * that would result in adverse human health effects''. This change would require HUD and other agencies to rewrite regulations (and more importantly, alter actual practices) that conflate lead-based paint hazards with ``defective paint''. The current definition allows lead paint hazards to be treated as a cosmetic defect, which can be corrected with minimal effort and no safety precautions. Thus, it is permissible under existing regulations

for workers with no special training, no protective clothing and no respirators to scrape lead contaminated paint from walls, then leave the site littered with lead-contaminated dust and paint chips. Under Title X, paint, dust and soil would be evaluated by trained and certified inspectors, and risk assessors to determine whether they constitute ``lead-based paint hazards''. At a minimum, this would involve a determination of whether sufficient amounts of lead are present in surface dust to present immediate exposures. Measures taken in response to a finding of lead hazards would involve the precautions appropriate to treatment of a highly toxic substance.

The second important change wrought by the Committee's revision of the definition of hazard results from exclusion of intact lead-based paint that is not present in ``accessible chewable surfaces, friction surfaces, or impact surfaces.'' The Committee's decision to exclude this paint, despite its lead content, was made after much deliberation and consultation. While it is clear that lead-based paint on a smooth, intact surface (such as an interior wall) has the potential to become hazardous (for instance if water damage causes the paint to crack), it presents no immediate threat to the safety of children in the home. Limiting the bill's scope to treatment of actual hazards is expected to reduce the cost of inspection and abatement considerably. It is hoped that this change will permit resources to be targeted more cost-effectively resulting in a greater number of abatements of actual hazards performed with little additional risk of poisoning.

Lead-based paint hazard evaluation and reduction.-In recognition of the impracticality (and even wastefulness) of requiring the immediate, complete, and permanent abatement of lead-based paint hazards when they are discovered, Title X would establish a two-track system. Permanent hazard elimination, the only permissible response under current law, would always be available within Title X's framework. Temporary measures, which seek to prevent exposure to lead hazards without necessarily eliminating the sources of the exposures, would also be available in many circumstances. Title X would use the term hazard ``evaluation'' to indicate that either or both risk assessments or inspections are appropriate. The term hazard reduction'' would mean either or both interim control measures to control lead hazards and abatement to eliminate hazards.

1. Permanent elimination of lead hazards.-Under Title X's two-track approach, the first track, inspection and abatement, would be similar to the current law's scheme. Hazard elimination would only be required under Title X when pre-1960 housing with lead hazards is sold by the government to the public, or during the course of federally funded substantial renovation projects. Hazard elimination would be permitted in many other contexts, within the rubric of hazard ``reduction.'' The Committee expects that affected housing owners who are required or funded to reduce lead-based paint hazards will choose to abate or partially abate

when they determine that it is cost-effective for them to permanently eliminate the source of hazards.

Title X would amend the current definition of ``inspection'' in several respects. It would specify that an inspection must be accomplished through a surface-by-surface investigation to determine the lead content of the paint. This change was made to ensure that prior to disturbing leaded surfaces, workers know the location and concentration of hazardous lead paint. The new definition of inspection would also include the provision of a report explaining the results of the investigation. No inspection would be complete unless the results are documented. The report should include a description of the measurements recorded and an explanation of the import of these measurements. At a minimum, inspectors should report on whether the measurements are above or below hazard thresholds established by the EPA.

Changes to the definition of inspection within the body of the LPPPA bring the inspection requirement into conformity with Title X's requirement that inspectors be certified. The definition of lead-based paint would be narrowed by raising the threshold for lead content in paint to target resources to the most serious risks. Title X would also retain the LPPPA's caution that measurement criteria be based on the condition of the housing rather than the health of the residents within Section 1023 of the bill. The Committee in no way intends to retreat from the decision made in the Housing and Community Development Act of 1987 that federal policy should be to prevent poisonings, not to react once poisonings occur.

Title X would include a detailed definition of the term ``abatement'' to ease compliance with current law and increase the safety and effectiveness of abatement methods. While the current law leaves it to HUD to determine the scope and methods to be used, Title X's definition would include the permanent elimination of hazards through the removal of lead-based paint and lead-contaminated dust, the containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil. The definition of abatement would also specifically incorporate preparation, cleanup, worker protection, disposal, and post-abatement clearance testing.

2. Temporary control and reduction of lead hazards.-Title X's second track, risk assessment and interim controls, is modeled on an approach being used by HUD for public housing and by the Enterprise Foundation in its Baltimore City Homes program. While the Committee recognizes that temporary hazard control is an evolving concept, it believes that current methods for assessing risk and temporarily or partially reducing hazards are sufficiently effective that they should be implemented. It has pushed back deadlines for implementing changes to the LPPPA until 1995 with the understanding that protocols for the conduct of these techniques would be further refined by that time.

Title X's definition of risk assessment would involve a snapshot determination of whether and to what extent lead poisoning hazards exist in housing units. A risk assessment would be a tool to target hazard reduction and abatement resources to housing which poses the greatest risk. Risk assessments would also be valuable to gauge the level of risk in a single home in order to determine an appropriate response. Risk assessments would involve a high degree of judgement and perspective and should be conducted by professional risk assessors.

Risk assessments would involve an on-site investigation to determine the existence, nature, severity and location of lead-based paint hazards. This investigation would include information-gathering on the age and history of the housing and the presence of children under age 6. While this information alone would usually be insufficient to determine whether lead hazards exist (unless, for example, it is discovered that the house has been abated), it would help set priorities for the expenditure of resources. Similarly, visual inspections would help identify deteriorating paint even though they would not reveal the content of the paint. Wipe sampling or other environmental sampling methods would be the critical components of the assessment. These would be performed by certified risk assessors who would take a sample of surface dust on a limited number of painted surfaces, and send the samples to a certified laboratory for analysis. The Enterprise Foundation has found that an average of six samples generally suffices for a small, two story Baltimore rowhouse. Also included in the risk assessment definition would be the provision of a report explaining the results of the investigation. The report would not only include test results from the various types of evaluations made, it would inform recipients of the applicable dust clearance levels, as determined by the EPA.

Interim Controls would be measures which temporarily reduce human exposure or likely exposure to lead-based paint hazards. These measures would include specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs. The level of interim response should be commensurate with the degree of risk reported by the risk assessment. Thus, where moderately elevated dust levels exist but there is little deterioration in the paint, an appropriate interim response might be limited to supercleaning leaded surfaces. Where children are present and paint is peeling, interim controls might require a more substantial effort and expense to prevent exposure from paint chips and dust.

SUBTITLE A-LEAD-BASED PAINT HAZARD REDUCTION

Sec. 1011-Grants to reduce hazards in low-income private housing

Title X would authorize and expand the \$50 million competitive grant program created by the Fiscal Year 1992 HUD, VA and Independent Agencies Appropriations Act. That program was established without the benefit of an existing authorization. Title X would, therefore, outline in statute for the first time the program's components including eligible recipients, eligible activities, selection criteria, reporting requirements and other elements. Title X would also increase the size of the program to \$250 million per year, and tie it to the planning provisions of the HOME program.

Hazard reduction.-The primary purpose of Title X's grant program would be to assist cities and states in addressing the enormous lead paint poisoning risks posed by private low income housing. While the Committee recognizes that \$250 million a year can only address a fraction of the lead-based paint risk, (FOOTNOTE) it believes this level of funding would be of significant help if targeted where need is greatest. It also believes this level of funding is justified in light of the proportion of the hazard reduction infrastructure expected to be in place by the time grant funds are available to be expended.

(FOOTNOTE) HUD has estimated the cost of inspecting and abating all homes containing lead in paint and either lead dust or nonintact paint and with a child present at \$7.6-\$9.9 billion per year for 10 years. ``Comprehensive and Workable Plan for the Abatement of lead-Based Paint in Privately Owned Housing: Report to Congress,' ' Department of Housing and Urban Development, December 7, 1990, page 4-20.

The Administration has voiced concern that the grants program does not sufficiently target resources to protecting low-income children. While the Committee shares this priority, it believes that competition for grant funds will be sufficient to permit the Secretary to fully employ the section's selection criteria. The first item listed would give preference to applicants who plan to use the grant to ``reduce the risk of lead-based paint poisoning to children under the age of 6 who reside in affordable pre-1978 housing '. This criteria should also be interpreted to favor applicants which target assistance to housing receiving federal tenant-based rental assistance.

The remaining selection criteria would be intended to direct grants funds toward jurisdiction with large numbers of older housing units with deteriorating lead-based paint which have demonstrated a commitment to fund lead hazard reduction activities through other resources. Applicants in states with training and certification programs in place are favored since they would have a greater ability to ensure that work is performed safely and effectively.

The prime purpose of the grants program would be to fund hazard reduction and other activities, such as inspections, risk assessments and worker safety measures, needed for an effective

program. The creation of ``safe houses'' for the temporary relocation of families while their homes are being abated would be another important element of a comprehensive hazard reduction effort. It is the Committee's opinion that public education plays an important, supporting role to other efforts aimed at lead hazard reduction. In order to focus resources toward actually reducing lead poisoning risks, the Committee expects that not more than 5% of available grant funds would be used for public education purposes.

The Committee's secondary purpose in expanding the grant program would be to jump start the private market's response to lead paint hazards. As it now stands, significant levels of activity to protect children in private housing from lead paint hazards is occurring in only a handful of states. Responsibility appears to lie in lack of demand for specialized lead hazard treatment, as well as fear of liability in uncharted territory. The Committee intends for the grant program's infusion of resources for evaluating and reducing lead hazards to encourage entrepreneurs to enter the business. It also expects the availability of funds for states and localities with the ability ``to carry out the proposed activities'' will prompt states to act quickly to enact worker certification programs and other infrastructure-building measures.

To encourage the expansion of the lead hazard reduction industry, and to ensure that high standards for safety and effectiveness are maintained, Title X would include a set-aside for technical assistance grants to assist states in establishing training, certification and licensing programs. The Committee directs the Secretary to consult and coordinate with the Environmental Protection Agency in its award of technical assistance and capacity building grants. The objective of these grants would be to assist states in establishing training and certification programs that could garner EPA approval. In order to encourage states to enact these programs quickly, the Committee plans to make these grants available for only a limited time, after which they would be phased out.

Another ancillary purpose of the program would be to serve as a large demonstration project to develop better, quicker, safer and cheaper methods to prevent children from being poisoned by lead-based paint. The Committee directs the Secretary to give priority, other factors being equal, to grant applications proposing innovative or improved methods or techniques. The section's reporting requirements would ensure that knowledge gained in the course of administering the grants would be captured for future use and dissemination.

Sec. 1012-Lead-based paint hazard reduction in federally-assisted and federally-insured housing

The Committee's purpose in amending the Lead-based Paint Poisoning Prevention Act, as discussed above, is to create a more

workable structure for reducing lead-based paint hazards in housing assisted by the federal government. While the Committee acknowledges that in some cases Title X would be less stringent than current law, it recognizes the sharp diversion of current law and practice. Title X's changes would be considerably more effective at preventing poisonings than current federal practice.

Coverage.-Title X would expand the coverage of the LPPPA to include pre-1978 housing suitable for occupancy by families (see definition (27) ``target housing'') which is covered by an application for mortgage insurance or housing assistance payments under a HUD program or receives more than \$5,000 in housing assistance through another federal program. The \$5,000 floor would be imposed in order to exempt housing with only minimal ties to the federal government. Housing receiving tenant based rental assistance would also be exempt from the LPPPA. Due to the tendency of this housing to pass in and out of federal assistance programs, the Committee considers it unworkable, and in some aspects inequitable, to impose greater burdens on owners of this housing than on private landlords.

Reduction of hazards.-As discussed above, Title X would replace the LPPPA's vague and expansive program for hazard elimination and resident notification with a well-defined, workable framework calibrated to focus resources where federal responsibility and poisoning risks are greatest. Risk assessments would be performed in all housing receiving project-based federal assistance in order to determine the level of risk and notify the residents of existing hazards. Housing owners would use the risk assessments to prioritize hazard response. Where federal resources would be used for inherently dangerous activity which creates paint dust and debris, a higher standard would be imposed, but again the response would correspond to the degree of danger and the benefit to be achieved. Abatement would be required only in the very limited circumstances where a high degree of hazard is created and federal rehabilitation funding is directly responsible for increasing the hazard.

Changes made by Title X would make more specific the mandate to ``establish procedures to eliminate as far as practicable the hazards of lead-based paint poisoning.''' The assured notification requirement of current law would be retained, but the brochure to be provided to purchasers and tenants (discussed below) would be up-to-date, accurate, and considerably more detailed. All covered housing units would be assessed for immediate lead hazards within one year of the effective date of the new provisions. When indicated by the risk assessments, interim control measures would be instituted.

When federal assistance is used to fund renovation or rehabilitation of housing, Title X would require that the work include precautions and treatment for any lead-based paint hazards involved. Prior to beginning work likely to disturb painted surfaces, owners would be required to have an inspection

performed to determine the lead content of the paint. For projects involving less than \$25,000 per unit in federal funds, owners would be required to reduce lead hazards in the course of the work. This could involve full or partial abatement, or interim control measures where this would be appropriate. For substantial rehabilitation projects involving more than \$25,000 per unit, the Committee assumes that full abatement would be more cost effective than interim measures. Residents of housing covered by this section would receive notice describing the nature and scope of evaluation and reduction activities performed under this section, including evaluation reports.

Elimination of hazards in public housing.-As noted above, the Committee is aware that HUD is currently undertaking a program, in response to the existing LPPPA and other Congressional directives, to test for and abate lead-based paint in public housing. The Committee is also aware that funding is being made available to perform risk assessments in public housing units which are not currently scheduled for abatement through the public housing modernization program. The Committee supports the risk assessment and interim control program, and intends the changes to the LPPPA introduced by Title X to pose no barrier to ongoing efforts. Changes made by Title X to the public housing provision of the LPPPA are intended merely to conform the terminology of Title X's definitions of terms.

Expanded eligibility under housing assistance programs.-Title X would incorporate a series of amendments to existing housing programs to clarify that program funds could be used to comply with LPPPA mandates and otherwise to reduce lead hazards. The Committee intends to clear up any confusion that may exist by making these activities explicitly eligible.

Sec. 1013-Requirements for federally owned housing upon disposition

Title X's amendment to the LPPPA's property disposition requirements is one of its more controversial provisions. After a series of negotiation sessions, the Committee accepted an Administration proposal to limit the abatement requirements to housing construction prior to 1960. This change reflects a major concession to the Administration-one that the Committee makes with grave reservations. While the Committee can justify this compromise as tending to target federal resources where hazards can be expected to be greatest, it is aware that it has accepted a particularly blunt instrument to accomplish the task.

Current law requires the Secretary of HUD to ``establish and implement procedures to eliminate the hazards of lead-based paint poisoning in all federally owned properties prior to the sale of such properties when their use is intended for residential habitation.'' While the Committee is aware that agencies including HUD have been known to require purchasers to waive their rights under this provision,\11\ (FOOTNOTE) the Committee

views waivers and other tactics to avoid enforcement of the provision as contrary to the intent of the LPPPA as written. It thus originally\12\ (FOOTNOTE) included a requirement to inspect and abate lead-based paint hazards in pre-1978 units. This requirement was intended merely to clarify and force compliance with existing law.

(FOOTNOTE)\11\ ``Addendum to Sales Contract: Lead-Based Paint Health Hazard. Property Constructed Prior to 1978. Owner-Occupant Purchaser.' ' and form HUD-9552, used in multifamily property disposition.

(FOOTNOTE)\12\ See S. 2341, The Residential Lead-based Paint Hazard Reduction Act of 1992, introduced by Senator Cranston on March 11, 1992.

Title X would retain the original requirement that federal agencies inspect pre-1978 housing suitable for families and supply inspection reports to potential purchasers. This provision has two purposes: First, it enables the federal government to meet its obligation to ensure that housing sold with the imprimatur of the United States government does not contain hidden dangers. Second, it provides information necessary to homebuyers who may have or plan to have children, or may be planning structural renovation, at a time when they have greater access to financing for hazard reduction.

The abatement requirement would be retained for pre-1960 housing. This housing, which contains the majority of lead hazards, and tends to have higher concentrations of lead in its paint, would be abated prior to sale. While suggestions have been made that this requirement should be further restricted to housing to be sold to families with young children, the Committee finds this proposal objectionable. While it agrees that priority should be given whenever possible to reducing immediate hazards to children and pregnant women, it believes that imposing expensive mandates selectively based on familial status will invite housing discrimination. The Committee is unwilling to provide such a great incentive to federal agencies to violate the Fair Housing Act.

Sec. 1014-Incorporating lead reduction needs into the CHAS

As HUD data make clear, low-income households are just as likely to encounter lead-based paint hazards in private housing (including housing receiving only tenant based assistance) as in federally-associated units. Since the vast majority of low-income families receive no housing subsidies at all, and since poor families are more likely to live in housing containing lead paint hazards, the Committee considers inclusion of these families as vital to a comprehensive strategy to reduce lead-based paint poisoning hazards. The Committee has sought to address lead hazards in private housing in two ways-first, by creating the \$250 million grant program, and second by requiring jurisdictions

to incorporate consideration of lead into their housing strategies.

The amendment to the CHAS is expected to impose little administrative burden on jurisdictions since the required estimates can be made through statistical analysis, with no need to actually survey paint in housing. The Committee intends, however, that jurisdictions take the lead issue into account when formulating housing strategies. Jurisdictions would be free, of course, as with other elements of the CHAS, to decide what priority to give the lead issue. The Committee understands that many jurisdictions already feel burdened by the demands made upon scarce HOME dollars. It believes, however, that the additional burden imposed by Title X will be relatively light, and that its imposition is justified in view of the long term individual and societal costs of lead poisoning.

In addition to establishing lead hazard reduction in low income housing as an eligible use of HOME funding, the amendment to the CHAS is intended to affect rehabilitation and renovation work funded by HOME. The Committee intends jurisdictions to use the CHAS to demonstrate that they intend to incorporate lead hazard reduction into all work which involves disturbing paint containing lead-based paint (see discussion above).

Sec. 1015-Private sector task force

The Committee is concerned that the private marketplace has, to date, failed to respond appropriately to lead hazards in housing. Insurers, appraisers and lenders have failed to recognize the value of lead-safe housing, and financing mechanisms and loan products are not readily available. The Committee hopes and expects that the task force can redress these issues, as well as the need for expanding the availability of liability insurance.

The task force would, in particular, consider the efficacy of adopting measures to reduce the liability of lenders and owners of multifamily housing by clarifying standards of care or adopting a statutory "safe harbor". The Committee expects that the task force would consider whether it makes sense to develop a set of standards that, if followed by owners and lenders, would adequately protect building residents from exposure to lead-based paint. Owners or lenders who could demonstrate compliance with such standards would be exempted from liability for harm that resulted in spite of their exercise of "due care". The task force is urged to consider the workers' compensation model under study in the state of Maryland. This model would require lenders or owners to exercise "due care" and contribute to a fund in exchange for a release from liability. If a resident or worker were to be harmed by lead-based paint in compliant housing, the court system could be bypassed in favor of an administrative award from the fund. While the Committee understands that the Administration opposes referring this item to the task force, it believes that these liability issues are worth exploring in

detail.

The Committee notes that representatives of the relevant federal agencies have been deleted from membership on the task force. This change was made at the behest of HUD, which argued that membership in both the task force and the Interagency Lead Task Force was redundant and staff-intensive. The Committee also notes that several issues which the task force would consider replace statutory mandates included in earlier versions of the bill. For instance, a requirement that landlords evaluate private rental housing for lead hazards prior to lease was deleted in favor of further study to determine the effect of such a mandate on housing affordability. A special provision incorporating hazard evaluation into the mortgage origination process was also dropped in favor of further study by the task force.

SUBTITLE B-EVALUATION AND REDUCTION INFRASTRUCTURE

The Committee has imposed a requirement that all federally supported risk assessments, inspections and abatement of lead-based paint hazards would be conducted by contractors, supervisors, and inspectors who are certified by the appropriate federal agency by a state program which has received federal approval. A transitional provision has been included in recognition that very few states will have certification programs in place by the time grants funds are made available. The Committee believes that this interim provision will protect the safety of workers and residents, since it will require, at a minimum, training through an EPA-sponsored program.

The Committee has not imposed training and certification requirements on individuals carrying out interim control measures. These activities typically involve less potential for generating dangerous levels of dust, and are not much different from the types of activities routinely carried out by housing residents and maintenance personnel. The Committee believes that if certification requirements were imposed, interim measures would be far more expensive and would be performed less frequently. At the same time, the Committee wants to make clear that some interim control activities do disturb painted surfaces and can result in high exposures and increased risks. Common sense requires that workers be acquainted with the hazards of lead and that due care be exercised, with safeguards employed commensurate with the risk of lead exposure. The Committee urges HUD to work with other appropriate Federal agencies to develop educational materials to serve this purpose. Where appropriate, the Committee would expect HUD regulations to impose additional certification requirements for hazardous interim control measures.

Although the Committee is aware that some home remodeling and renovation projects which have not incorporated lead reduction measures have aggravated lead-based paint hazards, and caused poisoning of workers and children, not all such projects are

inherently dangerous. The level of hazards is a function of the extent to which lead-based paint is disturbed and the amount of dust lead generated. The Committee recognizes that some federally funded renovation projects in housing containing lead-based paint will not require certified workers because it will not involve significant dust generation or the disturbance of painted surfaces. For example, the removal of a leaded closet door could be performed in appropriate circumstances by a non-certified worker.

The Committee recognizes the need for and fully expects each state to develop contractor certification programs which will meet federal approval. Incentives have been included within the grants program to encourage all states to create programs. The Committee has chosen not to impose requirements that work be performed by workers certified in the applicable state, despite the obvious incentive value of such a mandate. The Committee believes that such a requirement would unnecessarily restrict the option for families, owners and jurisdictions in states that have not yet acted to prevent lead poisonings. The 2-year phase-in clause provided by this section is not intended to contravene the requirements of HUD's NOFA published in the June 29, 1992 Federal Register.

The Committee is aware that 9 months is a relatively stringent deadline for the preparation of technical guidelines. However, it believes strongly that the goal is achievable. HUD and EPA have already made considerable strides in this area, including HUD's development of guidance for lead-based paint abatement, risk assessments and interim controls in public housing. The Committee expects the Department to begin developing these guidelines on a priority basis, even prior to final enactment of this legislation.

The Committee understands that an inter-agency National Clearinghouse on Lead Poisoning is being developed under EPA's lead. The responsibilities assigned to this Clearinghouse are significantly less than those described by Title X. While the Committee has no intention to transfer responsibility among the involved agencies, it does believe it is important to expand the functioning of the Clearinghouse.

SUBTITLE C-PUBLIC INFORMATION IN THE PRIVATE REAL ESTATE TRANSACTION

In formulating the public information and disclosure provisions of Title X, the Housing Subcommittee consulted and elicited extensive comments from representatives of the private real estate industry and consumer groups as well as Members of staff of the House and Senate Environment Committees. The Subcommittee attempted to craft a provision which would provide homeowners and renters with adequate information to enable them to make informed decisions.

The Committee believes that the public information provisions of Title X will provide the most effective incentives for building a lead evaluation and reduction infrastructure and for increasing the level of hazard reduction activity in the general economy. Accurate information widely disbursed through the private real estate market will greatly increase awareness of lead hazards. The Committee expects parents will exercise greater precautions to limit exposures to existing hazards, and that they will implement interim controls and abatements in order to protect the health of their children.

As with other provisions of the bill, HUD would be directed to consult relevant federal agencies and the private sector task force in implementing these provisions. The lead hazard information pamphlet, which is required to be updated periodically, would contain considerably more information than is provided in the lead hazard pamphlets HUD currently distributes. The contents of the pamphlet would vary by region, since it would include lists of certified contractors and addresses and phone numbers of local agencies that can provide information about local laws and ordinances and available government assistance. The Committee expects that HUD would make available pamphlets in Spanish and other languages, and take other actions to assure that the pamphlets are widely disseminated, and the information is made accessible to all purchasers and tenants. The Committee notes that the contents of the pamphlet are irrelevant unless HUD makes them widely available. The Committee has provided HUD with the discretion to merge this pamphlet with other Congressionally mandated environmental hazard information requirements. Thus a single publication providing information about lead and radon hazards in housing would be acceptable.

The Committee has also required the inclusion of a Lead Warning Statement in leases and contracts for the purchase and sale of private housing. While the Committee is aware that the warning statement and pamphlet contain some overlapping information, it believes that both provisions are necessary. The hazard statement is compact and contains the essential information that the paint in the housing may constitute a danger to residents of the housing. It also incorporates into the contract the requirement that sellers provide any available lead hazard evaluation report to purchasers.

After considerable discussion, the Committee adopted and modified a provision providing potential buyers the opportunity to have a lead evaluation performed. The opportunity period would be 10 days unless the parties mutually agree on a shorter or longer time. Discretion has been built into the provision in recognition that some purchasers will not be concerned about potential lead hazards and would prefer to close the transaction without delay, and other purchasers may require a longer period in order to engage an inspector and receive the inspection results. The 10 day provision is not applicable to rental housing since the Committee considers it unworkable to place the burden to test on

a tenant.

The penalties provisions of the subtitle are modeled on section 102 of the Department of Housing and Urban Development Reform Act of 1989.

SUBTITLES D AND E-RESEARCH AND DEVELOPMENT AND REPORTS

As a transition bill, an important function of Title X would be to refine techniques and technologies involved in lead-based paint hazard treatment. The Committee intends that HUD take advantage of the reporting requirement of the grants program to provide data on various techniques.

The Committee notes that HUD has failed to update its Section 8 regulations to reflect the important changes mandated by the 1987 amendments to the Lead-Based Paint Poisoning Prevention Act. As a result, HUD's regulations and the current implementation of tenant-based Section 8 programs are directly at odds with the requirements of current law. To ascertain the magnitude of HUD's noncompliance, the Committee bill would require GAO to assess the effectiveness of federal enforcement and compliance with lead safety laws and regulations. GAO, in particular, would be required to recommend to Congress whether the annual inspections governing the section 8 voucher and certificate programs need to be revised to identify lead-based paint hazards.

The Committee is aware that a shortage of liability insurance is a major impediment to expanding the market for lead hazard evaluation and reduction. In addition to the responsibilities given to the task force on the private side, the Committee would direct GAO to examine the government's experience with liability insurance in the area.

The extensive reporting requirements of Title X would be included in order to assure that this Act is fully implemented and the goals of the bill are achieved. The reports are intended to provide guidance to the Committee in passing beyond this transition bill to the next stage.

