Center for Community Change

5/30/96

Bruce Katz
Chief of Staff
Department of Housing and Urban Development
Room 10000
451 7th Street, SW
Washington, D.C. 20410

Dear Bruce:

As you'll see from the attached Congress Daily article -- "Cisneros Touts Housing Bill; Sees Clinton Support" — we've continue to have real and substantial differences with the Department on the housing authorization bill. I continue to be deeply frustrated by the way in which the Department's actions are so clearly undermining resident interests, and our position as we move into conference. Why has the Department adopted the narrow, parochial, and managerial interests of PHAs as its own?

On behalf of the Center, ACORN, the National Low-Income Housing Coalition, and the National Housing Law Project, I formally request a meeting with the Secretary to discuss our concerns. Since the PHAs were afforded this opportunity many weeks ago, I trust that we will be able to see the Secretary soon.

Sincerely,

Deepak Bhargava
Director of Public Policy

Fax to:
X - Bruce Katz
Nancy, Deborah, Lisa D.
Paul Weech

X -- DPC.

1000 Wisconsin Avenue, NW, Washington, D.C. 20007 202-342-0519 FAX: 202-342-1132

Jackson-Vanik

Continued from Page 1

think it's a very good tool." Rangel went even further, saying he thinks "it's time to review all the impediments we have to trade" and he would not want to single out Jackson-Vanik.

"If we had a sound foreign policy and a very sound trade policy, I think it would give us all protection ... to take care of our political needs," Rangel said.

He said he would support streamlining the nation's entire trade policy, including — once the election is over — a review of the Helms-Burton language tightening sanctions on Cuba.

In his speech earlier Wednesday to the National Association of Manufacturers, Bereuter called the Jackson-Vanik amendment "outdated" and a "very unwieldy tool" and said it should be abolished. He suggested ending the annual most favored nation trading status debate by extending favored trade status "to all countries," while giving the president the power to strip trade benefits from "rogue" nations.

In place of Jackson-Vanik — authored by former **Sen. Henry Jackson**, D-Wash., and former **Rep. Charles Vanik**, D-Ohio — Bereuter said the United States "could fully utilize better targeted sanctions where appropriate for either trade or national security concerns."

And criticizing what he called the administration's lack of a coherent China policy, Bereuter said the annual congressional fight over China MFN "undermines our leverage on important bilateral issues and diverts our focus."

Cisneros Touts Housing Bill; Sees Clinton Support

HOUSING

A sweeping housing reform bill moving through Congress may become one of the most significant bipartisan accomplishments of the last two years, HUD Secretary Cisneros said Wednesday, *LEGI-SLATE News Service* reported.

In an address at a HUD-sponsored public housing summit, Cisneros said federal housing policies must be adjusted for a new political landscape in which budgets are tight and states and local governments are asking for more control over decisions affecting their communities.

Cisneros said the reform legislation — which passed the House earlier this month and received Senate approval in January — addresses those realities by providing more flexibility to local authorities, who would have more leeway to set residency requirements and rent rules and tear down dilapidated structures.

"This could be one of the few substantial pieces of legislation passed in these partisan times," Cisneros said.

And he added President Clinton "ought to be able to sign" the reform bill after "appropriate negotiations" with congressional leaders as the legislation heads for a House-Senate conference.

Cisneros has been working closely with congressional Republicans over the past two years to develop more efficient housing programs that would improve public housing and also save his department, which some GOP members had targeted for elimination.

Also at Wednesday's summit, **House Banking Housing and Community Opportunity Subcommittee Chairman Rick Lazio**, R-N.Y., who sponsored the House bill, said: "There is a new landscape for housing ... We have to create an environment where people can thrive. We can't just sit back and thump our fists in angst about what we don't have."

Lazio and other bill supporters say it would help communities better use limited government funds by relaxing federal housing regulations and consolidating a number of federal programs into two block grants — one for capital investment and one for operating expenses — to states and local governments.

It also would give local authorities more discretion to evict public housing residents who participate in illegal activities, allow local officials to use rehabilitation funds to demolish old projects and provide a system of rental vouchers to allow tenants of condemned public housing to move to privately owned housing.

The House version of the bill, which generally is less moderate than its Senate companion, does contain some provisions Cisneros and many Democrats oppose. Most significantly, the House bill would repeal the "Brooke Amendment," which requires that public housing tenants pay no more than 30 percent of their gross income in rent.

Many Republicans argue that provision unfairly penalizes residents who work by effectively forcing their rents to rise as their income increases.

"We need to break the disincentives to work," Lazio said. "We need to provide flexibility to housing authorities to set standards for rent ... and to provide the correct incentives."

But Clinton administration officials and many Democrats fear removing the ceiling would raise rents for all the working poor and allow housing authorities with limited funds to turn to tenants for more money.

While Cisneros and Lazio continued Wednesday to voice optimism that the housing reforms could be enacted into law this year, **Rep. Barney Frank**, D-Mass., cautioned public housing officials at the summit against settling for the reforms with less money.

Frank, who voted against the housing reform bill, called the decreased spending on housing programs "morally unacceptable" and a "very grave error."

He said legislators are trying to invent something he calls the "flexibility-dollar ratio," where Congress tries to make up for providing less money by increasing flexibility for local communities.

"If you could heat your places with flexibility, good luck to you," Frank said Wednesday. "It's not the pot of gold some people have described."

Frank said he agreed local authorities should be provided greater decision-making discretion, but argued housing officials should not blindly accept legislators' claims that there is not enough money in the budget to provide sufficient funds for housing programs.

"Of all the myths, that is the biggest one of all," Frank said.

III. The Emerging Housing Authorization Act

The House (Lazio) bill, the Housing Act of 1996, H.R. 2406, is scheduled to go to the floor during the week of May 6. This imminence has produced a cluster of conferences by, between and among the housing subcommittee staffs -- majority and minority, NAHRO, PHADA, CLPHA, and Secretary Cisneros and the Secretary and Chairman Lazio. It appears at this writing that the bill will reach the floor late Wednesday or on Thursday, that the bill will be changed in significant ways by a manager's amendment to be offered by Mr. Lazio, that the bill will be considered on the floor under a "modified open rule," giving the Democrats an opportunity to offer amendments with time-limited debate, and that the bill will be adopted. The committee Democrats have said that they will offer an amendment to cap all rents at 30% of income, but giving PHAs' discretion on methods of rent-setting within that limit; the minority also says it will support HUD's position on this and other matters, such as annual targeting on admissions and targeting within buildings to assure a broad range of incomes. All say that the bill will pass as proposed by the Republicans.

If Mr. Lazio makes the rumored changes in his bill -- assurance of Brooke rents for those below 30% of area median, who are 75% of the present PH residents, and a requirement for some prescribed share of units committed over time to the same very, very low income people, he will significantly disarm the arguments of the Democrats, House and Senate. Such action will also make H.R. 2460 more conferenceable with the Senate's S. 1260, which now provides Brooke for those with household incomes up to 50% of area median.