SECTION-BY-SECTION (P. 124)

Title I-General Provisions and Policies

Sec. 101-CHAS refinements

This section would make two amendments to section 105 of the National Affordable Housing Act, the provision requiring a jurisdiction that wants to participate under various federal housing programs to develop a comprehensive housing affordability strategy (CHAS). First, this section would attempt to foster better linkage between a community's housing needs identified in the planning process and its actual spending decisions. A jurisdiction would be required to describe how its CHAS will meet

the identified housing needs, describe reasons for its allocation priorities and identify any obstacles to addressing underserved needs.

Second, this section would expand the requirement, in existing law, to identify the incidence of homelessness in the CHAS to specifically include rural homelessness.

Sec. 102-Performance goals

This section would require the Secretaries of the Department of Housing and Urban Development and the Department of Agriculture to establish performance goals for the major programs of HUD and FmHA. Each year, the Secretary would be required to report to Congress on the progress made in attaining the performance goals for each program, citing the actual results achieved in each program, explaining why any goals were not met, and requesting any legislative or regulatory changes necessary to achieve the goals.

Sec. 103-Subsidy layering review

This section would amend section 102(d) of the HUD Reform Act of 1989, the provision limiting the layering of federal housing subsidies. This section would require HUD to establish guidelines for housing credit agencies to implement the subsidy layering requirements for projects receiving assistance under both the low income housing tax credit and HUD programs. The guidelines would require that the amount of equity raised for a project through the tax credit be reasonable relative to general market conditions and that project costs, including developer fees, be within a reasonable range, taking into account project size, project characteristics, project location and project risk factors. As of January 1, 1993, a housing credit agency would be delegated the responsibility for carrying out section 102(d) of the HUD Reform Act if certified to be properly implementing HUD's guidelines.

Sec. 104-Capacity study

This section would amend section 110 of the National Affordable Housing Act, the provision requiring HUD to submit annual report on its staffing capacity and resources. This section would require HUD to include within the annual report an assessment of its ability to respond to areas identified by the Inspector General as ``material weaknesses''.

Sec. 105-Salaries and expenses

This section would authorize salaries and expenses for HUD at \$489 million for fiscal year 1993 and \$505.5 million for fiscal year 1993. Of these totals, not less than \$5 million would be set aside in each fiscal year exclusively to provide on-going training and capacity building for Department personnel.

Sec. 106-Registration of consultants

This section would amend section 112 of the HUD Reform Act of 1989, the provision requiring consultants to register with the Department. This section would exempt state and local government and housing authority employees engaged in official business from the Act's registration requirements.

TITLE II-INVESTMENT IN AFFORDABLE HOUSING

Sec. 201-HOME authorization

This section would authorize the HOME program at approximately \$2.1 billion for FY93 and \$2.2 billion for FY94 and authorize set-asides of \$14 million each year for community housing partnership activities and \$11 million each year for efforts in support of state and local housing strategies.

Sec. 202-New construction

This section would modify section 212(a)(3) of the National Affordable Housing Act, the provision limiting the use of HOME funds for new construction.

Subsection (a) would allow HOME funds to be used for new construction in rural areas (as defined in section 520 of the Housing Act of 1949) that certify that new housing is a high priority need and that there is not an adequate supply of vacant housing, or housing that could be acquired or rehabilitated to meet the need.

Subsection (b) would modify the Secretary's authority to provide a waiver for a jurisdiction to qualify for new construction, by permitting the waiver to apply for more than one year. This subsection would also eliminate the incidence of substandard housing as a formula factor for determining new construction eligibility.

Subsection (c) would revise the new construction exception for neighborhood revitalization projects by eliminating the requirement that the project emphasize rehabilitation (interpreted by HUD as more than 51% of project); instead, the project would be required to include rehabilitation.

Sec. 203-Administrative costs

This section would make several amendments to section 212 of the National Affordable Housing Act to allow jurisdictions to use up to 7% of their HOME allocation for administrative expenses. Jurisdictions in fiscal distress (as defined below) could use up to 10% of their HOME allocation for administrative costs. This section would also amend section 220 to eliminate the provisions

that allow up to 7% of administrative expenses funded from local sources or CDBG to count towards the local matching contribution.

Sec. 204-Tenant based rental assistance

This section would amend section 212 of the National Affordable Housing Act to eliminate the requirement that jurisdictions providing tenant-based rental assistance with HOME funds draw tenants from the local public housing authority's waiting lists. Instead, rental assistance would have to be provided in accordance with written tenant selection policies and criteria that are consistent with the purpose of providing housing to very low and low income persons and are reasonably related to federal and local public housing authority preference rules.

Sec. 205-Maximum subsidy limits

This section would amend section 212(d) of the National Affordable Housing Act, the provision requiring HUD to establish limits on the amount of HOME assistance that may be invested on a per unit basis. This section would clarify that HUD should not establish subsidy limits in a manner that requires jurisdictions to provide a per unit local match or that deducts the amount of low income housing tax credit proceeds used in a project.

Sec. 206-Rent calculations

This section would make two amendments to section 215(a) of the National Affordable Housing Act, the provision establishing the qualifications for rental housing assisted under the HOME program. First, the rent calculation provisions would be amended to adjust the maximum rent levels by the number of bedrooms in a unit rather than by the household size of prospective tenants. Second, the requirement that tenants be charged at least 30% of their income for rent if their income rises above 80% of median income would be eliminated for projects allocated a low income housing tax credit or in communities that have state or local rent control laws.

Sec. 207-Homeownership resale restrictions

This section would amend section 215(b) of the National Affordable Housing Act, the provision establishing the qualifications for homeownership housing assisted under the HOME program. The homeownership resale restrictions in existing law would be amended to permit a jurisdiction to either require a specific HOME assisted unit to remain affordable to other low income purchasers or recapture the HOME subsidy provided to the unit for use by other eligible HOME recipients.

Sec. 208-Rental housing production set-aside

This section would amend section 217 of the National Affordable Housing Act to eliminate the rental housing production set-aside.

Under current law, this set-aside requires new construction-eligible jurisdictions to use a certain portion of their HOME allocation for rental housing construction.

Sec. 209-Matching requirements

This section would make several amendments to section 220 of the National Affordable Housing Act, the provision defining the HOME local matching requirements.

Subsection (a) would establish a uniform local match of 25% for all HOME activities instead of the tiered local match of 25% for tenant-based rental assistance and moderate rehabilitation, 33% for substantial rehabilitation and 50% for new construction in existing law.

The matching requirements would also be amended so that any locally-funded housing that meets the HOME affordability requirements, regardless of whether it received HOME funds, could qualify as a local match.

Subsection (b) would allow up to 25% of public bond financing issued to support multifamily housing to count as an eligible local match. Such match credit would be limited to not more than 25% of a jurisdiction's total match. Sweat equity would also be added as an eligible match.

Subsection (c) would establish a streamlined process to provide relief from the matching requirements to communities that are in fiscal distress and would be otherwise unable to participate in the HOME program. This would replace the case by case match reduction process in existing law.

The standard matching requirement could be reduced to 15% for a jurisdiction that is in fiscal distress, 5% for a jurisdiction in severe fiscal distress, and 0% for a jurisdiction that is in extreme fiscal distress. For local governments, distress would be measured on the basis of a jurisdiction's per capita income, households in poverty, and growth lag in the labor force. For state governments, distress would be measured on the basis of fiscal capacity and expenditure needs as determined using indices developed by the Advisory Commission on Intergovernmental Relations (ACIR).

Sec. 210-Community housing production set-aside

This section would make two amendments to section 231 of the National Affordable Housing Act, the provision setting-aside HOME funds for use by community housing development organizations (CHDOs). First, the time period for a jurisdiction to identify CHDOs to utilize its set-aside would be extended from the 18 months in existing law to 24 months; the commitment period would remain at 24 months. Second, a jurisdiction would be permitted, in the first two years of its participation under HOME, to use up

to 10% of its CHDO set-aside for technical assistance and capacity building if a sufficient number of capable CHDOs did not already exist in the area.

Sec. 211-Redevelopment of blighted urban areas

This section would amend Title II, Subtitle D of the National Affordable Housing Act, the provisions establishing model programs for jurisdictions to use under the HOME program. A new model program would be established to facilitate the redevelopment of severely blighted inner city areas. Projects would be eligible for revised income targeting standards if located in qualified census tracts in which: at least 70% of the families have income below 80% of area median income; not less than 30% of the residents have incomes below the poverty level; and a high incidence of vacant land or land occupied by abandoned or substandard buildings exists. The housing would have to be targeted as follows: at least 50% of the units occupied by very low-income families (<50% of median income); at least 80% of the units occupied by low-income families (<80% of median income); and all of the units occupied by families with moderate incomes below 100% of area median income.

Sec. 212-Transitional housing opportunities

This section would amend section 225 of the National Affordable Housing Act, the provision providing tenant protections in housing assisted under the HOME program, to allow a lease to be terminated after two years if the housing was provided as short-term transitional housing.

TITLE III-HOMEOWNERSHIP

SUBTITLE A-HOMEOWNERSHIP INITIATIVES

Sec. 301-National homeownership trust

Subsection (a) would authorize the National Homeownership Trust Demonstration at \$25 million for fiscal year 1993 and \$26.1 million for fiscal year 1994.

Subsection (b) would amend the National Homeownership Trust Demonstration to include grants to capitalize local revolving loan funds as an eligible activity under the program.

Subsection (c) would authorize \$5 million for demonstration programs under the National Homeownership Trust Fund and would authorize \$2.1 million for a demonstration program in Salt Lake City, Utah.

Sec. 302-Enterprise zone homeownership opportunity grants

This section would establish a homeownership program for enterprise zones.

Subsection (a) would specify the following purposes of the section: (1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership; (2) to encourage the redevelopment of economically depressed areas; and (3) to provide better housing opportunities in federally-approved and equivalent state-approved enterprise zones.

Subsection (b) would contain definitions for the enterprise zone homeownership program. The term ``home'' would mean any 1 to 4 family dwelling and would include any dwelling unit in a condominium or cooperative project as well as any town house, and any manufactured home.

The term ``metropolitan statistical area'' would mean a metropolitan statistical area as established by the Office of Management and Budget.

The term ``nonprofit organization'' would mean a private, nonprofit corporation, or other private nonprofit legal entity, approved by the Secretary as to financial responsibility. The term ``Secretary'' would mean the Secretary of Housing and Urban Development.

The term ``State'' would mean each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

The term ``unit of general local government'' would mean any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

Subsection (c) would allow the Secretary to provide grants to nonprofit organizations to carry out homeownership opportunity programs within federal or state enterprise zones.

Subsection (d) would require nonprofit organizations that receive assistance under the homeownership program to use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an approved enterprise zone homeownership opportunity program. Each loan made to a family under this subsection would be required to: (1) be secured by a second mortgage held by the Secretary on the property involved; (2) be in an amount not exceeding \$15,000; (3) bear no interest; (4) be repayable to the Secretary upon the sale, lease or other transfer of such property.

Subsection (e) would specify program requirements and would require that any assistance provided under this section be used only in connection with an enterprise zone homeownership opportunity program for the construction or rehabilitation of homes. This subsection would also require that any family which purchases a home under this section to (1) have a family income

(as of the date of the home purchase), which is not more than the median income for a family of four persons (adjusted for family size) in the metropolitan statistical area in which a federally-approved or equivalent state-approved enterprise zone is located; and (2) not have owned a home during the 3-year period preceding such purchase. The downpayment requirement for each participating family would be not less than five percent of the sale price of such home. Leasing of homes would be prohibited.

Subsection (f) would require that the Secretary approve proposed homeownership opportunity programs and each applicant would be required to demonstrate to the satisfaction of the Secretary that: (1) the applicant has consulted with and received the support of residents in the neighborhood where the program is to be located; and (2) the applicant has the approval of each unit of general local government in which such program is to be located. Each applicant for assistance would be required to submit to the Secretary an estimated schedule for completion of its homeownership program. All homes constructed or rehabilitated under the homeownership program would be required to be located in federally-approved or the equivalent state-approved enterprise zones. Sales contracts entered into under a homeownership program would be required to contain provisions which would mandate the repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of the home without repayment.

Subsection (g) would specify the selection criteria for the selection of homeownership opportunity programs by the Secretary. The Secretary would select programs on the basis of the extent to which: (1) non-federal public or private entities will contribute the land necessary to make each program feasible; (2) non-federal public and private financial or other contributions (including tax abatements, waivers of development fees, waivers of construction, development or zoning requirements, and direct contributions) will reduce the cost of homes constructed or rehabilitated under each program; (3) each program will produce the greatest number of units for the least amount of assistance; and (4) each program provides for the involvement of local residents in the planning, and construction or rehabilitation of homes. The Secretary would not be required to consider the forms of contribution listed in (1) and (2) above if State law prohibits the non-federal entity from making such contributions.

Subsection (h) would require the Secretary to issue program regulations within 180 days after the date of enactment of the Act.

Subsection (i) would authorize \$50 million in fiscal year 1993 and \$50 million in fiscal year 1994 to carry out this section.

SUBTITLE B-FHA AND SECONDARY MORTGAGE MARKET

Sec. 311-National Interagency Task Force on Multifamily Housing

Subsection (a) would define the purpose of the section, which is to establish a National Interagency Task Force on Multifamily Housing to develop recommendations for establishing a national database on multifamily housing loans.

Subsection (b) would establish the National Interagency Task Force on Multifamily Housing (hereafter referred to as the ``Task Force'').

Subsection (c) would detail the membership of the Task Force. The Task Force would be composed of The Secretary of Housing and Urban Development; the Chairperson of the Federal Housing Finance Board; the Comptroller of the Currency; the Chairperson of the Federal Reserve Board; the Director of the Office of Thrift Supervision; the Chairperson of the Federal Deposit Insurance Corporation; the Chairperson of the Federal National Mortgage Association; and the Chairperson of the Federal Home Loan Mortgage Corporation or their designees. In addition, the Task Force would include representatives appointed by both the Secretary of HUD and the Chairperson of the Federal Housing Finance Board. The Secretary would appoint a representative of a State housing finance agency; a representative of a local housing finance agency; a representative of the building industry with experience in multifamily housing; and a representative of the life insurance industry with experience in multifamily loan performance data. The Chairperson of the Federal Housing Finance Board would appoint a representative from the financial services industry with experience in multifamily housing underwriting; a representative from the nonprofit housing development sector with experience in subsidized multifamily housing development; and a representative from a nationally recognized rating agency.

Subsection (d) would provide for the administration of the Task Force. The Task Force would be jointly chaired by the Secretary of Housing and Urban Development and the Chairperson of the Federal Housing Finance Board and would meet no less than four times yearly, at the call of the Chairpersons. A majority of members of the Task Force would constitute a quorum for the transaction of business and each member of the Task Force shall be entitled to one vote.

Subsection (e) would specify the functions of the Task Force. The primary function of the Task Force would be to conduct a study on multifamily housing finance to determine the best approach for establishing a national database on multifamily loans and to utilize this database to begin to develop risk standards for multifamily housing mortgages. The study would also (1) develop preliminary standards of performance for multifamily housing loans based on a number of factors which include, but are not limited to: project credit risk; project underwriting; interest rate risk; real estate market conditions; public subsidies; tax policies; borrower characteristics; program management standards

and government policies; (2) develop preliminary standards for a risk profile of multifamily housing based on an analysis of the factors listed above; (3) determine whether or not these standards are applicable to multifamily housing finance for purposes such as project underwriting; secondary market purchases and risk assessment of multifamily housing loans; (4) estimate the costs of developing a national database, including startup costs and data collection costs; and (5) include any other recommendations determined by the Task Force.

Subsection (e) would require the Task Force to submit a final report to the Congress which would contain the information, evaluations and recommendations of the study.

Subsection (f) would detail the authority of the Task Force, specifying that the Task Force may adopt any rules and regulations necessary to establish its procedures and to govern the manner of its operations, organization and personnel. This subsection would also authorize members of the Task Force to request a representative sample of multifamily mortgage loans from their respective agencies in order to allow the Task Force to make its findings and recommendations. The sample loan data would be made available with the stipulation (1) that all information obtained shall be used only for the purposes authorized in the section; (2) that the sample loan data shall remain confidential and not subject to release under the Freedom of Information Act; and (3) that only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator.

Subsection (g) would authorize the GAO to conduct an independent analysis of the findings and recommendations submitted by the Task Force.

Subsection (h) would authorize \$10 million for fiscal years 1993 and 1994 for the Task Force.

Sec. 312-Multifamily finance demonstration

Subsection (a) would authorize the Secretary of HUD to establish a demonstration program to test the effectiveness of providing new forms of federal credit enhancement for affordable multifamily loans. The Secretary would be authorized to explore the feasibility of entering into partnerships or other contractual arrangements with state or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and other state or local mortgage insurance companies or bank lending consortia. In establishing the demonstration program the Secretary would be required to consult with the appropriate public or private agencies, organizations or individuals with experience in multifamily lending, underwriting, insurance and development. The Secretary would also be required to consider any recommendations made by

the GAO pursuant to the study on credit enhancement mandated in the 1990 National Affordable Housing Act.

Subsection (b) would authorize the Secretary to undertake a specific pilot program that would test the effectiveness of credit enhancement for affordable multifamily loans through a system of risk-sharing with qualified state housing finance agencies.

Agreement terms.-The terms of the agreement entered into between the Secretary and the participating qualified housing finance agencies would provide for full federal mortgage insurance through the Federal Housing Administration (FHA) for the affordable multifamily loans originated by the housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of any losses which may be incurred on the loans insured. The agreements would specify the percentage of loss that both the Secretary and the housing finance agency would be expected to assume in the event of default. Options available would include: (1) the housing finance agency assuming the full amount of any loss; (2) the housing finance agency assuming a fixed percentage of any loss; or (3) HUD assuming a fixed percentage of any losses and the housing finance agencies providing reimbursement for any losses which exceed that fixed percentage.

Reimbursement capacity.-Participating housing finance agencies would be required to demonstrate their capacity to fulfill any reimbursement obligations entered into under the pilot program. Evidence of an agency's reimbursement capacity could take the form of: (1) agency reserves which are pledged or otherwise restricted to secure the obligation; (2) funds pledged through a state or local guarantee fund; (3) a pledge of full faith and credit by a qualified state or local agency on behalf of the participating housing finance agency or (4) other forms of evidence mutually agreed upon by the Secretary and the housing finance agency. Any state or local housing finance agency which meets one of the following criteria would be designated ``qualified'' and would be eligible for participation in the pilot program. The criteria would include: (1) the agency carries the designation of ``top tier'' as evaluated by Standard and Poors or any other nationally recognized rating agency; (2) the agency receives a rating of ``A'' for its general obligation bonds from a nationally recognized rating agency; (3) the agency can otherwise demonstrate its capacity as a sound agency based on: years of experience; fund balances; administrative capabilities; investment policy; internal controls and financial management; portfolio quality; and state or local support.

The Secretary would be authorized to insure up to 25,000 units in both fiscal year 1993 and fiscal year 1994.

Subsection (c) would establish the qualifications for ``affordable'' multifamily loans insured under this section. A

multifamily loan would qualify as affordable if, in the housing secured by the loan, at least 20 percent of the units are affordable to families whose incomes do not exceed 50 percent of the median income for the area or at least 40 percent of the units are affordable to families whose incomes do not exceed 60 percent of the median income for the area. These are the same qualifying standards used in the low income housing tax credit program.

Subsection (d) would require the Secretary to submit two reports to the Congress--an interim report and a comprehensive report. The interim report would be due one year following the date of enactment of this section and would summarize the progress of the Secretary in implementing both the multifamily demonstration program and the housing finance agency pilot program. The comprehensive report would be due two years after the date of enactment of the section and would evaluate the effectiveness of both the demonstration program and the housing finance agency pilot program.

Subsection (e) would require the Secretary to issue regulations not later than 90 days after the enactment of this section.

Sec. 313-Expenditures to correct defects

This section would amend section 518 of the National Housing Act, which allows the Secretary to reimburse owners of newly constructed insured single family homes for substantial defects. This section would extend these homeowner protections to FHA insured condominiums.

Sec. 314-Repeal of warranty requirement

This section would repeal that portion of section 203(b) of the National Housing Act which allows HUD to use the existence of 10 year homeowner warranties in lieu of several HUD inspections prior to, during and upon completion of construction.

TITLE IV-HOPE

Sec. 401-Authorization

This section would consolidate authorizations for the four HOPE programs. The section would authorize these HOPE programs at \$895 million for fiscal year 1993 and approximately \$937 million for fiscal year 1994. The section would authorize the individual HOPE programs at the following levels: HOPE I at \$285 million for fiscal year 1993 and approximately \$295 million for fiscal year 1994; HOPE II at \$285 million for fiscal year 1993 and approximately \$295 million for fiscal year 1994; HOPE III at \$285 million for fiscal year 1993 and approximately \$295 million for fiscal year 1994; and HOPE IV at \$40 million for fiscal year 1993 and approximately \$80 million for fiscal year 1994. Conforming amendments would be made to existing law to strike separate

authorizations.

Sec. 402-HOPE amendments

This section would amend section 426 of the National Affordable Housing Act to add non-federal public housing to the list of multifamily rental properties eligible for homeownership under HOPE II.

Sec. 403-HOPE for youth: Youthbuild

The section would establish an innovative federal housing program-Youthbuild-to help capable nonprofits train low-income youth in the construction and rehabilitation of affordable housing. The program would be added as a new subtitle D to the HOPE title of the National Affordable Housing Act.

Purpose.-Section 451 would state the purpose of the Youthbuild program: to expand the supply of affordable housing for the homeless and members of low income families, to provide work opportunities for disadvantaged young adults, to give these young adults an opportunity to obtain education and employment skills, and to foster a commitment to community development in these young adults.

Program authority.-Section 452 would authorize the Secretary to make planning grants to enable applicants to develop Youthbuild programs and implementation grants to enable applicants to carry out Youthbuild programs.

Planning grants.-Section 453 would limit the amount of a planning grant to \$150,000, however, providing the Secretary with the authority to approve a grant for a higher amount with good cause. This section would permit the use of planning grants for activities to develop Youthbuild programs. Such eligible activities would include: (1) studies of the feasibility of the program; (2) establishment of consortia between youth training and education programs and housing owners or developers which will participate in the program; (3) identification and selection of a site for the program; (4) preliminary architectural and engineering work for the Youthbuild program; (5) identification and training of staff for the program; (6) planning for education, job training, and other services that will be provided as part of the program; (7) other planning, training, or technical assistance necessary in advance of commencing the program; and (8) preparation of an application for an implementation grant under this subtitle.

This section would also require an application for a planning grant be submitted in accordance with procedures established by the Secretary. The Secretary would require that each application contain at a minimum (1) specific activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of

the grant requested; (2) a thorough description of the applicant and statement of its qualifications; (3) identification and description of potential sites for the program and activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities; work opportunities and other services for participants; and potential coordination with other Federal, State, and local housing and youth education and employment training activities including activities conducted by Indian tribes; (4) a certification by the public official responsible for submitting the comprehensive housing affordability strategy that the proposed activities are consistent with the approval housing strategy of the State or unit of general local government within which the project is located; and (5) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Right Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

Finally, this section would require the Secretary to establish selection criteria for a national competition for assistance. The criteria must include: the qualifications or potential capabilities of the applicant, the potential of the applicant to develop a successful program, and the need for the prospective program (as determined by the degree of economic distress).

Implementation grants.-Section 454 would authorize the Secretary to make implementation grants to applicants for the purpose of carrying out Youthbuild programs. This section defines activities which are eligible for receiving implementation grants are: (1) architectural and engineering work; (2) acquisition and/or rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitles B and C of the HOPE title; residential housing for homeless individuals, and low- and very low-income families, or transitional housing for person who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs; (3) administrative costs of the applicant (which may not exceed 15% of the amount of assistance or a higher percentage determined necessary by the Secretary to support capacity development by a private nonprofit organization); (4) education and job training services and activities (including counseling services, opportunities to develop the leadership skills of participants, activities designed to maximize the value of the participants as future employees, and support services and need-based stipends); (5) wage stipends and benefits provided to participants; (6) funding of operating expenses and replacement reserves of the property covered by the Youthbuild program; (7) legal fees; and (8) defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

This section would also require applications for implementation

grants to be submitted in accordance with procedures established by the Secretary. Each application would contain at a minimum (1) a request for the grant, specifying the amount requested and its proposed uses; (2) a description of the applicant and a detailed statement of its qualifications; (3) a description of the proposed site for the program; (4) a description of the educational and job training activities work opportunities, and other services that will be provided to participants; (5) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for accruing out such activities; (6) a description of the manner in which eligible youths will be recruited and selected; (7) a description of the special outreach efforts that will be undertaken to recruit eligible young women; (8) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes; (9) assurances that there will be a sufficient number of adequately trained supervisory personnel in the programs; (10) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs; (11) a description of activities that will be undertaken to develop the leadership skills of participants; (12) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness; (13) a description of the commitments for any additional resources to be made available to the program from the applicant, from recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or from other Federal state, or local activities and activities conducted by Indian tribes, including, but not limited of, vocational, adult and bilingual education programs, and job training provided with funds available under the JTPA and Family Support Act of 1988; (14) identification and description of the financing proposed for (i) rehabilitation, (ii) acquisition of the property; or (iii) construction; (15) identification and description of the entity that will operate and manage the property; (16) a certification by the public official responsible for submitting the comprehensive housing affordability strategy that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and (17) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

This section would also require the Secretary to establish selection criteria for assistance. The criteria must include: (1) the qualifications or potential capabilities of the applicant;

(2) the feasibility of the Youthbuild program; (3) the potential for developing a successful Youthbuild program; (4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited and of the community in which the housing proposed to be constructed or rehabilitated would be located; (5) the apparent commitment of the applicant to leadership development, education, and training of participants; (6) the inclusion of previously homeless tenants in the housing provided; and (7) the commitment of other resources to the program by the applicant and by recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or by other Federal, state or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988.

This section would require the Secretary to notify each applicant as to whether or not the application is approved no later than four months after submission of the application.

Finally, this section would require the Secretary to develop a procedure to allow an applicant to request a planning grant and an implementation grant with one application. In this case, the receipt of the implementation grant would be conditional on the successful completion of the activities funded by the planning grant.

Youthbuild program requirements.-Section 455 would require each residential rental housing project receiving assistance under this subtitle to meet certain requirements. At least 90 percent of the units must be occupied or be available for occupancy by individuals and families with incomes less than 60 percent of the area median income and the remaining units must be occupied or available for occupancy by low-income families. Each lease between a tenant and an owner must not be for less than one year, unless by mutual agreement between the tenant and the owner, and must contain terms and conditions that the Secretary determines to be appropriate. As well, an owner cannot terminate the tenancy or refuse to renew the lease of a tenant except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, and local law, or for other good cause. The owner must furnish the tenant with written notice specifying the grounds for the termination or refusal to renew with 30 days notice. It would also require the owner to maintain the premises in compliance with all applicable housing quality standards and local code requirements. The owner must also adopt written tenant selection policies and criteria that are (1) consistent with the purpose of providing housing for homeless individuals and members of very low-income and low-income families; (2) are reasonably related to program

eligibility and the applicant's ability to perform the obligations of the lease; (3) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the United States Housing Act of 1937; and (4) provide for the maintenance of a written waiting list in the chronological order of appropriate sequence, notifying applicants promptly of the results of their applications.

This section would also require that tenants not pay in excess of that in accordance with section 3(a) of the Housing Act of 1937. For every project owned by a nonprofit organization, the organization must provide a plan for tenant participation in management decisions.

Every transitional housing project receiving assistance under this subtitle must adhere to the requirements regarding service delivery, housing standards, and rent limitations imposed on comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act.

This section would also provide limitations on profits for rental and transitional housing. Aggregate monthly rental for each project cannot exceed operating costs of the project plus a 6 percent return on the equity investment of the project owner. As well, any nonprofit organization that receives assistance under this subtitle must agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive no more than a 6 percent return on their equity investment from project operations and upon disposition of the project, no more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

This section would require that each homeownership project that receives assistance under this subtitle to comply with the requirements of either subtitle B or subtitle C of the HOPE title.

This section would forbid the conveyance of an ownership interest in a project receiving assistance unless the instrument of conveyance requires the subsequent owner to comply with the same restrictions imposed upon the original owner.

The Secretary could waive the requirements of subsection (b) to allow the conversion of a transitional housing project to a permanent housing project if such housing would meet the requirements for residential rental housing specified in this section.

Finally, any project receiving assistance would have to comply

with the requirements of this section for the remaining useful life of the property.

Additional program requirements.-Section 456 would set forth the requirements for an individual to be considered eligible to participate in a Youthbuild program. The individual must be between the ages of 16 and 24, inclusive, economically disadvantaged, and must have dropped out of high school. There are, however, some exceptions. Instead of being ``economically disadvantaged,`` participants can be members of low-income families as long as the number of participants falling into this category does not exceed 25 percent of the participants receiving assistance. As well, up to 25 percent of the participants can have educational needs despite the attainment of a high school diploma or its equivalent. Any individual selected for full-time participation must be offered participation for 6 to 24 months.

This section would require that any program receiving assistance must be structured so that 50 percent of the time spent by participants in the program be devoted to education services and activities specified in section 454(b)(4)(B) through (F) of this subtitle.

This section would make clear that no provision of this subtitle should be interpreted to authorize any agency, officer or employer of the U.S. to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

This section would require all educational programs and activities supported with funds under this subtitle, as well as all standards and procedures with respect to the awarding of academic credit and certifying educational attainment, to be consistent with applicable State and local educational standards.

Finally, this section would require that sections 142, 143 and 167 of the Job Training Partnership Act relating to wages and benefits, labor standards, and nondiscrimination apply to the programs carried out under this subtitle.

Definitions.-Section 457 would define the following terms used in this subtitle-``adjusted income``, ``applicant``, ``community-based organization``, ``economically disadvantaged``, ``individual who has dropped out of high school``, ``homeless individual``, ``housing development agency``, ``income``, ``Indian tribe``, ``institution of higher education``, ``limited-english proficiency``, ``low-income family``, ``very low-income family``, ``offender``, ``qualified nonprofit agency``, ``related facilities``, ``Secretary``, ``State``, ``Transitional Housing``, ``Youthbuild Program``.

Management and technical assistance.-Section 458 would permit the Secretary to enter into contracts with a qualified public or private nonprofit agency to provide assistance in the management, supervision, and coordination of programs receiving assistance under this title. This section allows the Secretary to enter into contracts to provide appropriate training, information and technical assistance to sponsors of programs assisted under this title. Technical assistance may be provided in the development of program proposals and the preparation of applications for assistance to eligible entities which intend or desire to submit applications. Community-based organizations would be given first priority in the provision of assistance. The Secretary will reserve 5 percent of the amounts available in each fiscal year to carry out the assistance mentioned above.

Contracts.-Section 459 would require each Youthbuild program to carry out the services and activities under this subtitle either directly or through arrangements or contracts with JTPA designated administrative entities designated, State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public agencies (including agencies of Indian tribes) and private organizations.

Regulations.-This section would require HUD to issue any necessary regulations.

TITLE V-HOUSING ASSISTANCE

SUBTITLE A-PUBLIC AND INDIAN HOUSING

Sec. 501-Authorizations

This section would authorize various public housing programs for each of the fiscal years 1993 and 1994.

Subsection (a) would authorize public housing operating subsidies at approximately \$2.5 billion for fiscal year 1993 and approximately \$2.6 billion for fiscal year 1994.

Subsection (b) would authorize the public housing vacancy reduction program at \$25 million for each of fiscal years 1993 and 1994.

Subsection (c) would authorize funds for public housing resident management at \$5 million for each of fiscal years 1993 and 1994.

Subsection (d) would authorize funds for public housing family investment centers at approximately \$26.9 million for fiscal year 1993 and approximately \$27.8 million for fiscal year 1994.

Subsection (e) would authorize funds for public housing early childhood development grants at \$15.7 million for fiscal year 1993 and approximately \$16.2 million for fiscal year 1994.

Subsection (f) would authorize the Indian public housing early childhood development demonstration program at \$5.2 million for fiscal year 1993 and approximately \$5.4 million for fiscal year 1994.

Sec. 502-Reform of public housing management

This section would amend 6(j) of the United States Housing Act of 1937 to give HUD additional powers, resources and mandates to reform and, if necessary, take over troubled public housing agencies.

Subsection (a) would require the Secretary, upon designating a PHA as troubled, to provide for an immediate, independent assessment by a team of experts of the management situation of the PHA. In conducting its review, the assessment team would be required to consult with the residents as well as with public and private entities in the jurisdiction in which the public housing is located. The assessment team would be required to provide the Secretary and the PHA with a written report containing recommendations for management improvements that are necessary to eliminate or remedy existing deficiencies. The section would require the Secretary to review the assessment team's report and consult with the assessment team before entering into the HUD/PHA agreement required under existing law. The section would also require that such agreements set forth a plan for enhancing resident involvement in the management of the public housing agency, including resident representation on the governing body of the agency.

Subsection (b) would clarify the provision in existing law that gives HUD the power to select private management agents for developments administered by a troubled PHA. The subsection would clarify that such management agents could be selected by existing public housing tenants through administrative procedures established by the Secretary. The subsection would also give HUD a new tool to remedy troubled management-permitting HUD to solicit competitive proposals from non-troubled PHAs and private construction management firms to oversee implementation of the public housing modernization program. Finally, the subsection would permit residents of public housing administered by a troubled PHA to petition the Secretary to take one or more of the remedial actions specified in law. The Secretary would be required to respond to such petitions in a timely manner with a written description of the actions (if any) the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.

Subsection (c) would amend existing law to require HUD to take one or more of the remedial actions specified in law (e.g. seeking appointment of receiver, hiring management agents) against troubled PHAs that have (1) been troubled for 3 consecutive years, or (2) are acting in a manner that is contributing to the substantial deterioration of living

conditions in public housing projects. Residents of a troubled PHA would be permitted to petition the courts for the appointment of a receiver if the Secretary fails to take remedial actions when the conditions described above are present. HUD would also be permitted to give receivers and other entities selected or appointed such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents.

Subsection (d) would permit the Secretary to set-aside \$25,000,000 from the comprehensive grant program for each of fiscal years 1993 and 1994 to carry out management reform and other activities in troubled PHAs.

Subsection (e) would expand the reporting requirements under existing law to include an accounting of funds that have been expended to support management reform in troubled PHAs.

Sec. 503-Revitalization of Severely Distressed Public Housing

Section 503 would establish a new section 24 of the United States Housing Act of 1937 to address the housing needs of public housing projects that are severely distressed or substantially vacant. Subsections 24(a) through 24(j) would create a new program to revitalize the most distressed public housing developments by involving residents and community groups in comprehensive planning, major reconstruction, supportive service and management reform efforts. Subsections 24(k) through 24(w) would create a new program-entitled Take the Boards Off Public Housing-to transfer vacant developments, or buildings within these developments, currently owned by troubled public housing agencies, to other specified entities in order to return this housing to productive use.

Section 24(a) would authorize the Secretary to make planning grants to enable applicants to develop revitalization programs for severely distressed public housing projects and implementation grants to carry out these programs.

Section 24(b) would require PHAs, not later than 90 days after the date of enactment of this Act, to identify those public housing projects that they consider to be severely distressed. The Secretary would review the projects identified by PHAs to ascertain whether the projects meet the statutory definition of ``severely distressed''. The subsection would require the Secretary to publish a list of severely distressed public housing not later than 180 days after the date of enactment of this Act. The subsection would also require the Secretary to establish procedures for PHAs to appeal the Secretary's determination that a project identified by a PHA is not severely distressed.

Section 24(c) would authorize the Secretary to make planning grants to applicants to help develop revitalization programs for

severely distressed public housing. Planning grants would generally be limited to \$200,000 per project; the Secretary could approve a grant in a higher amount for good cause. Planning grants could be used for: (1) studies of the different options for revitalization, including the feasibility, costs and neighborhood impact of such options; (2) the provision of technical or organizational support to ensure resident involvement in all phases of the planning and implementation processes; (3) improvements to stabilize the development, including security investments; (4) the conducting of workshops to determine the attitudes and concerns of the neighboring community; (5) preliminary architectural and engineering work; (6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of residents; (7) designing a suitable replacement housing plan where applicable; and (8) planning for necessary management improvements; and (9) preparation of an application for an implementation grant.

Section 24(c) would also require applications for planning grants to be submitted in such form and in accordance with such procedures as the Secretary establishes. Applications would be required to contain at a minimum: (1) a request for the grant; (2) a description of the applicant and its qualifications; (3) a description of the project involved, and a description of the tenants; (4) a certification that the proposed activities are consistent with a housing affordability strategy; and (5) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

Finally, Section 24(c) would require the Secretary to establish selection criteria for a national competition which would include: (1) the qualifications or potential capabilities of the applicant; (2) the extent of tenant interest and involvement in the development of a revitalization program; (3) the extent of involvement of local public and private entities in the development of the revitalization program and in the provision of supportive services to project residents; (4) the potential for developing a successful and affordable revitalization program and the suitability of the project for such a program; (5) national geographic diversity among selected applications; (6) whether the development is located in a federally designated enterprise zone; (7) the extent of the need for and potential impact of the revitalization program; and (8) such other factors which the Secretary determines to be appropriate. The subsection would require the Secretary to notify each applicant as to the disposition of an application not later than 6 months after an application is submitted.

Section 24(d) would authorize the Secretary to make implementation grants to applicants to carry out revitalization

programs for severely distressed public housing. Implementation grants could be used for the following eligible activities: (1) architectural and engineering work; (2) the redesign, reconstruction or redevelopment of the severely distressed project, including the site on which the project is located; (3) administrative costs of the applicant; (4) any necessary temporary relocation of tenants; (5) legal fees; (6) economic development activities; (7) necessary management improvements; and (8) transitional security activities.

Section 24(d) would also require applications for implementation grants to be submitted in such form and in accordance with such procedures as the Secretary establishes. Applications would be required to contain at a minimum: (1) a request for the grant, specifying its amount and proposed uses; (2) a description of the applicant and a statement of its qualifications; (3) identification and description of project involved and a description of the composition of its tenants; (4) a certification that the proposed activities are consistent with the housing strategy under section 105 of this Act; and (5) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

Finally, Section 24(d) would require the Secretary to establish selection criteria for a national competition which would include: (1) the qualities or potential capabilities of the applicant; (2) the extent of tenant interest and involvement in the development of a revitalization program; (3) the extent of involvement of local public and private entities in the development of the revitalization program and in the provision of supportive services to project residents; (4) the potential for developing a successful and affordable revitalization program and the suitability of the project for such a program; (5) national geographic diversity among selected applications; (6) whether the development is located in a federally designated enterprise zone; (7) the extent of the need for and potential impact of the revitalization program; and (8) such other factors which the Secretary determines to be appropriate. The subsection would require the Secretary to notify each applicant as to the disposition of an application not later than 6 months after an application is submitted.

Section 24(e) would permit the Secretary to waive or revise rules governing rents, income eligibility and other areas of public housing management to enhance the long-term viability of severely distressed public housing that is revitalized. The subsection would also permit a PHA to select tenants in accordance with a local system of preferences, instead of the existing system which establishes a 70/30 split between federal and local preferences. A local preference system would need to be established in writing and respond to local housing needs and priorities as determined

by the PHA. Finally, the subsection would require the PHA to hold one or more public hearings to obtain the views of low-income tenants and other interested parties.

Section 24(f) would require the Secretary to establish cost limitations on eligible activities and would cap at \$250,000 the amount that could be expended on economic development activities.

Section 24(g) would modify the replacement housing requirements government housing units that are demolished in connection with a revitalization program. Applicants would be required to provide 1 replacement unit for every 2 public housing units demolished instead of the one-for-one requirement generally applicable under section 18 of the United States Housing Act of 1937.

Section 24(h) would require the Secretary to establish an Office of Severely Distressed Public Housing Revitalization.

Section 24(i) would define the key terms of the program.

An ``applicant'' would mean: (1) a PHA that has not been designated as troubled; (2) a PHA, private management agent or receiver that has been appointed to manage all or a portion of a troubled PHA's inventory; (3) a troubled PHA, if such agency acts in concert with a private nonprofit organization, resident management corporation or other approved entity.

The term ``private nonprofit organization'' would have the same general meaning as it does in the HOME and HOPE programs. It would mean any private nonprofit organization (including State or locally chartered nonprofit organizations) that is incorporated under State or local law; has no part of its net earnings inuring to the benefit of its members; complies with HUD-established standards of financial accountability; and has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

The term ``public housing agency'' would have the same meaning as it does in the 1937 Act, except that it would not include Indian Housing Authorities.

The term ``resident management corporation'' would mean a resident management corporation that has been established in accordance with section 20 of the 1937 Act.

The term ``severely distressed public housing'' means a public housing project that either (1) meets several statutory criteria (e.g. requires major redesign, reconstruction or redevelopment, is occupied predominantly by distressed families, is a location for recurrent criminal activity, has suffered from severe management deficiencies); or (2) meets the definition of eligible housing under section 24(l).

Section 24(j) would require the Secretary to submit an annual report to the Congress. The report would set forth: (1) the

number, type and cost of public housing units revitalized under this section; (2) the status of projects identified as severely distressed under this section; (3) the amount and type of financial assistance provided under and in conjunction with this section; and (4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

Section 24(k) would provide the basic program and funding authority for the Take the Boards Off Public Housing program. The subsection would authorize the Secretary to transfer vacant or substantially vacant developments or buildings currently owned by troubled PHAs to two classes of applicants. First, private nonprofit organizations representing public housing residents could own the housing and use it as assisted housing. Second, States, units of general local government, and other PHAs could own the housing or transfer it to a private nonprofit for use as affordable rental or homeownership housing. The subsection would also authorize the Secretary to make redevelopment grants to eligible applicants.

Section 24(l) would define housing eligible for transfer under this program. The subsection would limit housing which could be transferred under the program to developments or buildings within developments owned by troubled PHAs that had a vacancy rate of 50% or more. Individual buildings could only be transferred if the Secretary determined that they were sufficiently separable from the rest of the development to be operated independently. For example, separate or separable utilities would be necessary. Housing that was vacant because it was being modernized would not be eligible for this program. In order for the housing to be exempt, the Secretary would have to determine that not only has it received modernization funding, but also that the modernization is on schedule and would result in full occupancy when completed. The subsection would also require the Secretary to prepare periodically a list of developments that have vacancy rates of 20% or more and make it available to potential applicants. The list would be for information purposes, so that potential applicants know the identity of possibly eligible housing, since developments with a vacancy rate of 20% may well have individual buildings with vacancy rates of 50% or more. Applicants could propose other developments or buildings as long as the housing were otherwise eligible.

Section 24(m) would define the entities eligible to acquire housing under the Take the Boards Off Program and the conditions under which they could acquire ownership. The subsection would allow priority and other applicants to submit application for housing transfers and redevelopment grants. The subsection would permit another applicant to apply for a property only if that applicant had provided adequate public notice of its intention to do so. The applicant would not be able to apply for a six month period from the date this notice is provided. The subsection would give resident councils seeking transfer of the management

of this housing under Choice of Management—and priority applicants seeking transfer of the housing under the Take the Boards Off program—a preference over other applicants to manage or acquire the housing. This preference would be retained as long as the resident council or priority applicant continued to have an approved application, as determined by the Secretary. However, if there were no resident council or priority applicant, and another applicant submitted an application which was approved but not funded, a resident council or priority applicant would lose its preference if it applied in subsequent funding rounds.

Section 24(n) would authorize the Secretary to make redevelopment grants to eligible applicants as part of the transfer of a property to an ownership entity under the program. The subsection would require HUD to establish, through regulation, eligible activities for these grants and the requirements governing their use. The requirements of section 14 of the United States Housing Act of 1937 concerning modernization of public housing would not apply to redevelopment grants. However, the per-unit cost limitations for rehabilitation under the Comprehensive Grant program would apply to these development activities. In addition, eligible activities could not include any activity not currently eligible under section 14. HUD would be able to determine that certain activities currently eligible under section 14 (such as PHA-wide activities) would not be appropriate for eligibility under this program. Finally, the subsection would require each other applicant that applies for redevelopment funding to assure that contributions equal to not less than 25% of the cost of eligible activities from sources other than redevelopment grants. Contributions would be in such form as HUD approves.

Section 24(o) would describe the application procedures, minimum application requirements, and selection criteria for applications submitted by priority applicants and other applicants. The subsection would require applicants to submit an application to HUD for the acquisition of eligible housing and for redevelopment grants to be used in conjunction with the acquisition. Priority applicants would be required to request a redevelopment grant. Other applicants could apply, without such a request, as long as they could demonstrate that they had secured all funding needed to redevelop the housing. The Secretary, would establish, by regulation, specific application requirements and the procedure for approving applications.

Section 24(o) would require the Secretary to establish rating criteria for a national competition for applications from priority applicants and other applicants. While priority applications would be rated separately from other applications, using rating criteria tailored to each kind of application, selections would be made based on the rank order with both kinds of applications ranked together.

Section 24(o) would establish the minimum application requirements and rating criteria for applications for priority

applicants. Priority applicants would have to submit applications that contained, at a minimum: (1) a description of the applicant demonstrating that it qualifies as a priority applicant; (2) documentation that the applicant has the capacity to own and operate the property (or if an entity other than the applicant will operate the property, its capacity to do so must be shown); (3) documentation that the applicant has the capacity to carry out the proposed redevelopment (or if an entity other than the applicant will carry out the redevelopment, its capacity to do so must be shown); (4) documentation of support by the affected residents for the program; (5) evidence that the property is eligible for transfer under this program; (6) a plan for carrying out the proposed redevelopment; (7) a plan for the continued management and operation of the property; (8) the basis for the redevelopment funding request, including an estimate of the housing's need for modernization under the PHA's comprehensive plan and explanation, if necessary, of why a higher amount than shown in the comprehensive plan is being requested; (9) if the applicant proposes to administer a self-sufficiency program for the residents, a description of the program and evidence of commitment of resources to it; (10) an analysis showing that the proposed redevelopment is feasible and will result in full occupancy of the redevelopment in three years or such shorter time proposed by the applicant; (11) if funds from other sources will be used, evidence of commitment of these funds; and (12) a certification that the applicant will comply with the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing. Section 24(o) would also require the Secretary to establish rating criteria for the award of these grants to priority applicants. At a minimum, rating criteria would include: (1) the extent of resident support for the program; (2) the extent of the capacity of the applicant (or other relevant entity) to own and operate the housing; (3) the extent of the capacity of the applicant (or other relevant entity) to carry out the proposed redevelopment; (4) the quality of the proposed redevelopment; (5) the quality of the plan for operating the housing; (6) the extent to which the proposed redevelopment will result in the long-term viability of the housing at a reasonable cost; (7) the extent to which an economic self-sufficiency program is proposed for the residents; and (8) the extent to which funds from other sources will be provided for eligible redevelopment activities.

Section 24(o) would also establish minimum application requirements and rating criteria for applicants from other applicants. Other applicants would have to submit applications that contained, at a minimum: (1) a description of the entity that would own the housing; (2) documentation that the applicant has the capacity to own and operate the property (or if an entity other than the applicant will operate the property, its capacity to do so must be shown); (3) documentation that the applicant has the capacity to carry out the proposed reoccupancy or homeownership plan (or if an entity other than the applicant will

carry out the plan, its capacity to do so must be shown); (4) documentation for support by the affected residents for the program; (5) evidence that the property is eligible for transfer under this program; (6) if the applicant requests a redevelopment grant: documentation of the capacity of the ownership entity (or other relevant entity) to carry out the redevelopment and the basis for the redevelopment funding request, including an estimate of the housing's need for modernization under the PHA's comprehensive plan, an explanation, if necessary, of why a higher amount than shown in the comprehensive plan is being requested, and an analysis that the proposed redevelopment is feasible; (7) if the applicant will provide all the funding for redevelopment from other sources: evidence of the commitments of the other funds proposed to be used in conjunction with the transfer, an analysis that the proposed redevelopment is feasible, and documentation of the capacity of the ownership entity (or other relevant entity) to carry out the redevelopment; (8) a description of the proposed use of the housing and the composition of prospective residents or homeowners; (9) for housing to be used as rental housing, a reoccupancy plan, including a schedule for full reoccupancy within three years after the ownership entity acquires the housing; (10) for housing proposed for homeownership for low-income families, a homeownership program, including a schedule for transfer of all units (other than those occupied by families who resided in the housing when ownership was transferred and who do not choose to or are not qualified to purchase) within three years after the ownership entity acquires the housing; (11) for housing proposed for homeownership, a description of the financing for families to purchase their ownership interests; (12) the basis of the request for section 8 vouchers for replacement housing and for transitional operating subsidies; (13) if the applicant proposes to administer a self-sufficiency program for the residents, a description of the program and evidence of commitment or resources to it; (14) an analysis showing that the proposed reoccupancy plan for homeownership program are feasible and will result in full occupancy of the development in three years or such shorter time proposed by the applicant; (15) if the applicant proposed to use funds other than under this subtitle, evidence of commitment of those funds; (16) a certification that the activities are consistent with the appropriate approved Comprehensive Housing Affordable Strategy; (17) a certification that the applicant will comply with the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and (r) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (n).

Section 24(o) would require the Secretary to establish rating criteria for the award of these grants to nonpriority applicants. At a minimum, rating criteria would include: (1) the extent of resident support for the program; (2) the extent of the capacity

of the applicant (or other relevant entity) to own and operate the housing; (3) the extent of the capacity of the applicant (or other relevant entity) to carry out the proposed redevelopment; (4) the quality of the redevelopment plan; (5) the extent to which the proposed redevelopment will result in the long-term viability of the housing at a reasonable cost; (6) the quality of the proposed reoccupancy plan or homeownership program; (7) if special needs populations, such as the homeless, are proposed as the new residents, the extent to which proposed services are appropriate to meet the needs of these populations; (8) the extent to which funding for redevelopment activities will be provided by other sources; and (9) the extent to which an economic self-sufficiency program is proposed for the residents.

Section 24(p) would establish the requirements for operation of housing acquired by priority applicants. The subsection would create a right to acquire the property from the public housing agency. It would also create a contractual relationship between HUD and the ownership entity under which the entity would receive redevelopment funding, operating subsidies and capital improvement funding (the accrual portion of the Comprehensive Grant formula) and be required to carry out its responsibilities according to the terms of the contract. While many of the requirements that apply to public housing would apply to this housing as well, the subsection would eliminate the application of any public housing requirements to developments transferred to priority purchasers unless these requirements were specifically contained in this subtitle. These responsibilities include: (1) maintaining the units in decent, safe, and sanitary condition, based on standards established by the Secretary; (2) applying the same income eligibility rules that generally are applicable to public housing; (3) determining the amount of rent families must pay in accordance with the regular public housing rent rules; (4) using a tenant selection plan that is consistent with applicable fair housing and civil rights laws; (5) selecting families based on the preferences that generally apply to the public housing program; and (6) terminating tenancy based on procedures similar to those used in the Section 8 New Construction program which, unlike the procedures for public housing, do not require a hearing administered by the PHA before pursuing termination in court.

Section 24(p) would also authorize the Secretary to make operating subsidies for the housing available directly to the ownership entity. The amount to be made available would be based on the share of the operating subsidy that the housing would receive if it were not transferred (including the share of any reserves established by the PHA). The operating subsidy would be reduced following the method currently in law governing a project that leaves a PHA's inventory, which would reduce the amount payable to the PHA by essentially the same amount that is paid to the ownership entity. Utilities reimbursements and income calculations for these projects would be handled as they are under the Performance Funding System.

Section 24(p) would also authorize the Secretary to make capital improvements funding directly available to the ownership entity. The amount to be made available would be based on the share that the housing would receive under the accrual portion of the Comprehensive Grant formula if it were not transferred. The PHA's Comprehensive Grant allocation beginning in the year following the transfer would be reduced following the method currently in law governing a project that leaves a PHA's inventory. These provisions establish a three-year phase-down of the amount of Comprehensive Grant formula funding attributable to the housing. The subsection would require the Secretary to establish requirements for the use of redevelopment grants and capital improvement funding. The requirements of section 14, such as the preparation of five-year plans, would not apply to housing transferred under this program. However, eligible activities could not include any activity nor currently eligible under section 14.

Section 24(p) would also establish that replacement housing would not be required in connection with transfers to priority applicants.

Section 24(p) would also require the ownership entity to operate the housing as assisted housing unless the Secretary approved a request for an alternative use. Such a request could only be approved if the Secretary determines that the housing is no longer suitable or not needed as housing for low-income families and that the alternate use would principally benefit low-income families. While the provisions governing demolition and disposition of public housing would not apply to these requests, the Secretary would still be required to provide to the PHA one-for-one replacement housing in the form of section 8 vouchers if this housing subsequently left the assisted housing stock. A request for a subsequent alternative use could not be approved unless HUD provided the replacement housing.