LATE NEWS: *CLPHA, NAHRO and PHADA met with Secretary Cisneros on Friday, May 3 and he expressed interest in supporting the long-held CLPHA positions: only those below 30% of area median income have rents limited to a maximum of 30% of adjusted income and a PHA must only provide a prescribed minimum of its units to those with incomes below 30% of area median income, and that that target is on the overall income profile of the PHA and not on annual admissions. Prior to that meeting, HUD had told the housing subcommittee, among other things, that the president would veto the bill if it did not provide Brooke rents up to 50% of area median. HUD's changed position should change the House Democrats who have said that they were simply following the Administration's lead.*

IV. Comment

It remains important for PHAs to express their support for H.R. 2406, with whatever qualifiers you wish to add, to Chairman Rick Lazio, Ranking Minority Joseph P. Kennedy, and your

THE WHITE HOUSE

WASHINGTON

May 17, 1996

MEMORANDUM FOR LEON PANETTA
HAROLD ICKES
EVELYN LIEBERMAN
MIKE MCCURRY
JOHN HILLEY
KITTY HIGGINS
MARCIA HALE
DOUG SOSNIK

CC: Carol Rasco
Alice Rivlin

FROM: Jeremy Ben-Ami
Molly Brostrom

RE: Public Housing Reform

As you know, last week the House passed Rep. Lazio's public housing reform legislation. A similar but more moderate bill passed the Senate by voice vote in January. While the legislation is generally acceptable to the Administration -- in fact, it codifies much of the Administration's agenda for transforming public housing, both bills (and the House bill in particular) contain contentious provisions that the Administration has opposed. The following summarizes the two most contentious, as well as several potentially harmful issues in the legislation.

Contentious Issues: Brooke Amendment and Income Targeting

The Administration strongly supports reforms to public housing that remove work disincentives and help achieve a mixed income tenant population. These goals can be achieved, however, without abandoning rent protections and public housing's mission (and the current need) to target scarce housing assistance to low-income families -- as these bills would do.

Brooke Amendment. Through partial repeal of the Brooke amendment, a 27-year old law that says rents for public housing residents should not exceed 30% of income, the House and Senate bills could result in many low-income families paying extremely high proportions of their income in rent or being displaced or forced into homelessness.

Ironically, while Republicans argue that repeal of Brooke is necessary because it is a disincentive to work, the bills passed single out the working poor for rent increases (the House preserves Brooke's protection for families earning less than 30% of the area median income -- roughly equivalent to the poverty line in most communities, and for the elderly, disabled, and veterans; the Senate retains Brooke for families under 50% of area median income).

Income Targeting. The House and Senate bills significantly loosen income eligibility for Section 8 housing vouchers and public housing, allowing families with income up to 80% of the area median income (as much as $54,600 in the District of Columbia) to be eligible and requiring only small percentages to be directed to the very low-income (below 30% of the area median income). As a result, scarce housing assistance would be redirected to relatively higher income households and very low-income families could face even more severe affordable housing needs and be forced into homelessness. (Currently, nationwide, over 85% of public housing families have incomes below 35% of the area median income.)

Republicans are proposing changes to Brooke and relaxing of income targeting at a time when studies demonstrate that worst case housing needs (families paying more than half of their income to rent) have grown to 5.3 million households and that the very low-income are almost twice as likely to face excessive rent burdens.

Other Provisions

The following provisions could also have a harmful impact on low-income tenants in public housing.

Minimum Rents. The House bill would allow housing authorities to set minimum rents as high $50; the Senate and Administration would cap the minimum rent at $25 and allow hardship exemptions. A $50 minimum rent would result in 550,000 families paying an additional $400 per year in rent; the median income of families in public housing is $6,420.

Moving-to-Work Demonstration. In what would amount to a back-door Brooke repeal, the final House bill expands a moving-to-work demonstration from the 30 public housing authorities (PHAs) authorized in FY 96 appropriations to 300 (one of these would have to be New York City, the largest PHA) over three years for which federal rules, such as rent restrictions, income eligibility, tenant selection and grievance procedures, would be lifted. The Administration supported the demonstration for 30 PHAs but with reasonable rent requirements and low income targeting.

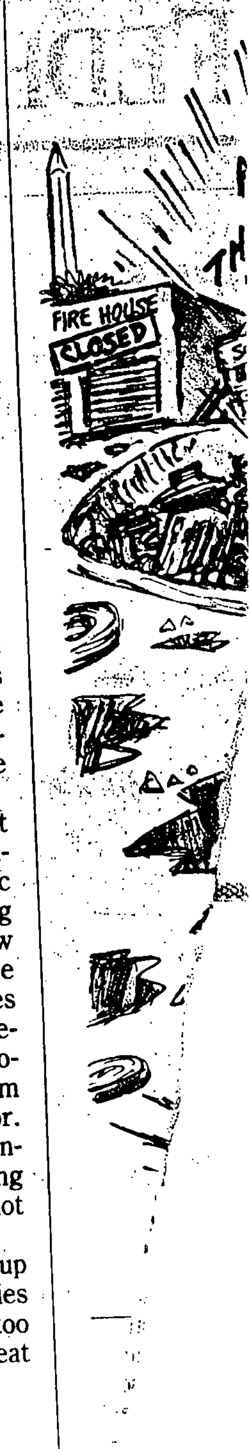
Time Limits A last minute addition to the House bill would, for the first time in the history of public housing, establish time limits for public housing residency. The provision would require tenants to sign 'Personal Improvement Plans' as part of their lease, establishing time limits that would be triggered upon residents working and attaining self-sufficiency.

Oversight/Accountability. Both the House and Senate bills significantly decrease HUD's ability to oversee and establish accountability for federal spending. In addition, the House bill would repeal, rather than amend, the U.S. Housing Act of 1937, raising concerns about the extent of the regulatory structure that would be repealed.

Conference between the House and Senate bills is expected in June. While the Senate bill goes further than the Administration would like on Brooke and income targeting, it is clearly preferable to the House bill. HUD is currently analyzing the bills and developing a strategy for Conference.

The Washington Post

AN INDEPENDENT NEWSPAPER



Housing: Moving Right Along

THE HOUSE last week passed a bill that would make some overdue and positive changes in the federal housing programs. But it carries some good ideas too far. The Senate earlier passed a better balanced version, which the administration favors. We hope the conferees bend in that direction.

The fact that these mostly constructive bills are even this close to enactment is a major achievement. A year ago, Republicans, newly in command of Congress, were still calling for the abolition of the Department of Housing and Urban Development. Some administration officials had likewise intimated that HUD might make a useful sacrificial offering. The president then no more than now appeared to be engaged in housing issues.

The department and programs were saved by imaginative leadership on both sides. Housing Secretary Henry Cisneros took advantage of the election scare to draft a plan to liberate the public housing program from outmoded rules—provident moves a Democratic Congress would probably not have countenanced. The Republicans mainly in charge of housing policy, Sen. Christopher Bond and second-term Rep. Rick Lazio, meanwhile recognized the folly of simply walking away from years of federal investment and responsibility.