Section 24(p) would also establish that housing transferred to priority applicants would continue to be eligible for homeownership opportunities under the HOPE for Public and Indian Housing program and section 5(h). This subsection would also allow applicants who would carry out approved self-sufficiency programs to adopt the policies on maximum rents, escrow savings accounts, and the phasing-in of increases in family income that apply to the Family Self-Sufficiency program.

Section 24(p) would also require the ownership entity to obtain acceptable fidelity bonding and insurance to protect HUD from loss, theft, embezzlement, and fraudulent actions by the ownership entity or its employees.

Finally, Section 24(p) would prohibit the PHA from involuntarily displacing residents of the housing from the date on which the application for the program is submitted through the date of

transfer or disapproval of the application. Involuntary displacement would not include temporary relocation of residents by the PHA due to modernization activities.

Section 24(q) would establish the requirements for operation of housing acquired by other applicants. The subsection would create a right to acquire the property from the public housing agency. The subsection would create a contractual relationship between HUD and the ownership entity under which the entity would receive redevelopment funding and transitional operating subsidies and be required to carry out its responsibilities in accordance with subsection (r) (for rental projects) or subsection (s) (for homeownership programs) and to fulfill the terms of the contract for operating the housing as affordable housing. In those cases in which the applicant and the ownership entity would be different, this subsection would establish a contract between HUD and the applicant under which the applicant would receive operating subsidy and redevelopment funding and promptly transfer the amounts to the ownership entity and which would require the applicant to have a contract with the ownership entity with the same terms and conditions as HUD would have if there were a direct contract between HUD and the ownership entity. This subsection would also require the applicant to monitor the obligations of the ownership entity and take any necessary sanctions if the entity is in violation of its contract.

Section 24(q) would also eliminate the application of any public housing requirements to developments funded under this program. Current residents would be protected through non-displacement provisions and through transitional operating subsidies or vouchers to subsidize their rents so that they would be able to remain in the housing and pay no more than 30% of their adjusted income for rent, even if this housing would no longer serve as deeply targeted assisted housing.

Section 24(q) would authorize the Secretary to provide transitional operating subsidies to housing transferred to other applicants for a period approved by HUD, which may generally not exceed three years from the date of transfer. The transitional operating subsidy would be phased out generally in accordance with the reoccupancy plan or homeownership program. The amount provided would be based on the share that the housing would receive if it were not transferred (including the share of any reserves established by the PHA), and the amount of the PHA's operating subsidy would be reduced by essentially the same amount that is paid to the other applicant. However, no subsidies would be provided for units that were occupied at transfer but later became vacant, or were vacant at transfer but later became occupied. In the latter case, reoccupied units would be covered by the rents or homeownership charges governed by subsections (r) and (s), respectively, and would no longer need operating subsidy. The Secretary would also be able to terminate subsidies on vacant units if the units remained vacant for periods longer than specified in the reoccupancy plan or homeownership program.

Section 24(q) would require the provision of replacement housing in connection with transfers to other applicants. Upon transfer, the housing would no longer be considered deeply targeted assisted housing. Thus, because there could be a diminution in the deeply targeted assisted housing stock in the locality, all units transferred would have to be replaced with section 8 vouchers.

Section 24(q) would define how these replacements vouchers could be used. The PHA would be required to make these vouchers available to existing eligible residents after the period when the development received transitional operating subsidies for use in that development or to move elsewhere. Vouchers for these families would be provided in accordance with the reoccupancy plan. The PHA would also be able to condition the initial use of vouchers for units in this housing, to make the units affordable to families that agree to move into them. This conditional use would be similar to that applied to the section 8 certificates that were awarded in conjunction with the Rental Rehabilitation Grant program when that program began.

Finally, Section 24(g) would prohibit the PHA from involuntarily displacing residents of housing for which an application for transfer has been submitted. This prohibition would continue through either the date of actual transfer or the date of disapproval of an application. Involuntary displacement would not include temporary relocation by the PHA due to modernization activities.

Section 24(r) would establish the basic requirements under which housing transferred to other applicants could be operated as rental housing. The subsection would require that these requirements apply for a 15-year period from the date of transfer. The subsection would require that residents of the housing on the date of the transfer pay rent in accordance with rent and income rules in section 3(a) during the period that transitional operating subsidies were provided. At the end of this period, these families would receive vouchers from the PHA that previously owned the housing to enable them to afford to remain in the housing or move to other housing.

Section 24(r) would also govern income limits for admissions and rents charged for families housed after the transfer. These families would not be permitted to have incomes, at initial occupancy, above 60% of the median income for the area, with adjustments for family size. (The subsection would allow the Secretary to permit higher or lower income ceilings if these variations were necessary because of high construction costs or Fair Market Rents, or unusually high or low family incomes, as is generally the case for HUD income limits.)

Section 24(r) would prohibit the ownership entity from refusing to accept section 8 certificate or voucher holders as residents

solely because they receive this assistance. The subsection would also require that a resident and an ownership entity execute a lease for the dwelling that shall be for at least a one-year period. The terms and conditions of the lease would be prescribed by the Secretary through regulations.

Section 24(r) would also establish the conditions and procedures for termination of tenancy. An ownership entity could not terminate or refuse to renew a lease except for serious and repeated violations of the terms and conditions of the lease, or for violation of applicable Federal, State, or local law, or for good cause. A resident would have to be provided with a written notice at least 30 days before the proposed termination.

Section 24(r) would also require the ownership entity to adopt written resident selection policies for selecting families that give reasonable consideration to the housing needs of families that qualify for the Federal (and local) preferences in section 6(c)(4)(A). Residents would have to be selected based on their chronological place on a waiting list, to the extent practicable.

Finally, Section 24(r) would require the housing to be maintained in compliance with all applicable housing quality standards and local codes, as determined by HUD.

Section 24(s) would establish the basic requirements under which housing could be converted to homeownership. The subsection would require these requirements to apply for a 10-year period from the date of transfer. The homeownership program would cover all units in the property except those occupied by residents who were living there before and at the time of transfer who have not chosen, or are not qualified, to purchase their units. These families would be allowed to remain in their units as renters and the ownership entity would receive transitional operating subsidy to subsidize their rents. The families would also be able to receive vouchers to permit them to remain in the development after transitional operating subsidies had ceased. Sales to individual eligible families could be through any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperatives) or fee simple ownership (including condominiums).

Section 24(s) would also require that all sales be affordable, with families not required to pay more than 30% of their adjusted monthly income for principal, interest, taxes, and insurance. The subsection would enable eligible families to purchase units with any source of financing, including conventional mortgage loans and FHA-insured mortgages. The subsection would prevent non-purchasing residents who resided in the housing at the time of transfer from being evicted because of a homeownership program.

Section 24(s) would also limit any undue profit which the initial purchaser could receive upon selling the unit. Ownership entities

would be given flexibility to structure the recapture provisions in a variety of ways. The legislation would permit: (1) a family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period; (2) a plan consistent with section 21(a)(4)(D) of the 1937 Act, which limits the amount received by a family to the total of the downpayment, the value of improvements paid for by the family (plus contributions made through ``sweat equity''), and an allowance for inflation applied to the downpayment; (3) a loan (promissory note secured by a mortgage) for the difference between the fair market value and the purchase price, which the family must pay at the time of resale to the ownership entity; and (4) any other arrangement approved by the Secretary that prevents undue profits from accruing to the homeowner for at least 10 years. Finally, Section 24(s) would require the housing to comply with all applicable housing quality standards and local codes, as determined by the Secretary, at the time of transfer to the homeowners.

Section 24(t) would define the eligibility of resident management corporations and resident councils to become ownership entities. The section would require that resident management corporations and resident councils demonstrate, in a manner determined by the Secretary, their ability to effectively and efficiently operate public housing or arrange for operation by a qualified management entity in order to be eligible as ownership entities. This demonstration would have to include, as part of the evidence, the most recent financial audit of the Resident Management Corporation or resident council.

Section 24(u) would establish monitoring and enforcement requirements for the program. The subsection would require the Secretary to monitor priority applicants and other applicants that directly own the housing and enforce the contracts between HUD and these entities. The subsection would also require other applicants that do not directly own the housing to monitor the activities of the ownership entities that actually do own the housing and enforce the contracts between themselves and these entities. These applicants would be required to undertake, at least annually, on-site compliance reviews of their ownership entities' activities. The Secretary would also be authorized to take any necessary actions to enforce these contracts. Finally, the subsection would establish requirements for records, reports, and audits for the ownership entity and the applicant, including access to these records by the Secretary and the Comptroller General and submission of any reports required by HUD, including annual financial audits.

Section 24(v) would contain standard nondiscrimination provisions. These provisions would be similar to those which apply to the public housing program.

Section 24(w) would require HUD to continue to pay the debt service on any housing transferred under this program.

Section 24(x) would define the key terms of the program.

An ``applicant'' would mean both priority applicants and other applicants.

The term ``eligible family'' would apply only to families purchasing under a homeownership program and would mean a family that resides in the housing on the date of transfer or a family with an adjusted income of less than 80% of the median income for the area.

The term ``eligible housing'' would mean a public housing project, or one or more buildings within a project, owned by a troubled PHA.

The term ``other applicant'' would mean a State, unit of general local government, or other public housing agency that proposed to use the housing to provide affordable rental or homeownership opportunities to low-income families.

The term ``ownership entity'' would mean either a priority applicant that assumes ownership of the housing for its continued use as assisted housing or an other applicant that assumes ownership of the housing for its use as affordable rental or homeownership housing.

The term ``priority applicant'' would mean a private non-profit organization that represents the current residents of the housing and proposed to retain the housing as assisted housing. A priority applicant could also represent former residents of the development or current residents of any development owned or operated by the PHA.

The term ``private nonprofit organization'' would have the same general meaning as it does in the HOME and HOPE programs. It would mean any private nonprofit organization (including State or locally chartered nonprofit organizations) that is incorporated under State or local law; has no part of its net earnings inuring to the benefit of its members; complies with HUD-established standards of financial accountability; and has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families. Resident management corporations and project-level resident councils would be considered private nonprofit organizations.

The term ``public housing agency'' would have the same meaning as it does in the 1937 Act, except that it would not include Indian Housing Authorities.

The term ``public nonprofit organization'' would mean any public nonprofit organization, except the PHA that owns the housing.

The terms ``resident council'' and ``resident management

corporation'' would have the same general meanings as they do under the title III of the 1937 Act (the HOPE I program).

The term ``State'' would have the same meaning as it does in the HOME program, except that it would not include territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes.

The term ``troubled public housing agency'' would mean a PHA that owns or operates 250 or more units of public housing and has been designated by HUD as a troubled PHA for the Federal current fiscal year and the past two Federal fiscal years. This designation could have been made either under the Public Housing Management Assessment program or, before implementation of that program, through any other procedure HUD used to designate troubled PHAs.

The term ``unit of general local government'' would have the same meaning as it does in the HOME program.

Sec. 504-Choice in management

Section 504 would establish a new section 25 of the United States Housing Act of 1937 entitled ``Choice in Management''. The new section would create a program to provide residents of distressed developments that are owned by troubled public housing agencies with the choice to have their housing managed by an entity other than the PHA.

Section 25(a) would title the new section the ``Choice in Management Act of 1992''.

Section 25(b) would authorize funding for the new program. The section would permit the Secretary to reserve not more than \$50 million from the public housing modernization program to carry out Choice in Management. The section would also permit the Secretary to provide technical assistance to public housing residents and resident councils to help them make informed choices about their options for alternative management.

Section 25(c) would authorize the Secretary to approve not more than 15 applications for fiscal years 1993 and 1994 from resident councils residing in developments or buildings owned by troubled public housing agencies for the transfer of management functions from these PHAs to other managers. The section would authorize the Secretary to make rehabilitation grants and capital improvements funding to managers under the Choice in Management.

Section 25(d) would authorize the Secretary to make operating subsidies for the housing directly to the alternative manager. The amount to be made available would be based on the share of the operating subsidy that the housing would receive if it continued to be managed by the PHA (including the share of any reserves established by the PHA). The operating subsidy would be

reduced following the method currently in law governing a project payable to the PHA by essentially the same amount that is paid to the alternative manager. Utilities reimbursements and income calculation for these projects would be handled as they are under the Performance Funding System.

Section 25(e) would enable the Secretary to provide rehabilitation grants as part of the transfer process. These grants would be awarded through a competitive application process. The Secretary and the manager for the housing would enter into a contract governing the use of the funds. The section would also authorize the Secretary to make ongoing annual capital improvements funding directly to the manager. The amount to be made available would be based on the share that the housing would receive (for both backlog and accrual needs) under the Comprehensive Grant formula if it were not transferred. The section would limit the amount of capital improvements funding to be made available to housing that has been modernized within the last three years or would be modernized with a rehabilitation grant as part of the transfer to only the accrual portion of the Comprehensive Grant formula. Housing that has been recently modernized would not need to receive the backlog portion of the formula. This section would reduce the PHA's Comprehensive Grant allocation beginning in the year following the transfer, using the method currently in law governing a project that leaves a PHA's inventory.

Finally, section 25(e) would require the Secretary to establish requirements for the use of rehabilitation grants and capital improvements funding. The requirements of section 14, such as the preparation of five-year plans, would not apply to housing transferred to alternative managers under this program. However, eligible activities could not include any activity not currently eligible under section 14. HUD would be able to determine that certain activities currently eligible under section 14 (such as PHA-wide activities) would not be appropriate for eligibility under this program.

Section 25(f) would describe the procedures and minimum requirements for applications submitted by resident councils for transfers of management and for rehabilitation grants. This section would require resident councils to submit an application to HUD for the transfer of management and for rehabilitation grants to be used in conjunction with these transfers. The Secretary would establish, by regulation, specific application requirements and the procedure for approving applications. This section would also require applicant resident councils to give the PHA a reasonable opportunity to comment on the application and to present a proposal for continued management by the PHA. The resident council would be required to give reasonable consideration to such a proposal.

Section 25(f) would also establish the minimum application requirements and rating criteria for applications. Resident

councils would have to submit applications that contained, at a minimum: (1) a description of the resident council and documentation of its authority; (2) evidence that a majority of the members of the board of the resident council and a majority of the residents voted in favor of the transfer (with resident interest demonstrated through an election supervised by a disinterested third party); (3) a description of the proposed ownership entity and documentation that it has the capacity to manage the property; (4) a plan for carrying out the manager's responsibilities for managing the housing; (5) evidence that the property is eligible housing; (6) documentation that the PHA has been given a reasonable opportunity to comment on the proposed program and submit a proposal for continued management of the housing and that the resident council has given reasonable consideration to such a proposal; (7) if an application is also requesting a rehabilitation grant, the basis for the rehabilitation funding request, including the estimate of the housing's need for modernization under the PHA's comprehensive plan and an explanation, if necessary, of why a higher amount than shown in the comprehensive plan is being requested; (8) if an application does not request a rehabilitation grant, a demonstration that the housing's need for capital improvements and replacements can be adequately addressed through the ongoing capital improvements funding which the housing would receive; (9) if the applicant proposes to administer a self-sufficiency program for the residents, a description of the program and evidence of commitment of resources to it; (10) an analysis showing that the proposed program will result in the long-term viability of the housing at a reasonable cost; and (11) a certification that the applicant will comply with the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing. An application for a transfer of management for housing that was more than 50% vacant would have to include a request for rehabilitation funding.

Section 25(g) would establish the procedures for review and approval of applications for transfers of management and for rehabilitation grants. This section would allow the Secretary to approve applications for transfers that did not request rehabilitation funds at any time, as long as they met HUD requirements. The section would also require the Secretary to hold a national competition for applications that request rehabilitation grants and establish rating criteria for the award of these grants. At a minimum, selection criteria would include: (1) the quality of the plan for rehabilitating the housing; (2) the extent of the capacity or potential capacity of the proposed manager to manage the housing and carry out the rehabilitation plan; (3) the extent to which an economic self-sufficiency program is proposed for the residents; and (4) the extent to which the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost.

Section 25(h) would state the requirements of the contract between the Secretary and the alternative manager. This section would require that when the Secretary approves an application for transfer, the PHA shall permit the manager to carry out all management responsibilities. The section would require the Secretary, upon approval of an application for the transfer of management, to enter into a contract with the new manager. The contract would give the manager the right to receive operating subsidies and capital improvements funding for the housing. In return, it would require the manager to carry out all management responsibilities for the housing, as required by the Secretary, as well as the specific requirements enumerated below.

Section 25(h) would also require the manager to carry out the management responsibilities for public housing that the Secretary determines would apply to this housing. These responsibilities would include: (1) maintaining the units in decent, safe, and sanitary condition, based on standards established by the Secretary; (2) applying the same income eligibility rules that generally are applicable to public housing; (3) determining the amount of rent families must pay in accordance with the regular public housing rent rules; (4) using a tenant selection plan that is consistent with applicable fair housing and civil rights laws; (5) selecting families based on the preferences that generally apply to the public housing program; and (6) terminating tenancy based on procedures similar to those used in the Section 8 New Construction program which, unlike the procedures for public housing, do not require a hearing termination administered by the PHA before pursuing termination in court. The contract would also allow, but not require, the manager to select families using the PHA's waiting list.

Section 25(h) would also require the resident council periodically to approve the renewal of this contract or disapprove its renewal and submit another application for transfer to another manager, which could be the PHA. This section would also allow the Secretary to require the resident council to submit another application for transfer if HUD determined that the current manager had defaulted on the contract.

Finally, section 25(h) would establish that, where a PHA reassumed management of the housing, all public housing operating requirements would again apply.

Section 25(i) would contain the other general program requirements that would apply to housing transferred to alternative managers. This section would set the cost limitation for rehabilitation at the per unit cost limits set under the Comprehensive Grant program. The section would prohibit the manager from demolishing or disposing of the housing. Section 18, which established the system under which a PHA may request approval for demolition or disposition, would continue to apply to this housing.

Section 25(i) would define the eligibility of resident management corporations to become managers under this program. This section would require that resident management corporations demonstrate, in a manner determined by the Secretary, their ability to effectively and efficiently manage public housing or arrange for management by a qualified management entity in order to be eligible to become managers of the housing. This demonstration would have to include, as part of the evidence, the most recent financial audit of the Resident Management Corporation.

Section 25(i) would prevent the PHA from being held liable for any actions or failures to act by the manager or the resident council. The section would also require the manager to obtain acceptable fidelity bonding and insurance to protect HUD and the PHA from loss, theft, embezzlement, or fraudulent actions by the manager or its employees.

Finally, section 25(i) would prohibit the PHA from involuntarily displacing residents of the housing from the date that an application for transfer of management is submitted through the date of transfer or disapproval of the application. Involuntary displacement would not include temporary relocation by the PHA due to modernization activities.

Section 25(j) would establish monitoring and enforcement requirements for the program. The Secretary would be required to monitor the performance of managers and would be authorized to take any necessary actions to enforce these contracts. This section would also establish requirements for records, reports, and audits for the manager and the resident council, including access to these records by the Secretary and the Comptroller General and submission of any reports required by HUD, including annual financial audits. Finally, the section would require the Secretary to submit an annual report to the Congress evaluating the Choice in Management program and comparing the program with other methods of dealing with severely distressed public housing.

Section 25(k) would contain standard nondiscrimination provisions. These provisions are similar to those which apply to the public housing program.

Section 25(l) would clarify the relationship of housing transferred to alternative managers to two other programs that can be implemented in conjunction with the public housing program. This section would retain for this housing its eligibility for homeownership conversion under HOPE for Public and Indian Housing and section 5(h) of the U.S. Housing Act. The section would also note that any such participation would have to be consistent with the contract between the owner and the Secretary. In other words, such a contract could not be peremptorily canceled, but, rather, the conversion would have to wait until the end of the contract term. Finally, this section would allow managers who were carrying out approved self-sufficiency programs to adopt the policies on maximum rents,

escrow accounts, and the phasing-in of increases in family income that apply to the Family Self-Sufficiency program.

Section 25(m) would define the key terms of the program.

The term ``eligible housing'' would mean a public housing project, or one or more buildings within a project, that is less than 50% vacant, owned by a troubled PHA and has been identified as severely distressed.

The term ``manager'' would mean a public or private nonprofit organization (including an organization sponsored by the PHA that owns the housing, if that organization was determined by HUD to be eligible); a for-profit entity if it has a proven track record of providing low income housing and is participating in a joint venture with a private nonprofit organization; a public body, including an agency of that body; or a PHA that would manage the housing. The term would not include the PHA that owns the housing, nor a resident council. Resident councils that would want to manage their housing would be able to become resident management corporations.

The term ``private nonprofit organization'' would have the same general meaning as it does in the HOME and HOPE programs. It would mean any private nonprofit organization (including a State or locally chartered nonprofit organization) that is incorporated under the State or local law; has no part of its net earnings inuring to the benefit of its members; complies with HUD established standards of financial accountability; and has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families. Resident management corporations would be considered private nonprofit organizations.

The term ``public housing agency'' would have the same meaning as it does in the 1937 Act, except that it would not include Indian Housing Authorities.

The term ``public nonprofit organization'' would mean any public nonprofit organization, except the PHA that owns the housing.

The term ``resident council'' and ``resident management corporation'' would have the same general meaning as they do under title III of the 1937 Act (the HOPE 1 program).

The term ``troubled public housing agency'' would mean a PHA that owns or operates 250 or more units of public housing and (1) has been designated by HUD as a troubled PHA for the current Federal fiscal year and the past two Federal fiscal years and (1) has not met targets for improved performance. The troubled designation could have been made either under the Public Housing Management Assessment program or, before implementation of that program, through any other procedure HUD used to designate troubled PHAs.

Sec. 505-Directive to relieve regulatory burden

This section would direct the Secretary to review and streamline regulations, administrative procedures and recordkeeping and documentation requirements that govern compliance with the public and Indian housing programs. The Secretary would be required to submit a report to Congress within 9 months of the date of enactment of this Act describing the results of the review and the revisions that have been undertaken to reduce unnecessary burdens. The Secretary would also be required to carry out this directive in consultation with organizations and individuals representing public and Indian housing agencies, tenants, management experts, academics and other interested parties.

Sec. 506-Ceiling rents

This section would amend section 3(a)(2) of the United States Housing Act of 1937 to remove the five year limitation on ceiling rents in public housing.

Sec. 507-Replacement housing

This section would amend section 18 of the United States Housing Act of 1937, the provision requiring PHSs to replace public housing that is sold or demolished on a one-for-one basis. First, this section would establish a de minimis exception to the replacement rules, covering situations where the units demolished or disposed of do not exceed the lesser of (1) five units; or (2) five percent of the total number of units in the PHA's public housing inventory. A PHA could only use this exception once in a five year period. Second, PHSs would be permitted to locate some or all of the replacement units outside of their jurisdiction, but within the same housing market.

Sec. 508-Income eligibility

This section would amend section 16 of the United States Housing Act of 1937 to exempt the public housing homeownership program from inappropriate income restrictions that apply to the general public housing program.

Sec. 509-Applicability of definitions to Indian housing

This section would apply a series of definitions contained in the National Affordable Housing Act to the Indian Housing program.

Sec. 510-Preference rules

Subsection (a) would amend section 6(c)(4)(a) of the United States Housing Act of 1937 to revise the preference rules governing tenant selection in public housing. PHAs would be required to give preference, for not less than 50 percent of the public housing units that are made available for occupancy in a given fiscal year, to families that meet the current federal

preferences.

Subsection (b) would direct the Secretary to issue final regulations implementing changes to the preference rules made in the National Affordable Housing Act not later than 30 days after the date of enactment of the Act.

SUBTITLE B-LOW INCOME RENTAL ASSISTANCE

Sec. 521-Voucher and certificate homeownership

This section would allow voucher and certificate recipients who are first-time homebuyers to use their vouchers and certificates to become homeowners.

Subsection (a) would amend section 8(o) of the United States Housing Act of 1937--the provision authorizing the voucher program--to clarify that vouchers can support homeownership for families which are first time homebuyers.

Subsection (b) would establish a new section 8(y) of the United States Housing Act of 1937 entitled ``Homeownership Option: Vouchers and Certificates''.

In general.--Section 8(y) (1) would permit a family assisted under the voucher or certificate program to use its certificate or voucher for homeownership if the family (1) is a first-time homeowner; (2) either participates in the PHA's Family Self-Sufficiency program or demonstrates that it has income from employment or other sources (other than public assistance), as determined in accordance with HUD requirements, that is at least equal to twice the payment standard established by the PHA (or to another amount established by HUD); (3) at the time it initially receives assistance under this subsection, demonstrates that one or more members of the family, except as determined by HUD, have achieved employment for such period as HUD shall require; (4) participates in a homeownership and fair housing counseling program provided by the PHA; and (5) meets any other initial or continuing requirements established by the PHA in accordance with HUD requirements.

Amount of assistance.--Section 8(y) (2) would govern the amount of assistance received by families wishing to exercise the homeownership option. For such families, the subsidy usually would be the difference between the payment standard established by the PHA and 30% of the family's adjusted income, which is the income contribution that the family would ordinarily make if receiving rental assistance. In no case could the assistance payment exceed the amount by which the monthly homeownership expenses, as determined in accordance with HUD requirements, exceed 10% of the family's income (without adjustments).

Excess subsidy recapture.--Section 8(y) (3) would establish rules governing the recapture of excess subsidies. Upon sale of the

dwelling the family would, in general, be able to retain any increases in owner equity. There would be no requirement that the housing have a resale structure designed to maintain affordability of such housing for low-income families. However, to the degree that the section 8 assistance in the past would have been reduced because of the imputed income on owner's equity in the dwelling (but was not), the excess subsidy would have to be repaid. At the time of sale, the net proceeds of the sale would be considered to have accrued at an even arithmetic rate since the time of the purchase. The recapture amount would be considered a loan with a lien being placed on the family's dwelling, but no interest would be charged on the loan.

Downpayment requirement.-Section 8(y)(4) would establish rules governing the downpayment. Families electing to use vouchers and certificates for homeownership would be responsible for obtaining their own financing. At the request of a lender, all or a portion of the monthly assistance payment could be paid directly to the lender for mortgage principal and interest, as well as property taxes and insurance. PHAs would be required to assure that each family provided from its own resources at least 80% of any down payment required. Up to 20% of the down payment could be provided from other sources, such as from nonprofit entities and State and local assistance programs. A family could count amounts applied from its Family Self-Sufficiency Escrow Account towards the 80% requirement.