Mr. Cisneros proposed to "voucherize" the public housing program—give vouchers to tenants instead of grants to local housing authorities and let the market decide which housing projects would remain and which not. The Republicans balked at this most traditional of Republican ideas. The House bill proposes instead to shift power to the local authorities by consolidating programs, greatly reducing regulations and giving out block grants.

Among much else, the local agencies would be freer to demolish existing projects without necessarily replacing the units lost, and to change the tenant mix in projects, so as not to serve just the very poor. They would likewise be free to charge most tenants more than the currently prescribed 30 percent of income as rent. The rule meant to protect the poor has the counterproductive side effect of imposing a 30 percent surtax on work, and thereby helping to drive the upwardly mobile out of the projects.

The addition to local discretion is good, but authorities should not be tempted by the legislation to drift too far from the basic mission of public housing. There aren't enough subsidized housing units to serve all the poor even now. If current law reserves too many units for the very poor, the House bill, in opening up the program to families with essentially middle-class incomes, would reserve too few. There needs to be a better compromise, and the large existing voucher program should continue to be concentrated on the poor. There also are ways to minimize the work disincentive in the current rules without abandoning the general proposition that rents should not exceed 30 percent of income.

One reason for letting rents go up is to make up for federal budget cuts; the housing authorities have to get the money from somewhere. But too large a shift in the tenants' direction would defeat the purpose of the programs.

Joining the W d

...W World Bank study offers, on its ...od news about the prospects for ... developing nations. Their ... he "transitional" econ...

up a ... f...

total economy are falling ...

need to trim tariffs, c... , stop sheltering in... ...er steps to wel... coffee or ...rt of ...

DRAFT: May 27, 1996

Public Housing Reform Bills
Senate vs. House
Highlights of Key Issues and Concerns

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Brooke Rent Protections for Public Housing and Section 8 tenant-based assistance	Brooke amendment protections for all public housing and Section 8 (tenant-based) residents, regardless of income. Ensures that no resident will pay more than 30 percent of adjusted income toward rent.	***Retains Brooke for:*** 1) all families with incomes below 50% of the area median 2) all families (even up to 80) in troubled PHAs. ***Repeals Brooke For*** 1) Low-income families with incomes above 50 percent of the area median IF they are not residents of troubled PHAs.	***I. Retains Brooke for some:*** for current and prospective families who are 1. PH and Section 8 residents with incomes below 30 percent of the area median income, and 2. PH and Section 8 households that are elderly and disabled families at all income levels, and 3. PH and Section 8 Households that are Veterans ***II. Repeals Brooke for:*** 1) In Section 8 and public housing: All non-elderly, non-disabled, non-veteran low-income households families with incomes above 30 percent of the median income. 2) In public housing: All families in New York City (MTW Demo). 3) In public housing: All families in 300 PHAs participating in the movetowork demo (close to a half million families).	*Protect the very low-income, vulnerable, and families with worst case housing needs, while addressing mixed income occupancy through other means.* Retain Brooke amendment for all families below 50 percent of the area median income.

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Rent Adjustments other tools to Make Work Pay in Public Housing	***Rents*** 1. Allows PHAs to make any adjustments to earned income to encourage work through more flexible rent structures. However, requires PHA to take financial risk associated with reduction in revenue. 2. Allows ceiling rents which allow pricing of units competitively with the market, allowing for retention of mixed income occupancy. Ceiling rents may not be less than operating costs. *Both rent provisions expire at the end of FY96*	***Rents:*** 1. Requires 18-month earned income disregard for newly employed persons 2. allows ceiling rents.	***Rents:*** 1. Allows earned income adjustments, somewhat different from current law: 2. Allows any deductions by a PHA for any reason. 3. Allows ceiling rent provisions that are somewhat different from current law, and are not required to be at least as high as operating costs. 4. Allows Secretary to revise PFS formula to provide incentives to increase rental and nonrental income. This will create incentives for PHAs to implement earned income adjustments, since they will not have to take the entire financial risk of offering them.	***Rents:*** *1. Permanently enact earned income adjustments and ceiling rent provisions as authorized under current (post-Jan. 1996 CR) law.* These provisions eliminate work disincentives from strict application of Brooke. 2. Support HR 2406 authority to revise OpSub formula to encourage work and increased income.
Minimum Rents for public housing and Section 8	Requires PHAs and the Secretary to charge every public housing and Section 8 resident a minimum rent of at least $25 and no more than $50.	Allows minimum rent NOT TO EXCEED $25.	1. Requires PHAs to set min rents for public housing and Section 8-assisted residents (in private housing) of at least $25, and no more than $50 2. Allows PHAs to grant exemptions for "severe financial hardship", as defined by the PHA, definition includes awaiting eligibility determinations and eviction.	*Take Senate maximum (not to exceed 25) but House exemptions.*

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Secretary ability to modify discretionary rent charges	N/A: Rents are mandated, and only flexibility is positive: for earned income adjustments and ceiling rents to encourage work.	Not specified. Only requires the Secretary to permit exemption from Brooke for non-troubled PHAs for families above 50 percent of the median. Unclear as to whether Secretary's permission can be constrained.	If Secretary determines that maximum and minimum rents (not actual rents set) are inappropriate to serve needs of LARGE PHA jurisdictions (>1250 units), Secretary can require modification of ceiling and minimum rents.	Secretary ability to require modification should 1) include ability to review actual rent charges; 2) not be limited to LARGE phas; and 3) Should trigger remedies beyond min. and ceiling rents -- such as actual rent modifications.
Move To Work Demo	1. Secretary is authorized to establish a demo for up to 30 PHAs to test ways to move families to work and self-sufficiency. PHA is given some flexibility in rent-setting and waivers of requirements. 2. PHA may merge OpSubs, Capital, and Section 8, but the number of households assisted must be no less than otherwise. 3. PHA may waive Brooke, but rents must be reasonable. 4. 75 percent of the Demo must be targeted to very low-income families below 50 percent of the area median income.	N/A	1. Secretary must establish a demo for 300 PHAs, which must include New York City (with over 175,000 units) which is oriented toward work and self-sufficiency. There are almost no constraints. 2. Rents need to be reasonable to encourage work (but need not be reasonable -- e.g. could have rents increase each year to discourage non-work). 3. No income targeting need apply. 4. Will allow merging of all funding, but could allow less households to be served than otherwise. 5. The only constraints seem to be Demo Dispo program, and Labor Standards, both of which still apply.	Retain Current Law Demo.

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Income Targeting for public housing	1. 75-85 of all new admissions (PHA-wide) below 50 percent of the median income. 2. 15-25 can go up to 80 (but usually don't because of past federal preferences). 3. Project-by-project targeting: 75 percent of new admissions in each project must have incomes below 50 percent of the median.	Requires 40 percent of new admissions to have incomes below 30 percent of the area median income, 75 below 60, and the ceiling is still 80. *(Therefore allows one-quarter of households to have incomes between 60 and 80 percent of median)*. Requires "diverse mix" in each project (but does not define that as requiring admission of any very low-income families). Allows different targeting (undefined) for good cause if approved by the Secretary.	1. 35 percent of new admissions (PhA-wide) must have incomes below 30 percent of the median income. 2. The remaining 65 percent of the portfolio would be opened up to families with incomes up to 80 percent (or, in the top 10 metro areas, over $40,000 or 250% of the poverty line). 3. No requirement. Simply allows an income mix that is proportional to income mix in eligible population, as adjusted to consider severity of housing need. 4. Prohibits targeting if it concentrates very-low income families in certain developments or buildings.	*Senate is better, but not good enough. Ensure targeting to those most in need while encouraging mixed income occupancy. Avert potential for income segregation in particular projects. Targeting must be limited to NEW Admissions only, otherwise, it will be years before poor families would be eligible for assistance.* 1. ~~40~~ 75 below 30 2. Remainder up to 60 [illegible] 3. Project-by-Project: same as PHA-wide.

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Income Targeting for Section 8	100 percent below 50 (with exceptions for previously assisted households)	Unnecessarily loosens income targeting, by retaining the same eligibility as public housing (30 below 40, 75 below 60, and allows 25 between 60 and 80). Also allows different targeting, for good cause, if approved by the Secretary.	1. 40 percent must have incomes below 30 percent of the median income. 2. 50 percent of families assisted must have incomes below 60 percent of the median income.	*Senate is better, but not good enough. Target scarce portable assistance to those with the lowest incomes.* 1. 75 percent below 30 percent of the area median. 2. 100 percent below 50 (with exceptions for previously assisted households)

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Time Limits and Self Sufficiency Contracts for Certain Public Housing Residents	Federal housing assistance has never been time-limited, self-sufficiency has never been a lease provision. Current law allows the Family Self-Sufficiency program, which is applicable to about 140,000 Section 8 households and a much smaller number of public housing households. (Less than 5% of all units). Participation is strictly voluntary. Allows savings from earnings to be placed in escrow account. Does not require termination of assistance; only, termination of escrow account.	Requires each PHA to develop a rental policy that encourages and reward employment and economic self-sufficiency.	1. Requires all adult members of families with children to sign lease agreements agreeing to a specific date for termination of housing assistance, and deadlines for performance targets, tied to self-sufficiency. 2. Exempts elderly and disabled residents who are unable to comply with self-sufficiency contract, 3. Exempts people who are working, attending school, or vocational training, or otherwise complying with work requirements applicable under other public assistance programs if they are unable to comply; 4. Allows PHAs to modify agreement upon good cause or changed circumstances.	**1. Oppose time limits: low-wage working families need assistance to afford private housing in many markets. 2. Creates arbitrary inequities: a) between new admissions who are working families (no time limits), and existing residents who move from welfare to work (and are subject to time limits); b) between single individuals (no contract required) and families with children; 3. Authorize new Section 8 certificates for a welfare-to-work demo, designed to link Section 8 households to jobs, education, and training, through coordination amongst housing agencies, state and local welfare reform efforts. 4. Reauthorize FSS program and invigorate for PH arena.**

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Federal Oversight: Accreditation	Secretary oversees all programs. Public housing is measured pursuant to the PHMAP system. There is no analogous SEMAP system yet measuring the performance of administrators of the Section 8 program. Secretary oversees performance of private owners in federally assisted and insured housing.	Uses PHMAP performance measurements. Adds 3 new components to PHMAP: 1) extent to which PHA provides effective economic self-sufficiency programs; 2) extent to which PHA successfully meets the goals identified in public housing plan, and 3) extent to which tenants are involved in PHA administration.	1. Sets up a new federal agency -- the Accreditation Board -- to monitor, accredit and evaluate public housing, and Section 8, and project-based privately-owned subsidized housing. 2. Requires that an existing nonprofit entity called the National Housing Management Center provide ongoing assistance in organizing the Board and establishing performance standards and providing staff and "logistical" support. Also requires HUD's IG to serve as a principal advisor to the Board.	*Support Senate approach, and Oppose Accreditation Board proposal -- as it duplicates bureaucracy without accountability. Senate bill revises existing performance evaluation system (PHMAP). Commission a task force to look into the appropriate role, if any, of an Accreditation Board.* 2. Authorize SEMAP (Section 8 management assessment program.) to measure performance of PHA administration of Section 8 program.

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
U.S. Housing Act of 1937 and effective Date	Current law governing both public housing and Section 8 assisted housing is contained in the U.S.H.A. of 1937.	Amends the 1937 Act with this bill. Requires, within 9 months, Secretary to submit to Congress proposed regs to carry out Act, and elimination of all other rules and regs 1 year after effective date.	Repeals the 1937 Act entirely, and rewrites all laws governing PH and Section 8 assisted housing in this bill. Attempts to make some conforming changes to all other laws referencing the 1937 Act. Effective date is immediate, and all provisions are self-implementing unless regs are specified. This means that all existing regs will be eliminated, and all guidance would either be newly issued (if permitted) or non-existent.	1. Support Senate approach. Oppose repeal of the 1937 Act, especially because adverse consequences, including repeal of the "full faith and credit" pledge (implicating bonds), and overturning rent in income restrictions in many other housing programs (such as tax credit) that rely on the 37 Act. 2. At a minimum, the Secretary must be allowed to issue guidance for those provisions which involve a significant risk of litigation or need uniform interpretation.
Funding Structure	Programs are separately funded.	1. Authorizes two formula-driven funds: operating and capital. 2. Allows flexing of up to 20 percent of the Capital Fund for activities under the Operating Fund. 3. No bonus pool.	1. Authorizes a capital and an operating fund. 2. Allows 10 percent flexing ability from capital to operating. 3. No bonus pool.	Both bills create 2 funds. Support. However, neither bill Creates a Bonus pool as a reward for superior performance.

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Authorization of Appropriations			PH: Authorizes $2.5 billion for Cap grant for each of FY 97 through FY 2000; and $2.8 billion for operating. Safe Home: Authorizes $700,000 each year, beginning in FY 1996 for Op Safe Home. Section 8: $1.86 billion for each of 4 years. Section 8 for relocation from designated housing: $50 million for 97, and such sums as necessary for remainder of years.	