Ineligibility under other programs.-Section 8(y)(5) would specify that a family could not be assisted under the homeownership option during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by HUD.

Inapplicability of certain provisions.-Section 8(y)(6) would specify certain sections in section 8 that would not apply to exercise of the homeownership option under section 8(y). In addition to the provisions specified, other provisions HUD determines are inconsistent would also be inapplicable. Section 8(h) contains a comparable provision for the section 8 program in general.

Reversion to rental status.-Section 8(y)(7) would establish rules to govern the situation where a family defaults under an FHA-insured mortgage. In such circumstances, the family could not continue to receive voucher or certificate assistance unless it transferred the dwelling to HUD, moved from the dwelling within the deadlines established or approved by HUD, agreed that any amounts the family is required to pay to reimburse the Family Self-Sufficiency program escrow account, as required by section 23(d)(3), may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family (the family would have to make up any difference with additional payments to the owner) and meet other requirements established or approved by HUD. In this way, unsuccessful families would have an

incentive to minimize the loss to HUD that occurs through the often lengthy process of foreclosure.

Families would, of course, be eligible for the Assignment program. In that case, the family would retain ownership as provided under the Assignment program and would only be required to assign title to HUD and move if the family has been unable to resume its mortgage obligations (a) at the end of three years, or (b) at such time as HUD determines the family is no longer eligible for continued participation under the Assignment program.

If a family defaulted under a non-FHA-insured mortgage, it could not continue to receive assistance unless it complied with HUD requirements.

A family that defaulted under a mortgage (whether or not insured by HUD) could not again exercise the homeownership option under the Voucher or Certificate programs.

Definition of first time homeowner.-For purposes of the proposed homeownership authority, the term "first-time homeowner" would be defined to mean-(1) a family, no member of which has had a present ownership interest in a principal residence during the three years preceding the date on which the family initially receives assistance for homeownership; and (2) any other family, as HUD may prescribe.

Subsection (c) would make a conforming amendment to section 3 of the 1937 Act to exempt families assisted under section 8(y) from the 30% "rent-to-income" rule governing public and assisted housing.

Subsection (d) would modify the rules governing use of escrow account under the Family Self Sufficiency program. Families electing to use vouchers and certificates for homeownership could use up to 50% of the escrow account for a down payment and the remainder to cover the costs of major repair and replacement needs of the dwelling that arise after the family become a homeowner. If a family's mortgage is foreclosed, the remaining amounts of the escrow account would be paid to HUD, and the family could be required to reimburse the escrow account for some or all of the amounts used in connection with homeownership.

Subsection (e) would amend the National Housing Act to make FHA insured mortgages provided to section 8 recipients selecting the homeownership option obligations of the General Insurance (GI) Fund, instead of the Mutual Mortgage Insurance (MMI) Fund.

Sec. 522-Moving to opportunity for fair housing

Section 512 would extend the Moving to Opportunity (MTO) demonstration program established under HUD's FY 1992 appropriations Act for two additional years.

Subsection (a) would provide the general authority for the MTO demonstration program. The subsection would direct the Secretary to carry out a demonstration to help minority families with children to move out of areas with high concentrations of persons living in poverty to areas with low concentrations. The program would demonstrate the extent to which mobility initiatives: (1) further objectives of the Fair Housing Act; (2) enhance the short- and long-term employment opportunities of adult participants; and (3) enhance the short- and long-term educational and employment opportunities of child participants. Finally, the program would compare and contrast the costs associated with implementing a mobility program with the costs associated with the routine implementation of the voucher and certificate programs.

Subsection (b) would authorize HUD to reserve, from amounts made available for the certificate program for fiscal years 1993 and 1994, budget authority to fund up to 1,500 certificates each year for purposes of carrying out the MTO demonstration.

Subsection (c) would target the program to cities with populations exceeding 350,000 that are in consolidated metropolitan statistical areas (CMSAs), as established by the Office of Management and Budget, with populations exceeding 1,500,000.

Subsection (d) would require the Secretary to enter into contracts with nonprofit organizations for counseling and other services in connection with the MTO demonstration program. The subsection would also require the Secretary to enter into annual contributions contracts with PHAs for the administration of the certificates.

Subsection (e) would require the Secretary to submit interim reports to Congress starting 2 years after the date of enactment of this Act. The interim reports would include information on the number of persons served, the level of counseling and the types of services provided, the cost of providing such counseling and services, updates on the employment record of assisted families and any other appropriate information. The subsection would require the Secretary to submit a final report to the Congress by September 30, 2004. The final report would describe the long-term housing, employment, and educational achievements of the families assisted under the demonstration.

Subsection (f) would require the Secretary to: (1) review and comment upon the section 8 study contained in the National Affordable Housing Act; (2) review and comment on existing programs that help minority families with children to move out of area with high concentrations of persons living in poverty to areas with low concentrations; (3) independently assess factors that may impede the geographic dispersion of families receiving vouchers and certificates; (4) identify and implement any

administrative revisions that would enhance geographic dispersion and tenant choice and incorporate the positive elements of any existing programs; and (5) submit a report to the Congress describing its findings, administrative actions and recommendations for further legislative action. The report would be due not later than 1 year following the date of enactment of this Act. The Secretary would be required, in preparing the report, to consult with individuals representing fair housing organizations, low income tenants, PHAs and other interested parties.

Sec. 523-Family unification assistance

This section would authorize funding for family unification assistance at \$100 million for fiscal year 1993 and approximately \$103.2 million for fiscal year 1994.

Sec. 524-Housing assistance in Jefferson County, Texas

This section would amend section 213(e) of the Housing and Community Development Act of 1974 to enable families receiving special certificates for use in the Park Central New Community Project to use such certificates in Jefferson County, Texas.

Sec. 525-Applicability of amendment to McKinney Act

This amendment would permit State and local housing agencies that have refinanced certain section 8 projects since November 7, 1988 to retain 50 percent of the savings for use in providing affordable housing to very low income families.

SUBTITLE C-GENERAL PROVISIONS AND OTHER ASSISTANCE PROGRAMS

Sec. 531-Authorizations

Subsection (a) would increase authorized funding for a range of public and assisted housing programs by approximately \$16.1 billion for fiscal year 1993 and approximately \$16.4 billion for fiscal year 1994. This increase in aggregate budget authority would be distributed among various programs as described below.

Subsection (b) would distribute the increase in authorized funding described in subsection (a) among various public and assisted housing programs.

The subsection would authorize funding for public housing development at approximately \$542 million for fiscal year 1993 and approximately \$559 million for fiscal year 1994. The subsection would authorized set-aside funding for Indian housing development at approximately \$245 million for fiscal year 1993 and approximately \$253 million for fiscal year 1994.

The subsection would authorize funding for the revitalization of severely distressed public housing at \$400 million for fiscal

year 1993 and \$412.8 million for fiscal year 1994.

The subsection would authorize funding for vouchers and certificates at approximately \$1.659 billion for fiscal year 1993 and \$1.712 billion for fiscal year 1994. The subsection would require HUD to set-aside 1000 certificates in each fiscal year for purposes of providing replacement assistance under the HOPE program. The subsection would also mandate that not more than 50 percent of the amounts appropriated pursuant to this authorization be used for vouchers.

The subsection would authorize funding for public housing modernization at \$3 billion for fiscal year 1993 and approximately \$3.1 billion for fiscal year 1994. The subsection would also set-aside \$3 million in each fiscal year for purposes of funding training and technical assistance activities under the section 21 homeownership program.

The subsection would authorize funding for the section 8 property disposition certificates at approximately \$91.7 million for fiscal year 1993 and approximately \$94.7 million for fiscal year 1994.

The subsection would authorize funding for the section 8 loan management assistance at approximately \$265 million for fiscal year 1993 and approximately \$274 million for fiscal year 1994.

The subsection would authorize funding for the renewal of expiring section 8 contracts at approximately \$7.262 billion for fiscal year 1993 and approximately \$7.262 billion for fiscal year 1994.

The subsection would authorize funding for the amendments to existing section 8 contracts at approximately \$1.919 billion for fiscal year 1993 and approximately \$1.919 billion for fiscal year 1994.

The subsection would authorize funding for public housing lease adjustments and amendments at approximately \$21.8 million for fiscal year 1993 and approximately \$21.8 million for fiscal year 1994.

Finally, the subsection would authorize funding for public housing replacement activities at \$82.5 million for fiscal year 1993 and approximately \$85.1 million for fiscal year 1994.

Sec. 532-Housing counseling

The section would authorize various housing counseling programs for each of the fiscal years 1993 and 1994.

Subsection (a) would authorize funding for housing counseling at \$5.2 million for fiscal year 1993 and approximately \$5.3 million for fiscal year 1994. The subsection would also set-aside \$1.5

million for use in connection with the MTO demonstration program authorized under section 512 of this Act.

Subsection (b) would authorize funding for emergency homeownership counseling at \$7 million for fiscal year 1993 and approximately \$7.2 million for fiscal year 1994.

Subsection (c) would authorize the prepurchase and foreclosure prevention counseling demonstration at \$365,000 for each of fiscal year 1993 and 1994.

Sec. 533-Public and assisted housing drug elimination

Subsection (a) would authorize the public and assisted housing drug elimination program at approximately \$172 million for fiscal year 1993 and approximately \$178 million for fiscal year 1994.

Subsection (b) would direct the Secretary to issue final regulations implementing the assisted housing component of the drug elimination program not later than 30 days after the date of enactment of this Act.

Subsection (c) would allow public housing drug elimination grants to be made for non-federally funded public housing (i.e. housing that is owned by a PHA but is not assisted under federal housing programs) if the housing is located in a high intensity drug trafficking area and the PHA demonstrates that drug-related activity at the housing has a detrimental effect on public and other federally assisted housing.

TITLE VI-PRESERVATION

SUBTITLE A-PREPAYMENT OF MORTGAGES INSURED UNDER THE NATIONAL HOUSING ACT

Sec. 601-Authorization

This section would authorize the Title VI preservation program at approximately \$638 million for fiscal year 1993 and approximately \$659 million for fiscal year 1994. The section would set-aside \$50 million in each of the fiscal years to assist in the completion of transfers under the mandatory sales program.

Sec. 602-Prepayment amendments

Subsection (a) would amend section 241 of the National Housing Act to require loans insured under that section to have a 40 year maturity and amortization period.

Subsection (b) would amend section 241(f) of the National Housing Act to enable loans insured under that section to cover the amount of rehabilitation costs required by the preservation plan of action and related charges. The provision in existing law permitting the Secretary to combine section 241(d) and 241(f)

loans would be stricken.

Subsection (c) would amend section 213(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 to require that HUD's appraisal guidelines and instructions be amended to provide as an additional assumption that the existing section 8 contracts are terminated when the mortgage is prepaid.

Subsection (d) would make two changes to section 216(d) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990--the provision requiring owners who wish to sell their properties to file a second notice of intent. First, the subsection would require that owners file a copy of their second notices of intent to sell with the State or local government and the mortgagee and inform the tenants of the filing. Second, the subsection would penalize owners who fail to market the property or reject bona fide offers after submitting a second notice of intent to sell. Such owners would be barred from filing a new plan of action or notice of intent to receive incentives for two years and would be required to reimburse the reasonable expenses incurred by priority purchasers who filed an expression of interest.

Subsection (d) would also amend section 217 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 to give tenants and the relevant state and local government access to the documentation supporting the plan of action. Finally, the subsection would amend the preservation law's transition provisions to require owners electing proceed under the 1987 Act provisions to comply with the notification provisions contained in the 1990 Act.

Subsection (e) would make a number of revisions of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (primarily section 220(d)(2)) that are designed to facilitate the purchase of federally assisted projects by priority purchasers. First, the subsection would emphasize that priority purchasers are able to receive the same incentives made available to other qualified purchasers. Second, the subsection would require that a priority purchaser receive an 8 percent return on any actual cash invested in a project--treating them on an equitable basis with owners and for-profit purchasers. Third, the subsection would require that priority purchasers receive reimbursement of all reasonable expenses associated with the acquisition, loan closing and implementation of an approved plan of action. Finally, the subsection would recognize, in the case of priority purchasers, sponsor project oversight expenses as an eligible expense in establishing rents under the Plan of Action, and for purposes of future rent increases.

Subsection (f) would amend section 232 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 to clarify that existing law does not contain an exhaustive list of laws of general applicability that are not preempted.

Subsection (g) would establish a new section 235 under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 to authorize various technical assistance and capacity building efforts.

Section 235(a) would authorize the Secretary to provide technical assistance and capacity building in furtherance of the Title VI preservation program.

Section 235(b) would outline the purposes of technical assistance and capacity building: (1) to promote the ability of residents of eligible housing to meaningfully participate in the preservation process and affect decisions about the future of their housing; (2) to promote the ability of community based nonprofit housing developers and resident organizations to acquire, rehabilitate, and competently own and manage eligible housing as rental or cooperative housing for low and moderate income people; and (3) to assist the Secretary in discharging his obligation to notify potential qualified purchasers of the availability of properties for sale and to otherwise facilitate the coordination and oversight of the preservation program.

Section 235(c) would authorize a \$25 million set-aside from preservation funds for each of fiscal years 1993 and 1994 to support technical assistance and capacity building efforts. 90 percent of these set-aside funds would be used for building resident capacity and funding predevelopment costs in accordance with subsection (d); 10 percent would be used for other purposes in accordance with subsection (e).

Section 235(d) would authorize the provision of ``direct assistance grants'' to resident organizations and community based nonprofit housing development organizations and resident councils in connection with the acquisition of specific projects. Direct assistance grants would include the payment of reasonable administrative expenses to participating intermediaries.

Subsection (d) would require 30 percent of the set-aside funds to be used for resident capacity grants; the remaining funds would be used for predevelopment grants in connection with specific projects. Resident capacity grants would be capped at \$30,000 per project; predevelopment grants would be capped at \$200,000 per project. These limits would be exclusive of any fees paid to a participating intermediary by the Secretary for administering the program.

Under subsection (d), resident capacity grants would be made available to eligible applicants to cover expenses for resident outreach, incorporation of a resident organization, conducting democratic elections, training, leadership development, legal and other technical assistance to the board of directors, staff and members of the resident organization. Such grants would be provided with respect to eligible housing for which an owner has

filed (1) a Notice of Intent under the Low-Income Housing Preservation and Resident Homeownership Act of 1990; or (2) pursuant to transition provisions, the Emergency Low Income Housing Preservation Act of 1987. Eligible applicants would be resident groups or organizations designated by the residents through a democratic and representative process, to be defined by the Secretary.

Under subsection (d), predevelopment grants would be made available to community-based nonprofit housing development organizations and resident councils to cover the cost of organizing a purchasing entity and pursuing an acquisition, including third party costs for training, development consulting, legal, appraisal, accounting, environmental, architectural and engineering, application fees and sponsor's staff and overhead costs. Such grants could be made available with respect to any eligible housing project if the owner has filed an initial Notice of Intent to transfer the housing to a qualified purchaser in accordance with the Low-Income Housing Preservation and Resident Homeownership Act of 1990; or a Notice of Intent and entered a binding agreement to sell the housing to a resident or community-based nonprofit organization under the Emergency Low-Income Housing Preservation Act of 1987. Grants payments would be made in phases, based on performance benchmarks established by the Secretary in consultation with approved intermediaries.

Subsection (d) would require that applications for direct assistance grants be received monthly on a rolling basis and approved or rejected by approved intermediaries of the Secretary on at least a quarterly basis.

Finally, subsection (d) would give applicants the right to appeal to the Secretary the denial of an application by an approved intermediary. Such applicants would be entitled to receive from the Secretary a binding determination within 30 days of appeal.

Section 235(e) would authorize the provision of grant assistance to State and local government agencies and nonprofit intermediaries for the purpose of carrying out such activities that the Secretary deems to be in furtherance of the preservation program.

Section 235(f) would require the Secretary to approve and disburse direct grant assistance made available under subsection (d) through eligible intermediaries. Intermediaries would be selected by the Secretary through a competitive process, which shall include provision for a reasonable administrative fee. The Secretary would administer the program directly in the event the Secretary does not receive an acceptable proposal from an intermediary offering to administer direct grant assistance under subsection (d) in a given state,

Section 235(g) would define the term ``eligible intermediary'' to

mean a State, regional, or national organization (including a quasi-public organization) or a State and local housing agency that meets the following eligibility criteria: (1) has as a central purpose the preservation of existing affordable housing and prevention of displacement; (2) does not receive direct federal appropriations for operating support; (3) in the case of a national nonprofit organization, has been in existence for at least five years prior to the date of application and has received a ruling under section 501(c)(3) of the Internal Revenue Code; (4) in the case of a regional or state nonprofit organization, has been in existence for at least three years prior to the date of application and has received a ruling under section 501(c)(3) of the Internal Revenue Code or is otherwise a tax-exempt entity; (5) has a track record of service to low income individuals or community based nonprofit housing developments organizations in multiple communities and, with respect to direct grant assistance made available under subsection (d), has experience with the allocation or administration of grant or loan funds; and (6) meets standards of fiscal responsibility determined by the Secretary.

Section 235(h) would require the Secretary to develop criteria to select intermediaries through a competitive process. HUD guidelines would need to afford a priority to applications from intermediaries with demonstrated expertise or experience with the program established under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 or under the Emergency Low-Income Housing Preservation Act of 1987. The guidelines would (1) not assign any preference or priority to applications from intermediaries based on their previous participation in administering or receiving federal grants or loans (but may exclude applicants who have failed to perform under prior contracts of a similar nature); (2) require intermediary applicants to prepare proposals which demonstrate adequate staffing, qualifications, prior experience and a plan for participation; and (3) permit an intermediary applicant to serve as the administrator of resident capacity grants, predevelopment grants, or both, based on the applicant's suitability and interest.

Section 235(h) would also permit the Secretary to select more than one state or regional intermediary for a single state or region. The number of intermediaries chosen for each state or region could be based on the number of eligible projects in the jurisdiction, provided there is no duplication of geographic coverage by intermediaries in the administration of the direct assistance grant program. National nonprofit intermediaries would be selected to administer the direct assistance grant program only with respect to those states or regions where no other eligible intermediary, acceptable to the Secretary, has submitted a proposal to participate. With respect to grants made available for other purposes under subsection (e), preference would be given to eligible regional, state and local intermediaries, over national nonprofit organizations.

Section 235(i) would establish various conflict of interest provisions. Intermediaries approved for the disbursement of direct assistance grants would be required to certify that they will serve only as delegated program administrators, charged with the responsibility for reviewing and approving grant applications on behalf of the Secretary. Intermediaries would need to establish appropriate procedures for grant administration and fiscal management, pursuant to standards established by the Secretary. Intermediaries would also receive a reasonable administrative fee; they would be barred, however from providing other services to grant recipients with respect to properties that are the subject of the grant application and from receiving payment, directly or indirectly, from the proceeds of grants they have approved.

Section 235(j) would define the term ``community-based nonprofit housing developer'' to mean a nonprofit community development corporation which (1) has received a ruling under section 501(c)(3) of the Internal Revenue Code of 1986; (2) has been in existence for at least two years prior to the date of the grant application; (3) has a record of service to low- and moderate-income people in the community in which the project is located; (4) is organized at the neighborhood, city, county or multi-county level; and (5) agrees to form a purchaser entity that conforms to the Title VI regulatory definition of a community based nonprofit organization and agrees to use its best efforts to secure majority tenant consent to the acquisition of the project for which grant assistance is requested.

Subsection (h) would amend section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and section 233 of the Emergency Low Income Housing Preservation Act of 1987 to correct a drafting error in the definition of ``eligible low income housing''. The amendment would clarify that the statutory definition does not include Section 221(d)(3) Market Rate projects that have Section 8 New Construction and Substantial Rehabilitation set-asides.

Subsection (i) would amend section 222(e) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 to require HUD to notify the tenants of a preliminary windfall profits determination at the same time that the owner is informed. Tenants would be given 60 days to comment on the preliminary determination. Following the comment period, and based on the record developed, the Secretary would make a final determination.

SUBTITLE B-OTHER PRESERVATION PROVISIONS

Sec. 611-RESTORE for troubled multifamily housing

This section 611 would incorporate key elements of the Administration's RESTORE proposal.

Subsection (a) would rename section 201 of the Housing and Community Development Amendments of 1978 ``RESTORE for Troubled Multifamily Housing.''

Subsection (b) would amend Section 201(d) of the Housing and Community Development Amendments of 1978 to require the following additional elements before an owner can receive funding: (1) all reasonable attempts have been made to take all appropriate actions within the power of the owner or manager of the project and provide suitable housing for project residents; (2) the project has a feasible plan to involve the residents in project decisions; (3) the affirmative fair housing marketing plan meets applicable requirements; and (4) the owner certifies that it will comply with various equal opportunity statutes.

Subsection (c) would provide selection criteria for the allocation of assistance under the RESTORE program. The subsection would repeal section 201(k)(4) of the Housing and Community Development Amendments of 1978, which currently provides selection criteria for the allocation of capital improvement loans. The subsection would then add a new section 201(n). This new section would require the Secretary to award assistance under the RESTORE program on the basis of the following selection criteria: (1) the extent to which the project presents an imminent threat to the life, health, and safety of the residents, (2) the extent to which the project is physically or financially troubled; (3) the extent to which there is evidence that there will be significant opportunities for the residents to become involved in management of the project; (4) the extent to which there is evidence that the owner has provided competent management and complied with all regulatory and administrative instructions; and (5) other criteria specified by HUD. In addition, HUD would be required to select eligible projects that have federally insured mortgages in force before any other eligible project.

Subsection (d) would amend section 201(l) of the Housing and Community Development Amendments of 1978 to permit the Secretary to require owners receiving assistance under the RESTORE program to maintain the affordability of the housing for its ``remaining useful life''. The term ``remaining useful life'' would mean the period during which the physical characteristics of the assisted housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.

Subsection (e) would amend section 201 of the Housing and Community Development Amendments of 1978 to add a new subsection (o). This new subsection would make projects receiving assistance under the RESTORE program ineligible for prepayment incentives under the Emergency Low Income Housing preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990. In addition, projects receiving financial assistance

under such Acts would be ineligible for assistance under the RESTORE program.

Subsection (f) would amend section 201(k)(2) of the Housing and Community Development Amendments of 1978, which requires owner to make certain contributions in exchange for receiving assistance for capital improvements. The amendment would require HUD to give owners credit for advances made to the project during a three year period prior to the application for assistance.

Subsection (g) would amend section 201 of the Housing and Community Development Amendments of 1978 to add a new subsection (p). This new subsection would require HUD to coordinate the allocation of assistance under the RESTORE program with section 8 loan management assistance as well as with assistance provided in connection with the disposition of HUD-held and HUD-owned mortgages. Such coordination would be designed to enhance the cost effectiveness of the federal response to troubled multifamily housing.

Subsection (h) would authorize the RESTORE program at \$52.2 million for fiscal year 1993 and \$53.9 million for fiscal year 1994.

Subsection (i) would establish a comprehensive planning process for the older assisted inventory. The subsection would require the owner of each ``covered multifamily housing property'' to submit to HUD a comprehensive needs assessment of the property. The subsection would stagger the submission of these needs assessments, requiring owners of $\frac{1}{3}$ of the covered properties to submit their needs assessments in each of fiscal years 1993, 1994 and 1995.

The subsection would require each needs assessment to contain the following information: (1) a description of any financial or other assistance currently needed to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project; (2) a description of any financial or other assistance that will be needed to ensure that the property is maintained in a living condition and to ensure the financial viability of the project during the remaining useful life of the property; (3) a description of the resources available for meeting the current and future needs of the property and the likelihood of obtaining such resources; and (4) a description of any HUD assistance needed for the property.

The subsection would required HUD to establish the form and manner of the submission of the comprehensive needs assessments. HUD would require each owner of a covered property to make available to the residents the assessment that is to be submitted and to provide residents with the opportunity to submit comments and opinions before the assessment is submitted. The subsection would also require owners of covered properties that are financed or assisted by a state housing finance agency to simultaneously

submit their needs assessments to the state agency. HUD, in turn, would be required to review each needs assessment and to approve the assessment within 90 days of receiving it unless HUD determines that the assessment has not been provided in a substantially complete manner. HUD would also be required to notify each owner (and the State agency, where applicable) of its decision to approve or disapprove the owners needs assessment. Specifically, HUD would be required to inform the owner in writing of the reasons for disapproval within 30 days after making its determination. HUD would require any owner whose assessment is disapproved to resubmit an amendment assessment within 30 days of receiving a written notice of disapproval. Finally the subsection would define the term ``covered multifamily housing property''.

TITLE VII-RURAL HOUSING

Sec. 701-Program authorizations

This section would amend section 513 of the Housing Act of 1949, the provision authorizing FmHA rural housing programs. The various insurance and guarantee programs would be authorized at approximately \$2.5 billion for FY93 and FY94 and the various grant programs would be authorized at approximately \$500 million for FY93 and FY94

Sec. 702-Deferred mortgage demonstration

This section would amend section 502(g)(3) of the Housing Act of 1949 to reauthorize the section 502 deferred mortgage demonstration program for FY93 and FY94

Sec. 703-Set-aside for underserved areas and colonias

This section would make two amendments to section 509(f)(4) of the Housing Act of 1949. First, the funding set-asides for underserved rural areas and colonias would be reauthorized for FY93 and FY94. Second, the colonias provisions would be amended to allow housing provided outside of, but serving the residents of, a colonias to be eligible for set-aside funds.

Sec. 704-Permanent authority for section 523

This section would make two amendments to section 523 of the Housing Act of 1949, the mutual and self-help housing program. First, the program would be permanently authorized. Second, the program would be amended to add the repair of section 502 inventory properties as an activity eligible for assistance.

Sec. 705-Non-profit set-aside

This section would make several amendments to section 515(w) of the Housing Act of 1949, the provision setting-aside section 515 rural rental housing development funds for use by non-profits.

First, the 9% non-profit set-aside of section 515 would be reauthorized for F93 and FY94.

Second, the nonprofit set-aside would be amended to allow the low income housing tax credit to be used with projects financed under the set-aside. Third, eligible non-profit entities would be defined to prevent ``shell'' non-profits from accessing the set-aside funds. A non-profit would have to own an interest in and materially participate in the development and operation of the project; have non-profit tax-exempt status under sections 501(c)(3) or 501(c)(4) of the IRC; have among its purposes the planning, development or management of low income housing or community development; and not be affiliated with or controlled by a for-profit organization.