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Other Tools to Make Work Pay and Encourage Self-Sufficiency	***Support Services*** Variety of jobs/supportive services programs available for linking residents to jobs, including a grant program for supportive services.	***Planning:*** PHA Comprehensive Plan must describe policies/activities designed to help residents achieve economic and social self-sufficiency. ***Performance:*** PHMAP performance scale is modified to measure the extent to which PHA provides effective economic self-sufficiency programs. ***Mandatory Work:*** Requires 8 hours of volunteer community work. ***Supportive Services:*** §122: authorizes a grant program for supportive services (similar to current law) and resident empowerment Authorizes $25 million for TOP.	***Planning***: Requires description of linkages with state welfare agencies in PHA plan. Allows PHA performance to be measured in this regard. Continues variety of programs. ***Mandatory Work:*** Requires 8 hours of community work each month, but exempts, elderly, disabled, and working households or participants in training or education. ***Support Services:*** Authorizes TOP program at $15 million, and allows use of PHA or other qualified entities as contract administrators	***Work:*** Support both bills' requirement of 8 hrs. community service/month, with appropriate exemptions. ***Planning*** Adopt HR 2406 re: linkage with state and local welfare orgs, and 1260 Comp. Plan. description of self-sufficiency activities. ***Performance:*** Adopt 1260: PHMAP modification to measure performance. ***Support Services:*** Support variety of service programs and authorizations, including TOP program with contract administrator provision.

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Troubled public housing authorities	1. Process for identifying troubled management, and for improvement, but no hard triggers requiring HUD to take action. Also, lack of enhanced powers for receivers or HUD upon takeover of a troubled PHA. 2. No distinction between troubled and "chronically" troubled PHAs.	§108: Adds provisions to current Section 6(j), enhancing current law by: 1) ***Troubled PHAs:*** Requires improvement by PHA within 1 year. 2) ***Mandatory Trigger:*** Requires Secretary to declare breach if no substantial progress made within 1 year. Requires Secretary either to take direct control of the agency, seek a receivership, or take other necessary actions 3) ***Enhanced Powers:*** provides enhanced powers to Secretary or receiver upon takeover, including: abrogating contracts, demolishing or disposing of assets, establishing new PHA, exemption from state and local laws re: civil service, employee rights, procurement, financial controls.	Similar to Senate except: 1. Within 6 months of enactment, requires solicitation of alternative management for, or takeover of, all "chronically" troubled PHAs (troubled for 3 years). 2. Requires CHAS to include manner in which State or local unit of government will assist in removing troubled PHA designation. 3. Allows solicitation of competitive proposals from other PHAs or other private management agents for PHAs that are "at risk of becoming troubled", for management (operating) functions or capital functions.	*1. Support Senate approach plus House at-risk powers, and House CHAS sanction.* *Chronically troubled PHAs should be treated the same as all troubled PHAs: Given one year to improve, or else taken over by HUD or a receiver.* At a minimum, the provision for chronically troubled must exempt those already in receivership or HUD takeover, and those already making satisfactory progress.

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Conversion of Public Housing Units to Vouchers for use in the private market	Requires conversion of public housing assistance to tenant-based Section 8 assistance or appropriate site revitalization activities, of certain large, severely distressed projects that cannot reasonably be revitalized. Allows Secretary to halt unnecessary spending, and to ensure that actions are taken. Allows recapture and reuse of previously appropriated, but unused budget authority.	1. Similar to current law, but less authority to ensure that severely distressed stock will be converted: a) No powers provided to the Secretary to identify projects or for halting spending in conjunction with projects likely to be identified as obsolete, and b) no ability to recapture unused funding associated with dilapidated projects and reuse for vouchers. 2. Allows PHAs to convert any public housing units to vouchers, but requires extensive cost-benefit and market analysis likely to inhibit authority.	1. Similar to current law. 2. Allows voluntary conversion to vouchers similar to Senate bill, without all the burdensome analyses.	1. Make current law permanent for conversion of distressed to vouchers. 2. Adopt House version of voluntary conversion of public housing to vouchers.

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Mixed Income Provisions	As enacted in FY96 approps: 1)# of Low-income units must be in same proportion as PHA financial commitment to total commitment. 2) Allows deviation from regs and statute IF appropriations are reduced and PHA is unable to fulfill obligations, to the extent necessary to preserve viability while maintaining low-income character. 3) Entities that can receive funds include partnership, limited liability co., other legal entity where PHA or affiliates are genl. partner, managing member, or otherwise participates, or any entity which gives PHA option to purchase after 20 years.	1) # of low-income units is approximately the same as proportion of PHA commitment to total OR not less than the # that could have been developed by the PHA with such funds. 2) 20-year use restriction. 3) Allows same deviation as current law if appropriations are reduced. 3) Entities allowed: similar to current law.	§221(c)(2): Similar to current law, except: 1. # of low-income units must be "reasonable" taking into account the proportion of PHA investment to total. 2) Explicit 20 year use restriction. 3) Allows ownership by a PHA or an affiliate or other appropriate entity, regardless of offering 20-year right to purchase 4) Allows Secretary to grant waivers from requirements if reductions in funding or ANY other changes make to the program make continued application of requirements impracticable. 5) Allows PHA to use savings resulting from mixed income developments to house low-income residents in rental units in privately developed dwelling units in the neighborhood of mixed income housing.	1. Units should be no less than the proportion to financial commitment 2. 40-year use restriction. 3. Who is eligible to own and receive assistance should be constrained. 4. Waiver should be allowable only to extent appropriations are reduced significantly...as determined by Secretary.
Occupancy Standards	§224 of the FY 1996 HUD/VA appropriations law requires mandates that the General Counsel opinion from March 20, 1991 will govern all occupancy standard disputes based on discrimination under the Fair Housing Act until HUD issues a final rule pursuant to rulemaking procedures.		§508: Prohibits the Secretary from establishing occupancy standards, and presumes any state-established standards to be reasonable. Sets all other standards at 2 persons/bedroom.	

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
COMPAC/Drug Elimination Grant	Drug elimination grant program is currently for anti drug-related criminal activity. It is awarded on the basis of a competition, NOT by formula. Federally assisted housing is allocated 6.5% of funding.		§503: Renames the Drug Elimination Grant Program "Community Partnerships against Crime". Broadens scope to all crime. Broadens uses of funding to, additionally, 1) nonprofit Resident groups (RMCs) for security and crime prevention; 2) programs for youth (including ed, training, sports, drug treatment, etc.); 3) service programs for all residents that address contributing factors (job training, ed, drug treatment, etc.). Creates formula: A. 85% of all funding is for those with >250 units who submit application with 5-year plan: percent of total equals percent of units to total units in PHAs with more than 250. B. 10% of funds are for those with < 250 units, Secretary awards based on application. C. 5% of funds are for assisted housing.	Support formulaic approach.
Definition of Disability			§102(12): Excludes from definition of disabled anyone whose is disabled solely on the basis of any drug or alcohol dependence.	

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Security Contracts	N/A	N/A	§502(d): Requires Secretary, within 180 days of enactment, to investigate all security contracts awarded by PHAs with greater than 4,500 units to make sure contracts comply with law (and nondiscrimination) and to evaluate effectiveness. Would require termination of all contracts that are not otherwise in compliance with law.	
Section 8: Payment Standard and Numbers of Households assisted	Current law allows PHAs to set payment standard (the highest contract rent that is eligible under the Section 8 program) between 80 and 100 percent of the Fair Market rent, with "exception rents" up to 120% of FMR for jurisdictions where cost of housing greatly exceeds FMR. This promotes mobility, especially, in suburban jurisdictions. By setting standards low, (limiting the housing eligible for voucher-holders), more families can be served. Exception rents mean deeper subsidies, and less families served.	Allows payment standard between 90 and 120 percent of FMR, regardless of market rents in the jurisdiction warranting setting the standard higher. Secretary is required to setaside 5% of funds for an adjustment pool to ensure continued affordability, and Secretary is required to monitor rent burdens and review payment standard that results in significant percentage of families paying more than 30 percent of adjusted income for rent.	Allows all PHAs to allow payment standard of up to 120 percent of FMR, regardless of market rents in the jurisdiction.	1. Oppose both House and Senate bills, because they could lead to providing unnecessarily deep subsidies for residents of high cost housing (where plenty of lower cost housing is available). 2. When combined with changes in income targeting and Brooke, could lead to significantly fewer households assisted with Section 8 program. 3.Instead retain current law: 80 to 100, with exception rents where warranted by jurisdiction-wide high market rents.

Provision	Current Law	S. 1260 as Passed by Senate	HR 2406 As Passed by House	Suggested HUD Position
Voucher Rent Reasonable-ness and Eligible Market Rents	Requires voucher rents to be reasonable. Payment standard is 90-120 percent of FMR		No rent reasonableness requirement. Only requirement is that rent cannot exceed rents for comparable units in private unassisted market. Allows rents to be between 90-120 percent of FMR	
Section 8 Vouchers and neighbor-hoods	N/A	N/A	1. Requires study of geographic areas of State of Illinois served by Cooke County and Chicago HAs to determine adverse impact due to concentration (more than 15 percent) of assisted households under Section 8. 2.Requires the Secretary, when negotiating any settlement of litigation or consent decree that involves HUD/PHA and a unit of local government, to consult with ANY units of local government of ADJACENT to the jurisdiction.	Strongly Oppose litigation settlement provision which unnecessarily and harmfully intrudes into the Secretary's ability to settle and negotiate litigation. Provision could be unconstitutional, as it violates separation of powers. At a minimum, it is overbroad.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 10, 1996

MEMORANDUM FOR THE DIRECTOR

THROUGH: Alan Rhinesmith AR
Steve Redburn SR

FROM: Moon Tran, Jim Jordan

SUBJECT: H.R. 2406 -- United States Housing Act of 1996

On Thursday, May 9th, the House passed H.R. 2406--The United States Housing Act of 1996 -- by a vote of 315 to 109 (224 Republicans and 91 Democrats supported the bill.). The bill -- for which we do not yet have final language -- will be conferenced with a substantially different public housing reform bill -- S. 1260 -- which passed the Senate by voice vote in February.

Major Features of H.R. 2406

H.R. 2406 would repeal the Housing Act of 1937, which is the basic law governing HUD's major housing assistance programs and would fundamentally alter the form of federal housing assistance by devolving control to state and local governments. The nation's 3,400 local public housing authorities would continue to be responsible for the management and maintenance of the country's 1.4 million public housing units and administering 1.5 million portable housing vouchers. However, assistance would be provided through 3 formula block grants: for public housing operations, public housing capital improvements, and portable housing vouchers. HUD's oversight responsibilities would be streamlined and partly shifted to a new independent federal accreditation agency. The bill also creates a new block grant program that would be used to provide housing assistance on Indian reservations.

HUD worked with the bill's main sponsor, Rep. Rick Lazio, to reach agreement on a number of provisions of H.R. 2406 that codify much of the Administration's agenda for transforming the Nation's public housing by: (1) facilitating the demolition and replacement of severely distressed projects; (2) improving the most troubled PHAs; (3) encouraging work; (4) getting tougher on crime; and (5) requiring the replacement of public housing assistance for certain distressed projects with portable rent subsidies.

Major Concerns

Although we and HUD believe that the bill makes many constructive public housing reforms, and is consistent with many elements of the Administration's announced plan for reinventing HUD, it has serious flaws as described below. First, by repealing the 27-year-old Brooke Amendment, H.R. 2406 could result in many very low-income individuals paying an extremely high portion of their income in rent; current law sets a household's rent in public housing and most other HUD-assisted housing at 30 percent of adjusted income. Second, by relaxing income targeting for both public housing and portable housing assistance, the House bill would redirect scarce housing subsidies to somewhat higher-income households. On the other hand, the interaction of these two sweeping changes to HUD subsidized housing will no doubt be to decrease HUD outlays, the growth of which is a major problem for the VA/HUD Subcommittees.

Rents: Current law sets rents of most HUD-assisted households at 30 percent of "eligible" income.

H.R. 2406 would eliminate the Brooke Amendment standard for new tenants, except for veterans, elderly, and the disabled, earning more than 30 percent of area median income (e.g., for a family of four, this level is $18,800 in Washington D.C.). The Brooke standard would remain in effect for current residents earning 30 percent or less of area median income.

The bill also makes permanent the provision first adopted in 1996 appropriations that requires all assisted households, regardless of income to pay a "minimum rent" of at least $25 and at local discretion as high as $50. This affects the poorest tenants.

Income: Under current law, to be eligible for a public housing unit or a housing voucher, a household must, in most cases, have income below 50 percent of area median ($31,300 for a 4-person family in Washington D.C.) For some other forms of HUD assistance, households may have incomes of up to 80 percent of area median.

H.R. 2406 would loosen income targeting by allowing assistance to families up to 80 percent of area median ($40,200 in Washington D.C.), although 35 percent of public housing and 40 percent of portable assistance would be reserved for families below 30 percent of area median income. HUD must still analyze the extent to which this provision would, over time, redirect assistance to less needy households, but the effect could be sizeable. This would mean a corresponding increase in very poor households who are paying very high proportions of income for rent or be forced into homelessness.

Other: Self-sufficiency contracts - A last-minute addition to the bill would require each public housing tenant to sign a contract with the local housing authority that would become part of a time-limited lease. This binding contract sets out self-sufficiency activities and "graduation" dates. At the end of the contract term, residents would be required to vacate, unless the PHA waived the contract requirement because of "changed circumstances."

Moving-to-Work demonstration - Expands the number of PHAs participating in the Moving-to-Work demonstration from 30 authorized in the 1996 appropriations to 300 (100 per year for the next three years) and must include New York City, the largest PHA, immediately. For PHAs in the demo, rent caps and income targeting would no longer apply. Each PHA would create a plan to foster family self-sufficiency. Although HUD supported the more limited 30-PHA demo, this is not only much larger but has fewer controls.

HUD and OMB staff are still analyzing these two major last-minute additions to the House bill that could have large effects and indirectly relate to the Administration's position on welfare reform.

Differences with Senate Bill (S. 1260)

S. 1260 retains the basic statutory and regulatory structure of the Housing Act of 1937. The Senate's bill would retain Brooke protections, i.e., capped rent at 30 percent of income, for those families earning less than 50 percent of area median income and minimum rents set at \$25. Thus, the poorest tenants most likely to face hardship at higher rents would still be largely protected. Similar provisions in H.R. 2406 would have extremely adverse effects on the poorest public housing residents. For example, a \$50 minimum rent as allowed under H.R. 2406 would result in 550,000 families paying an additional \$400 per year in rent.