Fourth, the process for reallocating a state's unused set-aside funds would be amended to make funds available for eligible non-profits nationwide before reallocating the unused funds on a proportional basis to the states for use by for-profit developers.

Finally, the small state minimum non-profit set-aside would also be amended to allow FmHA to provide more than \$750,000 to a state if such amounts were necessary to finance a project.

Sec. 706-Housing preservation grants

This section would amend section 533 of the Housing Act of 1949, the housing preservation grant program. The program would be amended to allow grants to be used for replacement housing when rehabilitation is not practical and the owner could not otherwise qualify for replacement assistance under the section 502 loan program. Replacement costs provided under this program would be capped at \$15,000 per unit.

Sec. 707-Use of FmHA inventory for transitional housing opportunities for homeless persons and turnkey housing

This section would amend Title V of the Housing Act of 1949. The FmHA property disposition program would be amended to make it easier to obtain property for transitional housing and for homeless persons to eventually qualify for lease or ownership of FmHA homes.

FmHA would be required to add as a priority the lease or sale of program and nonprogram inventory property to non-profits for transitional housing or turnkey housing opportunities for homeless persons. Non-profits would be eligible to lease property for up to 10 years for \$1 or purchase property at a 10% discount off of the fair market value. This section would be subject to the availability of appropriations.

Sec. 708-Preservation

This section would make several amendments to section 502(c) of the Housing Act of 1949, the provision establishing preservation requirements for rural rental housing financed under the section 515 program.

Subsection (a) would extend the 1987 Act rural housing preservation provisions to section 515 projects financed between 1979 and 1989.

Subsection (b) would amend the preservation provisions to allow project owners to tap excess section 8 reserves in exchange for extending the long term use restrictions on the project.

Subsection (c) would establish an Office of Rural Rental Housing Preservation in FmHA National headquarters to evaluate and process prepayment applications in a uniform fashion and to monitor implementation of the preservation program.

Sec. 709-Disaster assistance

This section would amend section 541 of the Housing Act of 1949, the provision authorizing Farmer's Home to provide housing assistance in the event of a disaster. The disaster assistance provisions in existing law would be amended to draw funds from FEMA appropriations rather than rural housing program funds. This section would also limit the waiver of the rural area definition in existing law, for the purposes of providing disaster assistance to areas that have high concentrations of farmworkers.

Sec. 710-Administrative appeals process

This section would amend section 510 of the Housing Act of 1949 to restore an administrative appeals process for FmHA programs.

Sec. 711-Prohibition on transfer of rural housing programs

This section would prohibit the Secretary of Agriculture from folding housing programs into the newly-created Rural Development Administration, established in the 1990 Farm Bill.

Sec. 712-FmHA reform provisions

This section would make several amendments to sections 515 and 517 of the Housing Act of 1949 to make reforms to the section 515 rural rental housing program.

Subsection (a) would increase the equity contribution required by borrowers under the section 515 rural rental housing program from 3% to 6%, except for projects developed in areas of extreme poverty and substandard housing or projects not using the low income housing tax credit. The option of using a letter of credit, instead of cash, to cover the 2% operating reserve required in existing law would be eliminated.

Subsection (b) would allow FmHA to obtain independent

certifications of project costs. These could be paid for out of the insurance fund as a program cost.

Subsection (c) would require FmHA to undertake a demonstration program in several states comparing negotiated bid prices to competitively bid prices and report to Congress on its findings within 18 months.

Subsection (d) would require FmHA to establish standard guidelines for allowable project costs among state offices.

Subsection (e) would require FmHA to develop uniform procedures for identifying and sharing information on projects costs, builder profit, identity of interests relationships, and other factors with housing credit agencies allocating low income housing tax credits to section 515 projects.

Subsection (f) would require FmHA to establish a process for coordinating the selection of projects under the Section 515 rural rental housing program with the housing needs and priorities as established in a state Comprehensive Housing Affordability Strategy and Low Income Housing Tax Credit allocation plan.

Subsection (g) would require FmHA to promulgate regulations to implement this section and to implement cost containment and vulnerability measures to address identity of interest relationships, reserve account abuses and program enforcement authorities not later than 60 days after enactment of this Act.

Sec. 713-Rural voucher program

This section would establish a rural housing voucher program under the Farmers Home Administration to provide rental assistance to very low income families. The Secretary of Agriculture would establish payment standards based upon the fair market rent for the area. The voucher would cover the difference between the rental payment standard and 30% of a family's adjusted monthly income.

FmHA would be required to coordinate the voucher program with the section 515 rural rental housing program and the section 533 housing preservation grants program.

The rural voucher program would be authorized at \$140 million for FY93.

Sec. 714-Site acquisition and development

This section would amend section 524 of the Housing Act of 1949, the site acquisition and development program. The program would be amended to enable FmHA to make grants to non-profits to capitalize revolving loan funds to carry out eligible program activities.

Sec. 715-Subdivision approval

This section would amend section 535 of the Housing Act of 1949 to require FmHA to accept subdivision approvals made by local, county or state agencies.

TITLE VIII-HOUSING FOR PERSONS WITH SPECIAL NEEDS

SUBTITLE A-SUPPORTIVE HOUSING FOR THE ELDERLY

Sec. 801-Administration

This section would authorize federal housing programs that serve low-income elderly persons.

Subsection (a) would authorize funding for the section 202 program. Specifically, the section would authorize funding for capital advances at approximately \$566 million for fiscal year 1993 and approximately \$574 million for fiscal year 1994. The section would also authorize funding for project rental assistance at approximately \$466 million for fiscal year 1993 and approximately \$481 million for fiscal year 1994.

Subsection (b) would authorize the revised congregate housing services program at approximately \$35 million for fiscal year 1993 and approximately \$36 million for fiscal year 1994.

Subsection (c) would authorize the HOPE for Elderly Independence program. Specifically, the section would authorize funding for rental assistance at \$35.5 million for fiscal year 1993 and approximately \$36.6 million for fiscal year 1994. The section would also authorize funding for supportive services at \$10.4 million for fiscal year 1993 and approximately \$10.7 million for fiscal year 1994.

Sec. 802-Supportive housing for the elderly

This section would amend section 202(f)(2) of the Housing Act of 1959, the provision establishing the need for supportive housing for the elderly in the area to be served as one of the selection criteria for the allocation of section 202 funds. This section would modify this selection criterion by requiring HUD to take into consideration the availability of public housing for the elderly and the vacancy rates for such facilities.

SUBTITLE B-SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

Sec. 811-Authorization

This section would authorize funding for the section 811 program. Specifically, the section would authorize funding for capital advances at approximately \$106.2 million for fiscal year 1993 and approximately \$109.5 million for fiscal year 1994. The section

would also authorize funding for project rental assistance at approximately \$103.4 million for fiscal year 1993 and approximately \$106.7 million for fiscal year 1994.

SUBTITLE C-SUPPORTIVE HOUSING FOR THE HOMELESS

Sec. 821-Authorization

Subsection (a) would authorize appropriations for the Emergency Shelter Grants Program at approximately \$99.2 million for fiscal year 1993 and approximately \$102.4 million for fiscal year 1994.

Subsection (b) would authorize the Supportive Housing Demonstration Program at approximately \$203.5 million for fiscal year 1993 and approximately \$210 million for fiscal year 1994.

Subsection (c) would authorize the Supplemental Assistance for Facilities to Assist the Homeless program at approximately \$15.3 million for fiscal year 1993 and approximately \$15.8 million for fiscal year 1994.

Subsection (d) would increase budget authority for section 8 assistance for single room occupancy dwellings by approximately \$108.4 million for fiscal year 1993 and approximately \$111.8 million for fiscal year 1994.

Subsection (e) would authorize approximately \$42.5 million for fiscal year 1993 and approximately \$43.8 million for fiscal year 1994 for Shelter Plus Care: Homeless Rental Housing Assistance; increase budget authority by approximately \$83.7 million for fiscal year 1993 and approximately \$86.4 million for fiscal year 1994 for Shelter Plus Care: Section 8 Moderate Rehabilitation Assistance for Single Room Occupancy Dwellings; authorize approximately \$132.4 million for fiscal year 1993 and \$136.7 million for fiscal year 1994 for Shelter Plus Care: Section 202 Rental Assistance; and provide that funds available under the Shelter Plus Care provision would remain available until expended.

Sec. 822-Safe havens for the homeless

This section would add a new subtitle within Title IV of the Stewart B. McKinney Homeless Assistance Act to create a demonstration program to provide shelter, support and stabilization for shelter-resistant people living on the street. The program would be Subtitle G-Safe Havens for the Homeless. (References are to sections of new subtitle).

Establishment of demonstration program.-Section 491 would establish the Safe Havens program. Subsection (a) would direct HUD to carry out a program to demonstrate the desirability and feasibility of providing very low-cost housing, to be known as Safe Havens. Safe Havens would be for seriously mentally ill homeless persons who are unwilling or unable to participate in

mental health treatment programs or to receive other supportive services.

Subsection (b) would set forth the purposes of the Safe Havens program. The program would be designed to demonstrate: whether Safe Havens are attractive to seriously mentally ill homeless persons; the extent to which residents are eventually willing to be engaged in treatment programs and to move toward a more traditional form of housing after a period of residence in a Safe Haven; whether Safe Havens are cost-effective in comparison with other alternatives for seriously mentally ill homeless persons; and the various ways in which Safe Havens could be arranged to provide accommodations and low-demand, full-time mental health case management for seriously mentally ill homeless persons.

Definitions.--Section 492 would set forth relevant definitions. These would include definitions of ``applicant'', ``eligible person'', ``facility'', ``low-demand mental health care management'', ``operating costs'', ``private nonprofit organization'', ``recipient'', ``Safe Haven'', ``Secretary'', ``seriously mentally ill'', ``State'', and ``unit of general local government''.

An ``eligible person'' would be an individual who (A) is seriously mentally ill and resides primarily in a place not designed for sleeping, although such a person could occasionally reside in an emergency shelter; and (B) is currently unwilling or unable to participate in mental health treatment programs or receive other supportive services.

``Low-demand mental health case management'' would be the provision, on a 40-hour per week basis, of mental health case management in a non-coercive manner.

``Operating costs'' would include the cost of 24-hour management, and maintenance, repair, and security; utilities, fuel, furnishings, and equipment; and other reasonable costs.

A ``Safe Haven'' would be a facility that provides a residence for an unspecified period of time for seriously mentally ill homeless persons. A Safe Haven would provide private or semi-private accommodations and could provide common kitchens, dining rooms and bathrooms. Occupancy would be limited to 25 persons.

Program assistance.--Section 493 would set forth the program assistance that HUD could provide under the Safe Haven program. Subsection (a) would set forth the following eligible activities: rehabilitation and/or acquisition, leasing, operating costs, costs for administration, outreach, low demand mental health case management, and other activities including the modification of an existing facility to create a Safe Haven. Costs for administering the Safe Havens program could not exceed 10% of the amount made available for rehabilitation, leasing, and operating costs. Safe

Havens grants could cover no more than 50 percent of the cost of low demand mental health case management. The subsection would also limit the period of assistance to five years with the exception of rehabilitation, acquisition and modification expenses. HUD could, however, authorize assistance for up to an additional five years, subject to HUD's finding that the recipient's performance was satisfactory and subject to HUD's finding that the recipient's performance was satisfactory and subject to the availability of appropriations. Finally, the subsection would authorize the Secretary to impose a cap on grants through regulation.

Subsection (b) would establish matching requirements. It would require that the total assistance under subsection (a) be matched on a dollar-for-dollar basis. The value of leases, staff salary, and time and services contributed by volunteers would count toward the match.

Requirements.-Section 494 would set forth the program requirements. Subsection (a) would set forth minimum requirements for an application. The application would be required to contain a description of the proposed facility, a description of the number and characteristics of the expected occupants, a plan for identifying and selecting eligible persons, a program plan, a plan for adequate security, an estimate of program costs, a description of matching resources, assurances that the facility will have 24-hour, on-site management when practicable, assurances that the facility will be operated for the intended purposes, a certification that the proposal is consistent with the applicable jurisdiction's CHAS, a certification that the applicant will comply with applicable civil rights and non-discrimination law, a plan for program evaluation, and other information as required by the Secretary. The program plan would include a description of how the facility will operate, how low-demand mental health case management will be provided, how the applicant will monitor resident's willingness to participate in treatment and services programs, how access to supportive services will be secured for participating residents, how access to permanent housing with services will be sought, and how outreach activities will be conducted. The application would also have to provide assurances that the applicant will have control of a site for the proposed project within one year after notification of an award for grant assistance. If the applicant failed to obtain such control within that year, the grant would be recaptured and reallocated.

Subsection (b) would direct HUD to establish selection criteria for a national competition for assistance under the program. Criteria would include the ability of the applicant to develop and operate a Safe Haven, the need for a Safe Haven in the jurisdiction involved, the extent to which the program would offer opportunities for permanent housing and supportive services after stabilization in a Safe Haven, the cost-effectiveness of the proposed program.

Subsection (c) would set forth matters concerning the operation of the Safe Haven to which the applicant would have to agree.

Occupancy charge.-Section 495 would require residents of a Safe Haven to pay an occupancy charge not in excess of the amount set forth in section 3(a) of the United States Housing Act of 1937 (30 percent of adjusted income), except that the recipient would be permitted to phase in or set a lower occupancy charge based on the type of living accommodations provided, and would be permitted to reserve payments to assist residents in moving to permanent housing.

Removal of residents.-Section 496 would authorize a recipient of assistance to remove a resident who endangers the safety, welfare, or health of other residents or repeatedly violates a condition of occupancy contained in the rules for the Safe Haven (as set forth in the application, or as later amended). State and local laws that would affect the recipient's ability to so remove residents would be preempted.

Evaluation and report.-Section 497 would require the Secretary to conduct an evaluation of the Safe Haven program and to submit to Congress no later than December 31, 1994 a report setting forth the findings of the Secretary as a result of the evaluation.

Regulations.-Section 498 would require the Secretary to establish requirements as necessary to carry out the program by notice in the Federal Register. It would require the Secretary to consult with officials of the appropriate agencies of the Department of Health and Human Services and representative provider and public interest groups in establishing requirements to carry out the provisions for the program and in selecting applicants for assistance under the program. These agencies would include the Alcohol, Drug Abuse, and Mental Health Administration and the Office of Programs for the Homeless Mentally Ill. It would clarify that the supplemental security income program applies to participants in the Safe Havens program, except that residents would not be considered inmates of public institutions or have their benefits reduced or terminated due to participation in Safe Havens. Safe Havens would not be considered a hospital, nursing facility, institution for mental disease or other inpatient facility for purposes of the Social Security Act, and would not be denied Medicaid due to participation in the program.

Authorization of appropriations.-Section 499 would authorize the Safe Havens program at \$50 million for fiscal year 1993 and \$51.6 million for fiscal year 1994.

Sec. 823-Applicability of Shelter Plus Care

This section would amend the Shelter Plus Care program to permit public nonprofit organizations to participate.

SUBTITLE D-HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Sec. 831-Authorizations

This section would authorize the Housing Opportunities for Persons with AIDS program at \$100 million for fiscal year 1993 and \$103.2 million for fiscal year 1994.

Sec. 832-Program amendments

This section would amend the grant allocation formula to specify that the incidence of AIDS, for purposes of allocating funds, shall be determined by the Centers for Disease Control; and would amend the additional requirements for metropolitan areas to require that metropolitan areas designate their chief elected official to receive grant funds.

Sec. 833-Housing opportunities for persons with AIDS

This section would direct the Secretary to issue final regulations implementing the Housing Opportunities for Persons with AIDS program not later than 30 days after the date of enactment of this Act.

TITLE IX-COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

SUBTITLE A-COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND PRESERVATION

Sec. 901-Community development authorizations

This section would amend section 103 of the Housing and Community Development Act of 1974 to provide authorizations for the CDBG program of \$3.9 billion in FY93 and \$4 billion in FY94. Set-asides for work-study, historically black colleges, and insular areas would also be authorized. This section would also amend section 108 of the Housing and Community Development Act of 1974 to authorize the section 108 loan guarantee program at \$300 million in each of FY93 and FY94.

Sec. 902-Homeownership assistance under CDBG

This section would amend section 907(b) of the National Affordable Housing Act to make direct homeownership assistance (such as interest subsidies, downpayment assistance, closing costs assistance) a permanently eligible activity under CDBG. The sunset provision in existing law would be eliminated.

Sec. 903-Set-aside for state technical assistance

This section would amend section 106(d) of the Housing and Community Development Act of 1974 to allow states to set-aside 1% of program funds for technical assistance to local governments and non-profit program recipients.

Sec. 904-Elimination of nonhousing community development plan

This section would amend section 104 of the Housing and Community Development Act of 1974 to eliminate the non-housing community development plan-required of all CDBG grantees in addition to their basic community development plan and their comprehensive housing strategy (CHAS).

Sec. 905-Loans of CDBG funds

This section would amend section 105(a)(14) of the Housing and Community Development Act of 1974 to clarify that CDBG grantees could make loans to any entity and for any eligible activities for which they can now make a direct grant.

Sec. 906-CDBG code enforcement

This section would amend section 105(a)(3) of the Housing and Community Development Act of 1974, the provision authorizing code enforcement to arrest the decline of deteriorated or deteriorating areas as an allowable activity under the CDBG program. Communities would be permitted to use private, as well as public, funds to make necessary improvements in undertaking code enforcement with CDBG funds.

Sec. 907-CDGB set-aside for colonias

This section would amend section 916 of the National Affordable Housing Act, the provision setting-aside CDBG funds in US-Mexico border states for use in colonias. The set-aside would be reauthorized and amended to allow grants to be made for any CDBG-eligible activity that serves the needs of the residents of the colonias-particularly those related to housing and water and sewage facilities.

Sec. 908-Approval of multi-jurisdictional agreements

This section would amend section 102(a)(1) of the Housing and Community Development Act of 1974 to allow states to approve multi-jurisdictional agreements among non-entitlement communities, instead of the HUD Secretary.

Sec. 909-Neighborhood-based nonprofit organizations

This section would amend section 105(a)(15) of the Housing and Community Development Act of 1974, the provision defining non-profit entities eligible for participation under the CDBG program. The definition of eligible non-profits would be expanded beyond ``neighborhood-based non-profits'' to ensure that broader-based non-profits serving rural areas would be eligible.

Sec. 910-Economic development

This section would make several amendments to section 105 of the Housing and Community Development Act of 1974 designed to provide additional flexibility to, and ease the regulatory burdens on, CDBG grantees undertaking economic development activities.

Subsection (a) would exempt funds spent on technical assistance to public and non-profit entities for capacity building activities from the administrative expenses cap in existing law.

Subsection (b) would ease the regulatory documentation burden for job creation or retention activities carried out under CDBG. All jobs created in low-income census tracts meeting specified distress criteria would be presumed to meet the national objective of benefiting low- and moderate-income persons.

Subsection (c) would ensure that CDBG grantees and HUD have sufficient flexibility in determining the amount of assistance that is appropriate for economic development projects. HUD could not limit assistance to only businesses for which no other assistance is available or which would not go forward without the assistance.

This subsection would also direct HUD to ensure that grantees have effective mechanisms in place to determine that an assisted activity is financially viable and assistance is appropriate relative to the public benefit to be created.

Subsection (d) would require the Secretary to minimize paperwork and regulatory burden on small and micro-businesses receiving CDBG assistance and to provide additional flexibility in determining the appropriateness of assistance to small and micro-businesses. This subsection would also exempt funds spent on training, technical assistance, and other support services to improve assistance to small and micro-businesses from the administrative expenses cap in existing law.

Subsection (e) would define ``small business'' and ``micro-business''.

Subsection (f) would direct the Secretary to implement an on-going training program for Department staff involved in economic development activities to ensure regulations and guidelines are implemented in a consistent manner.

Subsection (g) would direct GAO to conduct a study on the types and quality of jobs created through CDBG assistance and the extent to which these projects enhance the upward mobility of low- and moderate-income persons.

Sec. 911-Neighborhood Development Program

This section would make several amendments to section 123 of the Housing and Urban-Rural Recovery Act of 1983, the provision authorizing the Neighborhood Development Demonstration Program. First, the program would be authorized on a permanent, rather

than demonstration, basis at \$2.5 million in FY93 and \$3 million in FY94. Second, the program would be amended to increase the limitation on the number of grants that could be awarded to multiyear grantees from the 30% in existing law to 50%. Third, the maximum grant award under the program would be increased from \$50,000 to \$75,000, but only if appropriations for the program exceed \$3 million. Finally, the program would be renamed as the Honorable John Heinz Neighborhood Development Program to commemorate the late Senator Heinz's support and interest in this program.

Sec. 912-Neighborhood Reinvestment Corporation Act

This section would amend section 608(a) of the Neighborhood Reinvestment Corporation Act to authorize the Neighborhood Reinvestment Corporation at \$40 million in FY93 and \$41 million in FY94.

SUBTITLE B-REGULATORY PROGRAMS

Sec. 921-National Commissions

Subsection (a) would permit appropriations for the Manufactured Housing Commission to remain available until expended.

Subsection (b) would extend the life of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing for an additional 12 months and would authorize \$500,000 for the Commission to complete its work.

Subsection (c) would extend the life of the National Commission on Severely Distressed Public Housing for an additional 6 months and would authorize \$250,000 for the Commission to complete its work.

SUBTITLE C-MISCELLANEOUS PROGRAMS

Sec. 931-HUD research and development

This section would authorize funding for HUD Research and Development at \$27.3 million for fiscal year 1993 and approximately \$28.2 million for fiscal year 1994.

Sec. 932-Fair Housing Initiatives Program

This section would reauthorize and revise the Fair Housing Initiatives Program, the primary vehicle for private and nonprofit fair housing enforcement.

Subsection (a) would establish findings which support changes to the Fair Housing Initiatives Program and which reflect recent changes in fair housing and fair lending laws. These findings would recognize that: (1) in the past half decade, there have been major legislative and administrative changes in federal fair housing and fair lending laws and substantial improvements in the

nation's understanding of discrimination; (2) in response to evidence of continuing housing discrimination, the Congress passed the Fair Housing Act Amendments of 1988, to provide for more effective enforcement of fair housing rights through judicial and administrative avenues and to expand the number of protected classes covered under federal fair housing laws; (3) in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Congress expanded the disclosure provisions under the Home Mortgage Disclosure Act to provide increased information on the mortgage lending patterns of financial institutions; (4) in the Americans with Disabilities Act of 1990 the Congress provided a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; (5) in 1991, data collected under the Home Mortgage Disclosure Act disclosed evidence of pervasive discrimination in the Nation's mortgage lending markets; (6) the Housing Discrimination Survey, released by the Department of Housing and Urban Development in 1991, found that Hispanic and African-American homeseekers experience some form of discrimination in at least half of their encounters with sales and rental agents; (7) the Fair Housing Initiatives Program should be revised and expanded to reflect the significant changes in the fair housing and fair lending area that have taken place since the Program's initial authorization in the Housing and Community Development Act of 1987; (8) continuing educational efforts by the real estate industry are a useful way to increase the understanding of the public of their fair housing rights and responsibilities; and (9) the proven efficacy of private nonprofit fair housing enforcement organizations and community-based efforts makes support for these organizations a necessary component of the fair housing enforcement system.

Subsection (b) would make a number of amendments to section 561 of the Housing and Community Development Act of 1987--the original provision authorizing the Fair Housing Initiatives program.

The new subsection 561(b) would authorize enforcement initiatives by private nonprofit fair housing enforcement organizations. The Secretary would enter into contracts with fair housing enforcement organizations to conduct investigations and enforcement of violations of the 1968 Fair Housing Act. The Secretary would be authorized to enter into multiyear contracts with fair housing enforcement organizations or to take other appropriate actions to enhance the effectiveness of the investigation and enforcement activities.

The investigation and enforcement activities authorized would be designed to: (1) carry out testing and other investigative activities and to build the capacity for housing investigative activities in unserved or underserved areas; (2) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial assistance, sales and rentals of housing and

housing advertising; (3) carry out special projects including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under the 1968 Fair Housing Act and the 1988 Amendments to the Fair Housing Act; (4) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and (5) provide funds for the costs and expenses of litigation, including expert witness fees.

The new subsection 561(c) would authorize funding for qualified fair housing enforcement organizations to support enforcement activities as well as the continued development and implementation of fair housing initiatives. Funding would also be authorized to support capacity enhancement-to help establish, organize and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently unserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. Funding provided to fair housing organizations under this section could not provide more than 50 percent of the operating budget of the recipient organization for any one year.

The new subsection 561(d) would authorize fair housing education and outreach activities at the national, regional and local levels. The Secretary would be required to establish a national education and outreach program through consultation with one or more qualified fair housing enforcement organizations. The national program would be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including public service announcements; television, radio and print advertisements; posters, pamphlets and brochures. In addition, the Secretary would be required to designate a portion of the funds authorized under this section specifically for activities related to the annual national fair housing month.

The revised subsection 561(g) would authorize \$21 million in fiscal year 1993 and \$26 million in fiscal year 1994 for the fair housing initiatives program.

The new subsection 561(h) would define the terms ``qualified fair housing enforcement organization'' and ``fair housing enforcement organization''. A ``qualified fair housing enforcement organization'' would be any organization that (1) is organized as a private, tax-exempt nonprofit, charitable organization; (2) has at least 2 years experience in complaint intake, investigation, testing for fair housing violations and enforcement of meritorious claims; and (3) is engaged in these activities at the time of application for assistance under the FHIP program. Any organization which is not solely engaged in fair housing enforcement activities would also qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities specified above.

The term ``fair housing enforcement organization'' would be any organization that (1) meets the requirements specified for a qualified fair housing enforcement organization in (1) above; (2) is either currently engaged in fair housing enforcement activities or will become engaged in those activities upon receipt of funding under this section; and (3) has at least one year of experience in fair housing activities.

The new subsection 561(i) would prohibit the Secretary from using funds authorized under this section to settle claims, satisfy judgments, fulfill court orders in any litigation action involving either the Department or housing providers funded by the Department or for administrative costs.

The new subsection 561(j) would require the Secretary to submit a comprehensive report to the Congress within 180 days after the close of each fiscal year in which assistance under this section is provided.

Sec. 933-Economic opportunities for low- and very low-income persons

This section would amend Section 3 of the Housing and Urban Development Act of 1968 to update the language of that section to reflect changes in housing and community development laws and to increase enforceability.