The Senate bill has rent provisions similar to H.R. 2406: it relaxes income targeting but requires that at least 40 percent of new admissions have incomes below 30 percent of median and at least 75 percent be below 60 percent of area median. All other admissions can be from households with incomes at or below 80 percent of area median.

HUD has generally supported some relaxation of income targeting for public housing to encourage admission of the working poor, but has consistently opposed any relaxation of targeting for portable rental assistance. The Administration's latest proposal for income targeting of public housing would reserve 40 percent of admissions for those families below 30 percent of area median income, with the remainder below 60 percent of the area median (or below some market indicator.) For vouchers, the Administration would prefer the current 50 percent limit on income eligibility at admission and would require that at least 75 percent of admissions be reserved for those below 30 percent of area median income.

Conference Strategy

The Senate Democrats have expressed strong reservations at the approach taken by the House. The Senate believes that the House may not have adequately taken into consideration the implications of repealing the Housing Act of 1937 and the edifice of regulations constructed on it. For example, it is unclear under what authority, if H.R. 2406 were to become law, HUD would renew over 1.5 million units of project-based Section 8 assistance when current contracts with the private owners of these properties expire.

HUD was caught by surprise by many of the last-minute changes to the bill and has not taken a position on some key features. However, we and HUD have consistently agreed that no bill can be signed that does not retain Brooke amendment protections for the poorest tenants or that substantially relaxes income targeting of portable assistance.

Attached is a side-by-side comparison of the most controversial provisions of the two bills and the Statement of Administration Policy on H.R. 2406.

cc: Jack Lew
Chuck Kieffer
Ken Apfel
Jim Murr

Income targt	Admin	House	Senate
Sec. 8	limit to ~~current~~ 50% AMI, w/ 75% to <30% AMI	limit of 80% AMI, w/ 40% to <30%, ~~w/ remai~~	limit of 80%, w/ 50% to <30%
Pub Hsg	limit 60% w/ 40% to <30%	~~limit ?80%~~ 80% w/ 35% to <30%	limit 80% ~~limit 90%~~ 40% to <30% 75% <60%
Brooke	retain min rent $25 + exceptions	retain for <30% + vets, eas, disabs min rent $25-50	retain for <50% min rent $25

17% AMI → (nationwide, avg inc

30% for D.C. ⇒ 18,800 for fam of four

50%

choice btwn paying rent / food / clothing

550,000 ⇒ 30% of inc is < than $50

May 17, 1996

MEMORANDUM FOR LEON PANETTA
HAROLD ICKES
EVELYN LIEBERMAN
MIKE MCCURRY
JOHN HILLEY
KITTY HIGGINS
MARCIA HALE
DOUG SOSNIK

CC: Carol Rasco
Alice Rivlin

FROM: Jeremy Ben-Ami
Molly Brostrom

RE: Public Housing Reform

As you know, last week the House passed Rep. Lazio's public housing reform legislation. A similar but more moderate bill passed the Senate by voice vote in January. While the legislation is generally acceptable to the Administration -- in fact, it codifies much of the Administration's agenda for transforming public housing, both bills (and the House bill in particular) contain contentious provisions that the Administration has opposed. The following summarizes the two most contentious, as well as several potentially harmful issues in the legislation.

Contentious Issues: Brooke Amendment and Income Targeting

The Administration strongly supports reforms to public housing that remove work disincentives and help achieve a mixed income tenant population. These goals can be achieved, however, without abandoning rent protections and public housing's mission (and the current need) to target scarce housing assistance to low-income families -- as these bills would do.

(✓) Brooke Amendment. Through partial repeal of the Brooke amendment, a 27-year old law that says rents for public housing residents should not exceed 30% of income, the House and Senate bills could result in many low-income families paying extremely high proportions of their income in rent or being displaced or forced into homelessness.

Support Senate - retain for < 60%

Ironically, while Republicans argue that repeal of Brooke is necessary because it is a disincentive to work, the bills passed single out the working poor for rent increases (the House preserves Brooke's protection for families earning less than 30% of the area median income -- roughly equivalent to the poverty line in most communities, and for the elderly, disabled, and veterans; the Senate retains Brooke for families under 50% of area median income).

✓ Income Targeting. The House and Senate bills significantly loosen income eligibility for Section 8 housing vouchers and public housing, allowing families with income up to 80% of the area median

Support repeal of fed'l preferences
~3/4 of tenant-based to <30%, w/ rest < 50%
pub hsg → Support S: 40% of new admits to very low-inc
+ upper cap of 60%
+ devlpt-by-devlpt target

⇒ up to

income (as much as $54,600 in the District of Columbia) to be eligible and requiring only small percentages to be directed to the very low-income (below 30% of the area median income). As a result, scarce housing assistance would be redirected to relatively higher income households and very low-income families could face even more severe affordable housing needs and be forced into homelessness. (Currently, nationwide, over 85% of public housing families have incomes below 35% of the area median income.)

Republicans are proposing changes to Brooke and relaxing of income targeting at a time when studies demonstrate that worst case housing needs (families paying more than half of their income to rent) have grown to 5.3 million households and that the very low-income are almost twice as likely to face excessive rent burdens.

Other Provisions

The following provisions could also have a harmful impact on low-income tenants in public housing.

Supports S + h'ship exemption

✓ Minimum Rents. The House bill would allow housing authorities to set minimum rents as high $50; the Senate and Administration would cap the minimum rent at $25 and allow hardship exemptions. A $50 minimum rent would result in 550,000 families paying an additional $400 per year in rent; the median income of families in public housing is $6,420.

opposes supports current move-to-wk demo

✓ Moving-to-Work Demonstration. In what would amount to a back-door Brooke repeal, the final House bill expands a moving-to-work demonstration from the 30 public housing authorities (PHAs) authorized in FY 96 appropriations to 300 (one of these would have to be New York City, the largest PHA) over three years for which federal rules, such as rent restrictions, income eligibility, tenant selection and grievance procedures, would be lifted. The Administration supported the demonstration for 30 PHAs but with reasonable rent requirements and low income targeting.

deeply concerned -possible OMB proposal - time limits for c-fw-lns or demos

(✓) Time Limits A last minute addition to the House bill would, for the first time in the history of public housing, establish time limits for public housing residency. The provision would require tenants to sign 'Personal Improvement Plans' as part of their lease, establishing time limits that would be triggered upon residents working and attaining self-sufficiency.

✓ Oversight/Accountability. Both the House and Senate bills significantly decrease HUD's ability to oversee and establish accountability for federal spending. In addition, the House bill would repeal, rather than amend, the U.S. Housing Act of 1937, raising concerns about the extent of the regulatory structure that would be repealed.