Subsection (a) of the new Section 3 would contain findings that: (1) Federal housing and community development programs provide recipients of Federal assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities; (2) low- and very low-income persons often have restricted access to employment and other economic opportunities; (3) employment and other economic opportunities generated by federal housing and community development assistance offer a means to empower low- and very low-income persons; and (4) prior Federal efforts to direct such opportunities to such persons have not been fully effective and should be intensified.

Subsection (b) of the new Section 3 would state that it is the policy of the Congress and the purpose of Section 3 to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly recipients of government housing assistance.

Subsection (c) of the new Section 3 would provide for the manner in which employment opportunities should be directed to low- and very low-income persons. The subsection would provide that the Secretary of Housing and Urban Development shall require that public and Indian housing agencies, their contractors and subcontractors make their best efforts consistent with existing

laws and regulations to give low- and very low-income persons the training and employment opportunities generated by development, operating or modernization assistance. These efforts are to be directed first to residents of the developments for which the assistance is expended, next to residents of other developments managed by the agency, third to participants in Youthbuild programs assisted under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act, and finally to low- or very low-income persons residing within the metropolitan area or nonmetropolitan county.

The subsection would also provide that, in other programs providing housing and community development assistance, the Secretary is required to ensure that, to the greatest extent feasible, consistent with existing laws and regulations, opportunities for training and employment arising in connection with housing rehabilitation, housing construction, or other public construction projects are given to low- or very low-income persons residing within the metropolitan area or nonmetropolitan county, with priority, where feasible, to residents of neighborhoods in which the projects are located and to participants in Youthbuild programs assisted under Subtitle D of the Title IV of the Cranston-Gonzalez National Affordable Housing Act.

Subsection (d) of the new Section 3 would provide similar requirements for contracts in connection with such assistance and projects. The subsection would require that contracts arising out of public housing development, operating and modernization assistance are to be directed to business concerns that provide economic opportunities for residents of the development for which the assistance is expended, residents of other developments managed by the agency expending the assistance, Youthbuild programs receiving assistance under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act, and low- or very low-income residents of the metropolitan area or nonmetropolitan counties in that order of priority.

The subsection would also provide that contracts arising out of housing rehabilitation, housing construction, and other public construction projects in other housing and community development programs are to be directed to business concerns that provide economic opportunities for low- and very low-income persons within the metropolitan area or nonmetropolitan county, with priority, where feasible, to business concerns which provide such opportunities for low- and very low-income residents of the neighborhoods in which the projects are located and to Youthbuild programs receiving assistance under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act.

Subsection (e) of the new Section 3 would define low- and very low-income persons and business concerns that provide economic opportunities.

Subsection (f) of the new Section 3 would require the Secretary to consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and other necessary Federal agencies to carry out the Section.

Subsection (g) of the new Section 3 would require the Secretary to promulgate regulations to implement the Section within 180 days of the date of enactment of the National Affordable Housing Act Amendments of 1992.

Sec. 934-Study of section 3 of the Housing and Urban Development Act of 1968

Subsection (a) would require the Secretary of Housing and Urban Development to submit to the Congress, not later than one year after the date of enactment of this Act, a report describing the Secretary's efforts to enforce Section 3 of the Housing and Urban Development Act of 1968, external factors affecting implementation of Section 3, and recommendations for legislative changes to improve the effectiveness of Section 3.

Subsection (b) would specify that the discussion of external factors affecting implementation of Section 3 shall include, at a minimum, a discussion of training needs of targeted employees and technical assistance needs of targeted businesses, barriers created by procurement regulations, coordination difficulties with labor unions, and resource limitations of recipients of federal assistance who must comply with Section 3.

Subsection (c) would require the Secretary, in preparing the report, to consult with the Secretary of Labor, the Secretary of Commerce, the Secretary of Health and Human Resources, the Administrator of the Small Business Administration, other appropriate federal officials and recipients of Federal housing and community development assistance.

Sec. 935-Study on the housing impact of military base expansion

This section would require HUD to study the availability of housing in areas designated for military expansion or redeployment. The study would examine the ability of the public and private sector to meet the housing demand in selected communities and the impact of increased demand on housing availability and affordability for both homeowners and renters.

Sec. 936-Nehemiah housing opportunity grants

This section would amend the Nehemiah homeownership program's recapture provisions to allow the homeowner, when the property is sold or transferred, to recover his or her original downpayment from any proceeds remaining after the first mortgage is paid off. Any proceeds beyond that would be split equally between the homeowner and the repayment of the second mortgage. Any remaining

amounts available after the second mortgage is completely repaid would accrue exclusively to the homeowner. If the second mortgage is not completely repaid, the second mortgage would remain on the property until the loan is paid in full upon later transfer or sale.

Sec. 937-Sense of the Senate

This section would establish a sense of the Senate that federal mandates involve often-substantial costs to implement, that many states and localities are suffering from economic recession, and that the federal government should provide either explicit guidance on how these mandates can be funded through existing resources or appropriate additional federal funds to assist in compliance.

Sec. 938-Improved coordination of urban policy

This section would amend Title VII of the Housing and Urban Development Act of 1970 to add as a goal of national urban policy coordination among federal programs designed to aid urban areas.

The section would also accelerate the due date of the next National Urban Policy report to June 1, 1993, and would require that the report contain specific recommendations to promote coordination among Federal programs to assist urban areas; to enhance the fiscal capacity of fiscally-distressed urban areas; to promote job opportunities in and enhance the job skills of residents of economically-distressed urban areas; to generate decent and affordable housing; to reduce racial tensions and to combat racial and ethnic violence in urban areas; to combat urban drug abuse and drug-related crime and violence; to promote the delivery of health care to low-income urban communities; to expand educational opportunities in urban areas; and to achieve other goals of the national urban policy.

Finally, the section would provide that the National Urban Policy Report, when transmitted to Congress, shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House to the Committee on Banking, Finance, and Urban Affairs.

Sec. 939-Community Outreach Act

This new section would authorize a Community Outreach Partnership demonstration.

Subsection (a) would entitle the section ``The Community Outreach Partnership Act of 1992.''

Subsection (b) would authorize a five year demonstration program to facilitate the creation of partnerships between insitutions of higher education and local communities to solve urban problems through research, outreach, and exchange of information.

Subsection (c) would establish a grant program to provide funds for research and outreach activities.

Subsection (d) would permit any public or nonprofit institutions of higher education to submit an application.

Subsection (e) would establish selection criteria for applications submitted by institutions of higher education. Selection of applications would be based on the resources contributed by the institutions, the capacity to provide leadership in solving community problems, commitment as demonstrated by the provision of matching funds, the ability to disseminate information on the results of research and outreach activities, the proposed activities to be carried out, and other criteria deemed appropriate by the Secretary.

Subsection (f) would establish the maximum federal share for research activities at 75 percent of total project costs and for outreach activities at 50 percent of total project costs.

Subsection (g) would provide that the non-federal share of project costs could include cash, non-cash contributions, equipment, or other in-kind contributions.

Subsection (h) would establish the responsibilities of institutions of higher education selected to participate in the program including conducting research and outreach activities, disseminating information, establishing a community advisory committee, and the development of training and other instructional programs for community leaders.

Subsection (i) would direct the Secretary to establish a national advisory council comprised of state and local officials, institutions of higher education receiving assistance, representatives of local community advisory committees and experts on urban issues. The council would advise the Secretary on implementation of the program.

Subsection (i) would establish a national clearinghouse to facilitate the exchange of information on research and successful outreach activities.

Subsection (k) would authorize \$15 million in FY 1993 and \$15.6 million in FY 1994 for grants for research and outreach activities, and \$500,000 in FY 1993 and \$520,000 in FY 1994 to establish and operate the national clearinghouse.

Subsection (l) would require the Secretary to submit an annual report to Congress on the activities of the demonstration program.

Sec. 940-Report on community development lending

This provision would direct the Board of Governors, in

consultation with other federal regulators, to submit a report comparing lending activities in low income neighborhoods to other neighborhoods. The report would compare the risks and returns associated with lending in each type of neighborhood.

Sec. 941-Report on community development banking

This provision would direct the Board of Governors of the Federal Reserve System and the Secretary of HUD to jointly submit a report on insured depository institutions that focus on community development in distressed communities. These entities, often referred to as ``community development banks'', have been very successful in generating revitalization in distressed areas. The report would focus on the accomplishments of such institutions and make recommendations for a pilot program to facilitate the formation of new ``community development banks''.

Sec. 942-Flood restoration zone

This section would establish a new flood zone for areas in which a major flood control project-that had previously provided 100 year flood protection-has been decertified by the Army Corps of Engineers. In the new ``restoration zone'', interim flood insurance rates and building restrictions would be in effect until the flood protection could be restored. Flood protection would have to be restored within a designated time period in accordance with a timetable negotiated and developed by the community and FEMA.

Sec. 943-Energy Efficient Mortgages Pilot Program

This section would require HUD to establish a pilot program in five states to promote the purchase of new and existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings. This section would allow FHA applicants that meet minimum criteria to be eligible for additional financing not to exceed 5% of the property value (not to exceed \$8000) or \$4,000, whichever is less, for cost-effective energy efficiency improvements. This section would require the Secretary of HUD to encourage participation in the program by providing information to lenders and other appropriate parties and by requiring FHA applicants to sign a statement indicating that they have been informed of the energy efficient mortgage pilot program. In addition, this section would require the Secretary to establish a training program for appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the program. The Secretary would be required to submit a report to Congress describing the effectiveness of the pilot program within 18 months of enactment. The report also would assess the potential for expanding the pilot program nationwide. This section would extend the program nationwide within two years of enactment unless the Secretary could demonstrate to Congress that extending the program would not be practical. This section also would

authorize the appropriation ``such sums as may be necessary'' to carry out the demonstration program.

Sec. 944-Prohibition of lump sum payments

This section would prohibit the provision of relocation assistance to tenants in lump sum payments except if the payment is to be used for the purchase of a home.

Sec. 945-Smoke detectors

This section would require HUD to promulgate regulations to require installation of smoke detectors in all federally assisted housing.

Sec. 946-The National Cities in Schools Community Development Program

This section would authorize the Secretary to make grants to expand the National Cities in Schools Program and operations of the National Center for Partnership Development to: (1) develop and support projects to strengthen local community dropout prevention programs in elementary and secondary schools; (2) train community leaders responsible for the implementation of local Cities in Schools dropout prevention programs; and (3) disseminate to, and support replication by, states and communities of effective dropout prevention strategies. \$10 million would be authorized for each of the fiscal years 1993 and 1994 to carry out this section.

Sec. 947-Economic independence

This section would urge the HUD Secretary to implement section 957 of the National Affordable Housing Act, a provision limiting annual rent increases for families residing in federally assisted housing who become employed. Other federal agencies would also be encouraged to take similar steps to encourage economic independence and the accumulation of assets.

TITLE X-RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

Sec. 1001-Short title

This section would establish the short title of the title as the ``Residential Lead-based Paint Hazard Reduction Act of 1992.''

Sec. 1002-Findings

This section would contain findings that (1) low-level lead poisoning afflicts as many as 3 million children under age 6, many of whom are from minority or low-income communities; (2) low-level lead poisoning in children reduces IQ, causes reading and learning disabilities, impairs hearing, reduces attention span, and causes hyperactivity and behavioral problems; (3) more

than 3 million tons of lead in the form of lead-based paint remain in American homes, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint; (4) the most common cause of lead poisoning in children is the ingestion of lead-contaminated household dust from deteriorating or abraded paint; (5) the health and development of children living in as many as 3.8 million American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust; (6) interim controls and abatement of lead-based paint hazards can reduce the danger posed to children and limit children's exposure to lead dust and chips; (7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and (8) the Federal Government must take a leadership role in building the infrastructure-including an informed public, State and local delivery systems, certified inspectors, contractors, and laboratories, trained workers, and available financing and insurance-necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

Sec. 1003-Purposes

This section would describe the purposes of the Title, including: (1) the development of a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible; (2) the reorientation of the nation's approach to the problem of lead-based paint in housing in order to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the nation's housing stock; (3) encouraging effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction and by ending the current confusion over reasonable standards of care; (4) ensuring that the government considers lead-based paint hazards when developing housing policies and in connection with the sale, rental, and renovation of homes and apartments; (5) mobilizing national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for evaluating and reducing lead-based paint hazards; (6) reducing the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government; and (7) educating the public to the hazards of lead and sources of lead poisoning and providing information on methods for reducing and eliminating such hazards.

Sec. 1004-Definitions

This section would define the terms ``abatement,' ' ``accessible surface,' ' ``certified contractor,' ' ``contract for the purchase and sale of residential real property,' ' ``deteriorated paint,' '

`evaluation,'` `federally assisted housing,'` `federally chartered secondary mortgage institution,'` `federally owned housing,'` `federally supported work,'` `friction surface,'` `impact surface,'` `inspection,'` `interim controls,'` `lead-based paint,'` `lead-based paint hazard,'` `lead-contaminated dust,'` `lead-contaminated soil,'` `mortgage loan,'` `originating mortgage institution,'` `priority housing,'` `public housing,'` `reduction,'` `residential dwelling,'` `residential real property,'` `risk assessment,'` `Secretary,'` and `target housing.'`

SUBTITLE A-LEAD-BASED PAINT HAZARD REDUCTION

Sec. 1011-Grants for lead-based paint hazard reduction in target housing

This section would expand HUD's competitive grant program to state and local governments for lead-based paint hazard reduction in private, low-income housing. Subsection (a) would authorize a grant program to evaluate and reduce lead-based paint hazards in private and Section 8 pre-1978 low-income housing.

Subsection (b) would define eligible applicants as states and units of local government with approved comprehensive housing affordability strategies (CHAS's).

Subsection (c) would describe the documents to be included in a grant application, including (1) that portion of the CHAS addressing lead hazard reduction in low-income housing; (2) the amount requested; (3) a description of the activities to be undertaken; (4) a description of the forms of financial assistance to be provided with grant funds; (5) assurances of the applicant's capacity to carry out the activities.

Subsection (d) would describe selection criteria for awarding grants. These would include (1) the extent to which the proposed activities would reduce lead poisoning risks to children under 6 living in pre-1978 low-income housing; (2) the degree and severity of lead-based paint hazards in the jurisdiction to be served; (3) the applicant's ability to leverage other funds to supplement the grant; (4) the applicant's ability to carry out the proposed activities; and (5) other factors that the Secretary determines will ensure the grants are used effectively and to promote the purposes of the Act.

Subsection (e) would describe eligible activities. These would include: (1) performing risk assessments and inspections in priority housing; (2) instituting interim controls; (3) conducting abatements; (4) funding the additional cost of reducing lead-based paint hazards in lead-contaminated housing undergoing renovation; (5) ensuring that risk assessments, inspections, and abatements are carried out by certified contractors; (6) monitoring the health of lead reduction workers; (7) relocating families during lead-hazard reduction; (8) public

education on the nature and causes of lead poisoning and measure to reduce exposure to hazards; (9) post-reduction soil, dust and children's blood-lead level testing; and (10) other appropriate activities.

Subsection (f) would permit recipients to provide services through a variety of programs including grants, loans, equity investments, revolving loan funds, loan funds, loan guarantees, interest write-downs, and other forms of assistance.

Subsection (g) would provide technical assistance to increase the capacity of eligible applicants, including grants of up to \$200,000 to establish state training, certification or licensing programs for lead reduction specialists. \$3 million of the grant program appropriation would be set aside for this purpose.

Subsection (h) would require recipients of grants to provide at least 10 percent matching funds.

Subsection (i) would prohibit grantees from using these funds to replace state or local funds available or designated for activities eligible under the grant program.

Subsection (j) would limit administrative expenses to 10 percent.

Subsection (k) would require applicants to maintain financial records sufficient to ensure proper accounting and disbursing of amounts received.

Subsection (l) would require grantees to report to the Secretary: (1) how they used granted funds; (2) the number of risk assessments and inspections performed; (3) the number of dwellings in which interim controls were instituted; (4) the number of abatements conducted; and (5) other information as required by the Secretary.

Subsection (m) would require the publication of a notice of funding availability within 120 days from the date funds are appropriated for the grant program.

Subsection (n) would authorize \$250 million for each of fiscal years 1993 and 1994 for the grants program.

Sec. 1012-Evaluation and reduction of lead-based paint hazards in federally assisted housing

This section would amend existing law to improve federal responsiveness to lead-based paint hazards in housing receiving direct federal assistance, federal loans, and federal mortgage insurance.

Subsection (a) would amend section 302(a) of the Lead-Based Paint Poisoning Prevention Act to (1) extend coverage to all housing receiving more than \$5000 in project-based federal assistance,

including housing assisted through agencies such as the Farmers' Home Administration and the Veterans Administration; and (2) replace the second sentence with a more detailed and workable scheme for reducing lead hazards. Beginning in January, 1995, all purchasers and tenants of covered housing would receive lead hazard information pamphlets. Risk assessments and interim controls would be performed periodically, with the first conducted not later than January, 1996. Housing receiving federal renovation or rehabilitation assistance would be inspected for the presence of lead-based paint prior to any work likely to disturb paint surfaces. Lead-based paint hazards would be reduced through abatement or interim controls in the course of rehabilitations projects receiving less than \$25,000 per unit in federal assistance, and hazards would be abated during substantial rehabilitation projects receiving more than \$25,000 per unit in federal assistance. Notice of activities taken under this section would be provided to occupants, including a description of the nature and scope of the activities and copies of the risk assessment or inspection reports, which among other information, identify the location of remaining lead-contaminated surfaces. The Secretary would have the discretion to impose other requirements.

Subsection (b) would amend section 302(b) of the Lead-Based Paint Poisoning Prevention Act by specifying that risk assessments, interim controls, inspections, and abatement of lead-based paint hazards in housing covered by this section must be performed in accordance with guidelines issued or approved by the Secretary.

Subsection (c) would amend section 302(c) of the Lead-Based Paint Poisoning Prevention Act to (1) require that inspections performed under this section be performed by certified contractors; and (2) raise the threshold for lead content prior to requiring notice to occupants.

Subsection (d) would amend section 302(d)(1) of the Lead-Base Paint Poisoning Prevention Act to update the terminology employed.

Subsection (e) would clarify that a participating HOME jurisdiction would be permitted to use HOME funds lead-based paint hazard evaluation and reduction activities.

Subsection (f) would clarify that lead-based paint hazard evaluation and reduction are eligible activities under the Community Development Block Grant program.

Subsection (g) would amend section 8 of the United States Housing Act of 1937 to permit the Secretary to provide adjustments to the maximum monthly rents in certain projects to cover the costs of evaluating and reducing lead-based paint hazards in housing receiving section 8 project-based assistance.

Subsection (h) would amend HOPE for Public and Indian Housing

Homeownership to (1) make inspection for lead-based paint hazards eligible for funding through planning grants and (2) make abatement of lead-based paint hazards an eligible activity for funding through implementation grants. Since HOPE I is a property disposition program, inspection and abatement of lead-based paint hazards would be required.

Subsection (i) would amend HOPE for Homeownership of Multifamily Units to (1) make inspection for lead-based paint hazards eligible for funding through planning grants and (2) make abatement of lead-based paint hazards an eligible activity for funding through implementation grants. Since HOPE II is a property disposition program, inspection and abatement of lead-based paint hazards would be required.

Subsection (k) would clarify that lead-based paint hazard evaluation and reduction are eligible activities under (1) the home improvement loan program contained in section 2(a) of the National Housing Act; and (2) the rehabilitation loan program contained in section 203(k)(2)(B) of the National Housing Act.

Subsection (l) would clarify that the cost of evaluating and reducing lead-based paint hazards may be covered through a loan insured under section 221(d)(4)(iv) of the National Housing Act insurance for multifamily housing.

Subsection (m) would clarify that the terms ``repair'', ``repairs'', ``rehabilitate'', and ``rehabilitation'' include measures to evaluate and reduce lead-based paint hazards, under the Housing Act of 1949 section 501(a) rural housing program.

Sec. 1013-Disposition of federally owned housing

This section would further amend section 302(a) of the Lead-Based Paint Poisoning Prevention Act to clarify the responsibility of federal agencies with regard to lead-based paint hazards in housing sold or transferred to private owners. It would require that, beginning January, 1995, all pre-1978 federally owned housing would be inspected for lead-based paint and lead-based paint hazards prior to disposition and inspection reports would be made available to prospective purchasers. Abatement of lead-based paint hazards would be required prior to disposition in housing constructed prior to 1960. This section would be subject to appropriations.

Sec. 1014-Comprehensive housing affordability strategy

This section would amend section 105 of the National Affordable Housing Act, the provision requiring a jurisdiction that wants to participate under various federal housing programs to develop a comprehensive housing affordability strategy (CHAS). The section would add a new item to the CHAS which would require participating jurisdictions to estimate the number of housing units within the jurisdiction that are occupied by low-income

families or very low-income families that contain lead-based paint hazards, and to outline the jurisdiction's plan for evaluating and reducing these hazards, and to describe how lead-based paint hazard reduction will be integrated into housing policies and programs.

Sec. 1015-Private sector task force on lead-based paint hazard reduction and financing

Subsection (a) would require the Secretary to establish a task force to make recommendations for expanding resources and efforts to evaluate and reduce lead-based paint hazards in private housing.

Subsection (b) would define membership to include individuals representing landlords, tenants, primary lending institutions, private mortgage insurers, federally chartered financial institutions, single-family and multifamily real estate interests, nonprofit housing developers, property liability insurers, public housing agencies, low-income housing advocacy organizations, national, State and local lead-poisoning prevention advocates and experts, and community-based organizations located in areas with substantial rental housing.

Subsection (c) would outline the task force's responsibilities. These would include making recommendations concerning (1) incorporating the need to finance lead-based paint hazard reduction into underwriting standards; (2) developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities; (3) adjusting appraisal guidelines to address lead safety; (4) incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages; (5) revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development relating to lead poisoning prevention; (6) reducing the current uncertainties of liability related to lead-based paint in rental housing by clarifying standards of care for landlords and lenders, and by exploring the "safe harbor" concept; (7) increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and (8) evaluating the utility and appropriateness of requiring risk assessments or inspections and notification to prospective lessees of rental housing.

Subsection (d) would specify that members of the task force will not be compensated by the government for their participation.

Sec. 1016-National consultation on lead-based paint hazard reduction

This section would require the Secretary to consult on an ongoing basis with EPA, the Centers for Disease Control, other Federal agencies concerned with lead poisoning prevention, and the

private sector task force.

SUBTITLE B-EVALUATION AND REDUCTION INFRASTRUCTURE

Sec. 1021-Contractor training and certification

This section would require that all federally supported risk assessments, inspections and abatement of lead-based paint hazards be conducted by certified contractors. It would contain an interim provision which would allow contractors who have successfully completed a federally sponsored training course to perform this work during the first two years. It would also require the establishment of federally approved training and certification programs in every State.

Sec. 1022-Certification of laboratories

This section would require that all federally supported laboratory tests and analyses of lead in paint film, dust, soil, and other media be conducted by federally certified laboratories.

Sec. 1023-Guidelines for lead-based paint hazard evaluation and reduction activities

Subsection (a) would require that within 9 months, HUD, in consultation with EPA, the Labor Department, and the Centers for Disease Control, issue guidelines for the conduct of federally supported risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. As under existing law, these guidelines would be required to be based on criteria that measure the condition of the housing, not the health of the residents of the housing. For the purposes of providing guidance in the performance of risk assessments, the presence of children under age 6 could be taken into consideration.

Subsection (b) would state that the guidelines preempt state and local regulations except where state or local regulations impose more stringent standards or requirements than the federal guidelines.

Sec. 1024-Contractor quality control

This section would outline penalties for noncompliance. Subsection (a) would subject to the penalty provision contractors who fail to comply with the certification requirements of this subtitle, or who substantially fail to comply with applicable Federal regulations or guidelines or applicable State or local regulations or guidelines.

Subsection (b) would describe the procedure for penalizing noncompliant contractors. It would require the Secretary to provide contractors with notice concerning the nature of the noncompliance and an opportunity to respond and then to determine whether the contractor should be declared ineligible to

participate in HUD programs. The Secretary is given discretion to establish appeals procedures within the agency, but the Secretary's decision is otherwise final and nonreviewable by the courts.

Subsection (c) would clarify that action under this section does not preclude HUD or other aggrieved parties from seeking other forms of redress.

Sec. 1025-National clearinghouse on residential lead poisoning

Subsection (a) would require the Secretary, in consultation with EPA, and the Centers for Disease Control, to establish a National Clearinghouse on Residential Lead Poisoning.

Subsection (b) would describe the mission of the Clearinghouse. Responsibilities would include: (1) collecting, evaluating, and disseminating current information concerning the evaluation and reduction of lead hazards in housing; (2) maintaining a rapid-alert system to inform certified contractors and grant recipients of significant developments in research related to the evaluation and reduction of lead hazards; and (3) performing other duties as determined by the Secretary to be necessary to carry out the Title.

Subsection (c) would set aside \$1 million from the FY 1993 and 1994 appropriations for the grants program to operate the Clearinghouse.

subtitle c-public information and technical assistance

Sec. 1031-Disclosure of information concerning lead upon transfer of residential property

Subsection (a) would require the Secretary to issue regulations within 2 years for the disclosure of lead-based paint hazards in pre-1978 housing which is offered for sale. The regulations would require sellers to: (1) provide purchasers with lead hazard information pamphlets; (2) disclose any known lead-based paint or lead-based paint hazards and provide to the purchaser any lead hazard evaluation report available to the seller; and (3) permit the purchaser a 10-day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards. Regulations would also require that contracts contain Lead Warning Statements and a statement signed by the purchaser stating that the purchaser has (1) read the Lead Warning Statement and understands its contents, (2) received a lead hazard information pamphlet, and (3) had a 10-day opportunity (unless the parties mutually agreed upon a different period of time) before becoming obligated under the contract to purchase the premises to conduct a risk assessment or inspection for the presence of lead-based paint hazards. The lead warning statement would contain the following text printed in large type on a

separate sheet of paper attached to the contract:

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Finally, the regulations would require the seller's agent to ensure compliance with the requirements of this subsection.

Subsection (b) would require the Secretary to issue regulations within 2 years for the disclosure of lead-based paint hazards in pre-1978 private rental housing. The regulations would require lessors to provide prospective tenants with a lead hazard information pamphlet and disclose any lead-based paint or lead-based paint hazards known to the lessor, including copies of lead evaluation reports. The regulations would also require written leases of one year or more to contain the following Lead Warning Statement:

Every lessee of any residential dwelling built prior to 1978 is notified that such dwelling may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The lessor of a residential dwelling is required to provide the lessee with any information on lead-based paint hazards from risk assessments or inspections in the lessor's possession and notify the lessee of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to entering into a lease.

Subsection (c) would describe the contents of the Lead Hazard Information Pamphlet which is required to be distributed in (federally assisted) housing covered by the LPPPA and in private housing covered by this section. The pamphlet would be published in consultation with HHS through notice and comment rulemaking. It would be released within one year of enactment and revised periodically. The pamphlet would (1) provide information on the health risks associated with exposure to lead; (2) provide general information about the incidence lead-based paint and

lead-based paint hazards in pre-1978 housing; (3) describe the risks of lead exposure to young children, pregnant women, women of child bearing age, anyone involved in home renovation, and others residing in housing containing lead-based paint hazards; (4) describe the risks of do-it-yourself home renovation in lead-contaminated housing; (5) provide information on approved methods for evaluating and reducing lead-based paint hazards and their effectiveness in identifying, reducing, eliminating, or preventing exposure to lead-based paint hazards; (6) describe how to obtain a list of local certified lead contractors; (7) recommend having pre-1978 housing tested for lead-based paint or lead hazards prior to purchasing, leasing or renovating pre-1978 housing; (8) state that some states and localities have stricter laws and provide a listing of Federal, State, and local agencies in each State, including address and telephone number, that can provide information about applicable laws and available governmental and private assistance and financing; and (9) provide such other information about environmental hazards associated with residential real property (such as radon) at the Secretary's discretion.

Subsection (d) would describe various penalties for violation of this section. First, the Secretary would have discretion to impose a civil money penalty of up to \$10,000 for a knowing and material violation. The decision to impose a penalty could be made directly by the Secretary or through an administrative entity, through a process providing opportunity for an on the record hearing. Review of any determination, order, or interlocutory ruling arising from a hearing would be available. The amount of the penalty would be in accordance with statutory guidelines including consideration of factors such as the gravity of the offense, ability to pay, injury to the public, benefits received, deterrence value and other appropriate factors. Decisions would be reviewable by the appropriate federal court of appeals. Second, the Secretary would be authorized to seek to enjoin violations. Third, knowing violators would be jointly and severally liable for triple damages to aggrieved mortgage applicants, purchasers, and lessees. Fourth, courts would be authorized to award court costs, reasonable attorney fees and expert witness fees to prevailing private plaintiffs.

Subsection (e) would clarify that the section does not affect the validity or enforceability of purchase agreements, rental agreements, loans, loan agreements, mortgages, or liens made or arising in connection with mortgage loans, and does not act to create a defect in title.

Sec. 1032-Public awareness

Subsection (a) would authorize the Secretary, in cooperation with other federal agencies, to undertake a campaign to increase public awareness of the dangers of childhood lead poisoning. The subsection would target the campaign to parents of young children and members of the real estate and home renovation professions

and would (1) inform the public of the health consequences of lead exposure; (2) describe risk assessment and inspection methods; and (3) provide advice about measures to reduce the risk of lead exposure.

Subsection (b) would coordinate the campaign with activities carried out by the President's Commission on Environmental Quality and other related federal public education efforts.

Subsection (c) would set-aside \$1 million from authorizations for the grant program for each of fiscal years 1993 and 1994 to carry out the campaign.

Sec. 1033-Relationship to other laws

This section would limit the preemptive effect of the disclosure provision to inconsistent state laws or portions of state laws.

Under subsection (a) State laws which are not determined by the Secretary to be inconsistent would continue to have effect. Laws determined to be inconsistent would be affected only to the extent of remedying the inconsistency.

Under subsection (b), states would not be precluded from establishing more stringent standards of liability or disclosure requirements.

SUBTITLE D-RESEARCH AND DEVELOPMENT

PART 1-HUD RESEARCH

Sec. 1051-Research on lead exposure from other sources

This section would require the Secretary, in cooperation with other federal agencies, to conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil and interior lead dust in carpets, furniture, and forced air ducts.

Sec. 1052-Testing technologies

This section would require the Secretary, in cooperation with other federal agencies, to conduct research to (1) develop improved methods for evaluating lead-based paint hazards in housing; (2) develop improved methods for reducing lead-based paint hazards in housing; (3) develop improved methods for measuring lead in paint films, dust, and soil samples; (4) establish performance standards for various detection methods, including spot test kits; (5) establish performance standards for lead-based paint hazard reduction methods, including the use of encapsulants; (6) establish appropriate cleanup standards; (7) evaluate the efficacy of interim controls in various hazard situations; (8) evaluate the relative performance of various abatement techniques; (9) evaluate the long-term

cost-effectiveness of interim control and abatement strategies; and (10) assess the effectiveness of hazard evaluation and reduction activities funded by this Act.

Sec. 1053-Authorization

This section would set aside \$5 million in fiscal years 1993 and 1994 for HUD research.

Part 2-GAO Report

Sec. 1056-Federal implementation and insurance study

This section would mandate two studies to be performed by the General Accounting Office.

Subsection (a) would require GAO to assess the effectiveness of Federal enforcement and compliance with lead safety laws and regulations. GAO would specifically consider whether changes are needed in annual inspection procedures to identify lead-based paint hazards in housing benefitting from section 8 tenant-based assistance.

Subsection (b) would require GAO to assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard evaluation and reduction activities. In carrying out the assessment, GAO would: (1) analyze any precedents in the insurance industry for the containment and abatement of environmental hazards, such as asbestos, in federally assisted housing; (2) provide an assessment of the recent insurance experience in the public housing lead hazard identification and reduction program; and (3) recommend measures for increasing the availability of liability insurance to owners and contractors engaged in federally supported work.

SUBTITLE E-REPORTS

Sec. 1061-Reports of the Secretary of Housing and Urban Development

This section would require the Secretary to transmit to Congress an annual and biennial report.

Under subsection (a), the annual report would: (1) set forth the Secretary's assessment of the progress made in implementing the various programs authorized by this title; (2) summarize the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between interim control and abatement activities and lead poisoning; (3) recommend legislative and administrative initiatives to expand HUD's role in lead hazard evaluation and reduction; (4) describe the results of HUD's research under subtitle D; and (5) estimate the amount of Federal assistance

annually expended on lead hazard evaluation and reduction activities.

Under subsection (b), the biennial report would describe HUD's progress in implementing expanded lead-based paint hazard evaluation and reduction activities. The report would: (1) assess the effectiveness of the disclosure provisions in making the public aware of lead-based paint hazards; (2) estimate the extent to which lead-based paint hazard evaluation and reduction activities are being conducted in the various covered categories of housing; (3) monitor and report HUD's expenditures for lead-based paint hazard evaluation and reduction; (4) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, standards and regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies; (5) assess the extent to which the lead evaluation and reduction infrastructure exists, with recommendations to correct shortcomings, and estimate the costs of measures needed to build an adequate infrastructure; and (6) included any additional information the Secretary deems appropriate.

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.

Various provisions of the reported measure would reduce regulatory and administrative burdens. Section 505, for example, would direct the HUD Secretary to review and streamline regulations, administrative procedures and recordkeeping and documentation requirements that govern compliance with the public and Indian housing programs. Although the reported bill would authorize new programs, the Committee was cognizant during their design to prescribe only the minimum necessary regulatory requirements.

CHANGES IN EXISTING LAW

The Committee has determined that it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of rule XXVI, paragraph 12, of the Standing Rules of the Senate, with respect to this legislation.

COST ESTIMATE

The Committee has requested a cost estimate of this legislation under the provision of section 403 of the Congressional Budget Act of 1974. The cost estimate was not available by the time of filing of this report. It will be made available prior to consideration of this legislation by the full Senate.

ADDITIONAL VIEWS OF SENATOR CONNIE MACK

I regret having to oppose the Committee bill to reauthorize the National Affordable Housing Act of 1990. Just two years ago, this Committee meticulously debated the HOME program, and in particular, its matching requirements.

Current law authorizes a graduated match for the HOME program, depending on the type of housing activity a particular city or state chooses to use. The Committee bill proposes to change the tiered match to a flat 25 percent match for the HOME program.

During negotiations, we engaged in extended debate over the merits of vouchers versus new construction. We reached agreement on the HOME program only after vouchers were accepted as an eligible use and after Senator Sarbanes suggested the concept of a graduated match. These were breakthrough agreements allowing for final agreement on the entire bill.

For those of us who argued for an increased focus on vouchers and against new construction, it was for the sake of maximizing scarce federal dollars and for serving more low income families. Because vouchers use current housing already built, vouchers are effective immediately. People can live where they choose, near jobs and education. They won't be segregated into 'low-income units'.

According to the U.S. Department of Housing and Urban Development, 22,132 fewer families will be served if the tiered match is changed to the proposed flat match. The flat match would remove the economic incentive for communities to utilize vouchers over new construction.

We came to hard agreements in 1990 and I believe we ought to allow current law on HOME to stand before tinkering with a program we haven't even given an opportunity to work.

Connie Mack.

ADDITIONAL VIEWS OF SENATOR ALFONSE M. D'AMATO

During the Committee mark-up of the National Affordable Housing Act Amendments of 1992, I was pleased to offer an amendment to authorize the National Cities in Schools Community Development Program. Through this amendment, which was accepted, the Secretary of HUD is authorized to make grants to expand the National Cities in Schools program administered by Cities in Schools, Inc. (CIS).

Based on over 30 years of experience, CIS has refined the techniques of neighborhood and community organizing and development to help young people become successful, productive community members. With the school as the focal point, CIS brings

its proven partnership building strategies to bear, helping local community leaders organize an independent, community-owned coalition of business and community leaders, government officials, health and human service providers, educators and parents.

Because CIS community partnerships arrange for the repositioning of social service providers from their home agencies, the program is extremely cost effective. Little new money is required to start a CIS program. And the results-for the empowerment of the community-far outweigh the dollars invested. Through the National Center for Partnership Development (NCPD), CIS supports community leaders from across the country, providing training in the CIS organizing strategies and the continuing technical assistance required to ensure successful, self-sustaining local programs.

Alfonse M. D'Amato.

ADDITIONAL VIEWS OF SENATORS GARN, D'AMATO, AND MACK

Introduction

Since the beginning of this year, we have recognized the importance of legislation to reauthorize and improve existing housing programs. We believed this approach would be satisfied by a simple reauthorization bill focused on technical improvements to ensure that current housing programs function as effectively as possible consistent with Congressional intent.

Despite our hopes for a simple bill, we have before us an expansive proposal that establishes new programs, substantially modifies existing programs and policies, and heaps change after change upon a Department still implementing some provisions of the National Affordable Housing Act of 1990 (NAHA) and addressing long-standing internal management challenges. Although the development of the bill was conducted in a cooperative and fair process, we went into mark-up with many difficult issues unresolved. Many amendments were accepted at mark-up that improved the bill. Therefore, most of us supported the bill. However, we still have reservations about certain sections of the bill and believe these issues must be resolved before the bill can win broad support from the full Senate.

Background

This year's reauthorization bill ought to be simple and straightforward principally because the extensive changes enacted in the National Affordable Housing Act of 1990 (NAHA) require a reasonable implementation and evaluation period before major alterations prevent them from taking effect fully. Even as we submit this report, HUD is still issuing regulations to implement provisions of NAHA. In fact, most NAHA programs received funding for the first time this year and there are several provisions that the Department has yet to implement, mostly due to the

enormous workload of extensive legislation imposed on a limited staff. (We note the irony in the fact that the demands placed upon HUD to monitor and participate in Congress' legislative hearings and the reauthorization process have exacerbated the difficulties in achieving timely implementation of NAHA.)

Majority members of the Committee have asserted in hearings and in this report that the federal commitment for housing had decreased dramatically since 1980. This tired old chestnut must be cracked open so we examine whether it is valid or not. During hearings on this bill, we established convincingly that although budget authority appropriated for HUD's housing programs has decreased since 1980, outlays have increased from \$5.3 billion in 1980 to \$16.7 billion in 1991.

And although we don't want to get caught in the trap of measuring programs merely by how much we spend on them, the amount of discretionary budget authority provided for HUD's housing programs increased from \$12.6 billion in 1989 to \$17.4 billion in 1992. This 38% increase is many times greater than the rate of inflation or the growth in overall domestic discretionary spending.

Another way of looking at trends in housing programs is to consider the change in the number of households assisted through HUD's housing programs. By this measure, we can see that the federal government is assisting more families than ever. In 1980, HUD assisted 3.1 million families. In 1991, HUD assisted 4.4 million families. That is an increase of 42%. Furthermore, although the number of persons with worst case housing needs increased from 1979 until 1983, this number declined from 1985 to 1989. Similarly, the number of low-rent units decreased during the 1970s but has stabilized in the late 1980s. Finally, the number of units with gross rents below local 'fair market rents' far exceeded the number of low-income renters eligible for rental assistance and actually increased during the 1980s.

However, these promising and suggestive statistics should not allow us to ignore the serious housing needs of our society. What Congress and the Administration must do is to determine how to best meet these needs. As HUD Secretary Kemp told the Committee at a hearing on May 14:

There are another 5 million people at risk. That is, they spend more than half of their income for rent, and they need help. They should get a voucher. You can get it to them faster. It is less costly to the taxpayer. It does not take seven years for construction, and the power does not go to the developer and the PHA, it goes directly to the family that gets some choice, some power, some ability to become a more dignified member of American society.

As this statement demonstrates, one of the critical questions in housing policy pertains to how to spend the resources we have.

Over the last few years we have shifted the emphasis from unwieldy categorical construction programs to flexible, locally-based programs that give tenants, state and local governments, and housing providers at the local level more opportunity to manage their own housing programs. The number of households assisted through tenant-based rental assistance programs that provide real choice to recipients has increased dramatically. We have developed programs that promote homeownership and give the Department more tools to root out fraud, abuse, and mismanagement in HUD's housing programs. We are proud of these recent achievements.

Despite these achievements, however, we must focus housing policy on efforts to reduce the worse case housing needs, promote homeownership, reduce homelessness, and make troubled public housing developments better living environments. This bill moves toward these goals in several areas, but fails to keep these goals in mind in other areas.

THE COMMITTEE BILL

We commend the Committee's Chairman, Don Riegle, and the Housing Subcommittee Chairman, Alan Cranston, as well as their cooperative and competent staff, for preparing this bill in an open process that gave us opportunity to participate in the development of the bill and recommend various changes to it. We appreciate their bipartisan and cooperative attitude. Despite this cooperation and openness, we had many concerns when we examined the Committee Print because it failed to include many provisions that we and the Administration believed are very important. We offered many amendments to address these issues. Many of these amendments were accepted during mark-up, indicating the Majority's continuing interest in cooperating with the Minority and the Administration to develop a consensus bill.

We are pleased that the Committee bill makes many sensible changes to existing housing programs and establishes promising new programs. For example, the Committee bill adopts several initiatives proposed by the Administration, makes technical changes to improve the Administration of HOME and other programs, and authorizes reasonable funding levels for the HOPE homeownership programs, although the total funding level for the bill is still substantially above baseline.

Unfortunately, however, this bill includes other provisions that raise serious concerns. Specifically, the bill eliminates the variable matching requirement of the HOME Investment Partnerships program, creates a new set of requirements for eliminating lead-based paint hazards in housing, and fails to include several additional proposals recommended by the Administration.

ADMINISTRATION INITIATIVES

One of the most positive aspects of the Committee Bill is that it incorporates many of the ideas presented by the Administration's Opportunity and Empowerment Act of 1992. HUD Secretary Jack Kemp transmitted this legislative proposal to the Congress on March 23, 1992. This proposal included the following ideas:

Perestroika for troubled public housing.-This initiative seeks to improve the most severely distressed Public Housing Authorities (PHAs) by allowing the residents of these PHAs to have the option of alternative management or ownership. Increasing the voice of the residents in the management of their buildings will give the managers new incentives to provide higher quality services. Providing the residents with the opportunity to own their building will increase their level of personal freedom and responsibility, making it easier for them to become self-sufficient. The Administration's proposal would also create a ``Take the Boards Off'' program to assist community-based housing groups transform vacant public housing projects into decent shelter for the poor and homeless.

Project RESTORE.-To address the needs of the residents of FHA-insured or assisted housing, the Administration proposes the RESTORE program. This program would improve the living conditions of assisted housing by tying federal support for rehabilitation expenses to improved management accountability and performance, increased resident involvement in management, and greater choice for tenants.

Homeownership vouchers.-Under this program, the Section 8 rental subsidy program will be expanded to permit recipients to use certificate or voucher assistance to support homeownership.

Safe havens.-Under this proposal, the Federal Government will support the development of ``safe havens'' where mentally ill persons who are unwilling to accept more structured transitional housing programs can live in less structured environment to make the transition from homelessness to other support systems designed to assist them live independently. This program will fill a need noted by the Federal Task Force on Homelessness and Severe Mental Illness which stated that:

Mentally ill people on streets or in shelters need a secure, clean, and stable residence where they can recuperate from the harsh street environment and develop necessary life skills and linkages to benefits, treatment, and supports.

Moving to opportunity.-This initiative will combine special counseling and services with rental assistance to enhance the ability of recipients in predominantly low-income areas move to areas of higher income. The Gautreaux Demonstration near Chicago has demonstrated that this approach can make a tremendous difference in the lives of some persons, increasing job opportunities, improving children's school performance levels, and enhancing life options.

These proposals are good ideas and we are pleased that the bill would establish these programs. The bill incorporates all or most of the Homeownership Vouchers, Safe Havens, and Moving to Opportunity proposals. The public housing reform section incorporates many of the basic concepts contained in the Administration's Choice in Management and the Take the Boards Off proposals, but does not include the Choice in Ownership proposal and reduces the size of the Choice in Management program. The bill uses the name ``Restore'' to repackage existing multi-family housing improvement programs, but fails to incorporate most of the Administration's ideas to ensure greater accountability or resident choice. We believe that there is much more in the Administration's ``Restore'' program that deserves to be included in this bill.

During the last several months, the Administration has also transmitted legislative proposals to control housing expenditures under several HUD programs, to encourage the dismantling of regulatory barriers to affordable housing, and to make various technical or minor modification of many of HUD's programs to make them operate more effectively.

In addition, the Farmers Home Administration (FmHA) made several recommendations regarding rural housing programs. This bill incorporates their proposals to establish a rural housing voucher program and to increase the equity requirement under the Section 515 multifamily housing development program. However, there are still provisions which FmHA opposes, such as a provision allowing for administrative appeals of tenant grievances in properties assisted under FmHA programs and a provision which would require FmHA to provide assistance to residents of areas that would otherwise not be eligible for FmHA assistance.

HOME INVESTMENT PARTNERSHIPS PROGRAM MATCHING REQUIREMENT

One of the most troublesome aspects of the Committee Bill is a provision to eliminate the variable matching system created as part of the HOME Investment Partnerships program. In fact HUD has estimated that the changes included in the Committee Bill will reduce the number of families assisted through the HOME program by 20,000 families in FY 1993. We believe that new legislation would not be worthwhile if it include any fundamental retreat from the basic compromises that made the enactment of NAHA possible.

NAHA was of the result of a bipartisan spirit focussed on achieving comprehensive housing legislation to reform the nation's housing programs. At times, there were serious differences of opinion over some issues, but these disagreements were resolved through compromises that allowed all the participants involved to support the final bill. One of the most important compromises reached as Congress developed NAHA was the variable matching system that convinced the Administration and

the Minority to support the HOME program and the overall bill.

Under the graduated, or tiered, matching requirement, HOME grantees contribute a smaller proportion of non-federal matching funds for substantial rehabilitation than for new construction, and make an even smaller contribution for tenant-based assistance and light rehabilitation than for substantial rehabilitation. We view this as an appropriate policy for the federal government because it will encourage the most cost-effective use of federal resources and enable the program to serve more families.

According to HUD's 1991 study on priority housing needs, seven of ten families with ``worst case'' housing needs have as their only housing problem excessive rent burden. Tenant-based rental assistance to these families will immediately address their housing need. In addition, rehabilitation is much less expensive than new construction and most jurisdictions throughout the country have more than enough vacant housing in need of rehab to use most of the funds appropriated for the HOME program.

The variable match is not heavy-handed federal bias as some claim, but a reasonable incentive designed to encourage states and local governments to use federal funds as cost-effectively as possible. Jurisdictions who use HOME funds still have the discretion to decide what activities to pursue, depending on local needs and priorities.

Because this is one of the most important priorities of the Administration and certain members of the Minority, the insistence of the Majority to create a uniform match is a major impediment to a bipartisan agreement to move this bill forward. Indeed, as Secretary Kemp wrote in a letter to Senator Riegle two days before Committee mark-up, ``The Administration cannot support any housing bill reauthorizing HOME that lacks the fundamental safeguards afforded by a tiered match.''

We cannot understand the claims that the tiered-match makes the HOME program unworkable. There has been no opportunity for the program to be tested because the bill making appropriations for HUD for fiscal year 1992 waived the entire matching requirement for one year. We suspect that HOME grantees will be able to comply easily with the variable matching system. For all these reasons, we support maintaining the tiered match unless and until direct experience can demonstrate that it is unwise public policy.

RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION

We are very sympathetic with the concerns regarding lead poisoning that instigated title X of the Committee bill, the Residential Lead-based Paint Hazard Reduction Act of 1992. The accumulating evidence of the health hazards posed by lead-based paint and the compelling testimony provided at the Committee's hearings demonstrate that lead-based paint is a serious problem

that the government must address.

However, we are concerned that the Committee bill includes far-reaching mandates on HUD, state and local governments, and the entire housing industry that may have negative unintended consequences. We believe that these parties may not be prepared for these mandates and that there does not exist the necessary expertise and capacity to implement the bill in its current form.

Although some parties have claimed that the government has not responded effectively to the hazards of lead-based paint, the Administration has in fact taken serious and good steps over the last few years to deal with this complicated and important problem. At one of the Committee's hearings on lead-based paint, the Administration's testimony stated that:

We believe the current actions at HUD, the Environmental Protection Agency (EPA), the Centers for Disease Control (CDC), and the Consumer Product Safety Commission (CPSC) are at the correct scale, and are addressing the issues in the correct order.

Furthermore, responding directly to the original draft of S. 2341, HUD's testimony stated that:

The Department's misgivings about S. 2341 have to do primarily with the pace with which the Bill would accelerate the demand for inspection, assessment, abatement, and control services, which are in limited supply. We believe the bill, as it stands, could overwhelm the marketplace.

While the Majority has made several encouraging and helpful changes to the Residential Lead-based Paint Hazard Reduction Act since S. 2341 was introduced, we believe that further improvements are necessary before final passage.

OUTSTANDING ISSUES

Ironically, despite the breadth and scope of this bill, and the effort that has gone into preparing it for Committee action, there are several issues that must be addressed further before we would feel comfortable supporting final passage of housing legislation. Some of these issues have already been mentioned; namely, increased support for some Administration initiatives, modifications to the HOME program, and improvements to the lead-based paint title. However, there are other issues to be addressed as well.

HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

The Senate should also respond to concerns raised regarding the quality of life for public housing residents in units that were originally designed for elderly residents but where increasing numbers of disabled residents have been admitted. During a

symposium on this issue, the Committee heard testimony that described the problems that occur in some circumstances where persons with disabilities and elderly reside in the same developments. Because of these problems, we believe that the system must be changed.

We hope that a satisfactory solution can be developed where age-specific and appropriate housing opportunities can be provided for elderly and disabled residents, according to their own choices and what would be best for the residents and developments. Because of the need and the opportunity to address this issue, we feel some solution must be developed before the Senate approves a comprehensive housing bill.

FLOOD INSURANCE

Before mark-up of the Committee Print, Senator Kerry introduced an amendment to make comprehensive changes to the National Flood Insurance Program (NFIP). This amendment was substantially similar to a bill that Senator Kerry introduced earlier this year, S. 1650. For various reasons, Senator Kerry withdrew his amendment but stated his intention to offer his proposal as an amendment to the housing bill when it is considered by the full Senate. Since the mark-up, Senator Kerry has introduced his proposal as a bill, S. 2907.

We are disappointed that the Banking Committee may not have the opportunity to consider this legislation in Committee mark-up before it is debated on the Senate floor. We believe that there are many questions to be answered and issues to be addressed before the Senate should pass this proposal. At a September hearing on S. 1650, several witnesses expressed concerns regarding the erosion management sections of the bill. These witnesses questioned whether these sections might violate or intrude upon the property rights of property-owners along our nation's coastlines and improperly use the NFIP to direct local governments to adopt certain policies regarding construction and zoning near the coast.

While the erosion management sections of S. 2907 are different than the related sections of S. 1650, we believe some of the same questions may need to be answered. Furthermore, several interested parties have notified the Committee of their concerns that the portfolio review and lender compliance sections may impose an unreasonable burden on banks and other lenders. Finally, the Administration has not indicated whether it will support S. 2907. We understand that the Committee may hold a hearing to discuss S. 2907; that would be a good opportunity to discuss some of these issues. In any case, we believe that the prospects of facing these issues while the Senate debates the housing bill may make it more difficult to pass the housing bill and may jeopardize some Senators' support for either bill.

CONCLUSION

To summarize, this housing bill reflects a thoughtful, comprehensive examination of existing programs and our nation's housing needs. We are optimistic about the prospects for reaching agreement on a bill that we can support and that the President will sign. However, finalizing and ensuring this support still depends on further improvements in the areas mentioned above and avoiding any erosion in the gains we have made thus far. We commend our colleagues for working with us and look forward to continuing our discussions.

Despite this optimism regarding Senate consideration of this bill, we must note that this Committee product is not the final version of the bill, nor will the Senate-passed version be the final product. We are extremely concerned that the housing bill recently passed by the Committee on Banking, Finance, and Urban Affairs of the House of Representatives is unacceptable to Senate Republicans and to the Administration. Therefore, we approach the consideration of the Committee Bill on the floor as an opportunity to improve the bill according to the views described here and to culminate a bipartisan approach that will be defended by a unified Senate in conference and will result in final legislation that will have our and the Administration's support.

Some of us would still prefer a simple reauthorization bill to modify problems with NAHA and to make certain HUD programs more efficient. NAHA and other legislation developed the basic tools necessary to address our nation's housing needs. What we need to do now is to allow the existing system to operate over time in a stable environment. In such an environment, HUD and Congress can focus on the most critical problems and implement measures to address them most effectively. However, if this bill moves forward, we believe it must be consistent with the views expressed herein.

Jake Garn.

Alfonse M. D'Amato.

Connie Mack.

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