Conference between the House and Senate bills is expected in June. While the Senate bill goes further than the Administration would like on Brooke and income targeting, it is clearly preferable to the House bill. HUD is currently analyzing the bills and developing a strategy for Conference.

Non-LISC

goals: Are those the goals? Aren't they: to create a more effective and cost-efficient public housing system, primarily through deregulation that is fully accountable to the public

HUD

5 CCC issues:

Admin

1-Rent structure:
- -retain 30% cap, delete 30% floor on rents
- ✓ -institutionalize celing rents and earned income disregards
- ✓ -Senate min. rent

✓ 2-Targeting: 40% of new ph units and 75% of Sec. 8 to <30%

75% of Sec 8 to <30 w/rest to <50% 40% of PH to very low inc w/cap of 60% + devlpt-by-devlpt

3-Move-to-Work Demo: oppose

limited expansion w/ protections

4-Self-Sufficiency contracts/time limits

5-Resident participation---support S. funding level

9--Occupancy standards: strongly oppose

ased in Vancouver, British

Mr. Washington teamed up Marvin Davis in an unsuc- to oust Boone Pickens from also has notified the state he is interested in purchas- owned Alaska Railroad and ith his Montana RailLink

ngton couldn't be reached for Morrison late yesterday. A Corp. spokesman wouldn't what he called "market possible talks with Morri- pokesman added: "We're al- to grow in the construction

that Morrison was in talks al buyer sent the company's 25, up $1.25, in composite day on the New York Stock olume surged to almost 10 s, compared with average of 523,388 shares.

ult to estimate how much a uyer might have to pay for company's stock has been its struggle to survive that italization is only about $87 s puny for a company that about $628 million as of Dec. ever, Morrison's liabilities otaled $821 million, giving it worth of about $193.6 mil-

xpects to have a positive net nillion after it completes its n.

clear why news of an inves- would drive up Morrison's any deal wouldn't neces- e the value of its shares. even if it makes a deal with will continue with its recapi-

plan, current shares will be urrent shareholders will get allow them to buy shares in d company. But the exercise arrants will be higher than ue of the new stock; the t have any value unless the beyond the exercise price.

Public Housing

By DANA MILBANK
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – The House passed a public-housing reform measure that would overhaul housing regulations for 9.2 million low-income Americans and give local public-housing authorities more responsibility.

The measure, passed by a vote of 315 to 107, is a more sweeping version of one that passed the Senate by a voice vote in January. Administration officials objected to parts of the bill but indicated President Clinton could sign it into law if congressional conferees agree to certain protections for the poor.

The legislation consolidates public housing programs into two block grants, and repeals and replaces the Housing Act of 1937. It gives public housing authorities the power to draft their own housing plans and expands the use of vouchers. The legislation also allows for demolition and replacement of distressed public housing, permits housing preferences that favor working families, and strengthens provisions to crack down on gangs and criminals. The bill is estimated to cost $82 billion over five years.

Supporters were confident the measure would become law. "There's a broad consensus developing," said Sen. Kit Bond, the Missouri Republican who shepherded the bill through the Senate. "We're all going in the same direction."

Republicans pushed the bill through over the objections of Democrats, many from urban districts, who said there weren't enough safeguards to protect the poor from being made homeless by higher rents. "We're creating an underclass of poor people who cannot even afford to live in public housing," said Rep. Nydia Velazquez of New York. Said House Minority Whip David Bonior of Michigan: "This bill operates under the theory that there aren't enough homeless people in America – so we have to create more of them." The House spent hours debating numerous amendments to the legislation on matters as detailed as whether to permit pets in public housing and whether housing authorities should buy American products.

Housing and Urban Development Secretary Henry Cisneros, in a letter to Housing Community Opportunity Subcommittee Chairman Rick Lazio (R., N.Y.), said he "fully supports the objectives" of the measure. Several of the proposed changes have already been made on a temporary basis by HUD and Congress as part of the appropriations process. In a statement, the secretary said the bill would "make permanent the Clinton public housing reforms."

United Airlines and Germany's Lufthansa antitrust immunity to coordinate most of their operations.

The move clears the way for President Clinton and German Chancellor Helmut Kohl to sign an "open skies" agreement later this month that lifts most flying restrictions between the two countries.

The move also pushes United ahead of rival Delta Air Lines, which has been trying to get antitrust immunity with its airline marketing partners Swissair and its Austrian Airlines unit, and Belgium's Sabena. AMR Corp.'s American Airlines also has applied for immunity with Canadian Airlines. The Transportation Department said that decisions will be made "shortly."

United and Lufthansa had agreed to carve out two markets, Chicago-Frankfurt and Washington-Frankfurt, to allay Justice Department concerns about reduced competition.

Consolidated Stores' Sales Rise

COLUMBUS, Ohio – Consolidated Stores Corp. said sales for stores open at least two years as of Feb. 4, the start of its fiscal year, rose 2.3% for the five weeks ended May 4, compared with the year-earlier period. Consolidated operates a chain of specialty close-out retail stores.

Total sales increased 14%, to $136.9 million from $120.1 million over the period. For the first quarter, same-store sales increased 5.4%. Total sales rose 17.7% to $333.5 million from a year earlier.

* * *

President Okuda Says Quality Is Higher at Japan Plants; Employees Feel 'Slighted'

By ANGELO B. HENDERSON
Staff Reporter of THE WALL STREET JOURNAL

DETROIT – American factory employees of Japan's Toyota Motor Co. are scratching their heads over comments by Toyota's president to the effect that Toyotas made in Japan are better than those made in the U.S.

"Why sure, workers feel somewhat slighted after hearing this," acknowledged Michael DaPrile, vice president of manufacturing and assembly operations at Toyota's Georgetown, Ky., plant. Toyota wouldn't make assembly workers available.

In an interview Wednesday with USA Today, Toyota President Hiroshi Okuda observed that the company's American factories are still behind its Japanese factories in quality. A Toyota spokesman confirmed Mr. Okuda's comments, which were published yesterday, but company officials said the comments were taken out of context and shouldn't be taken as criticism of American workers.

Mr. DaPrile, the Georgetown-plant executive, said: "I'm trying to get more information. . . . We are trying to find out what he said and why." He added that people in the plant "are concerned," but that they are confident top management has "faith in our work force."

According to a Toyota spokesman, Mr. Okuda observed that results of the recent J.D. Power & Associates survey of vehicle quality indicated that Toyota's Lexus plant in Tahara, Japan, turned out cars with the fewest defects of any vehicle-assembly plant world-wide. By contrast, the Georgetown plant, which makes Camrys and Avalons, lost ground this year after consistently ranking near the top among American plants in the survey for years.

"Mr. Okuda's comments were clearly directed to the results of the J.D. Power awards for 1996, but I think to conclude he who is very pro-American and v American work force." He obser earlier this week Mr. Okuda Georgetown and praised the work Mr. Okuda didn't believe in A workers, Mr. DaPrile asked, wh Toyota be building a $400 million plant in West Virginia and a $700 pickup-truck plant in Indiana?

Yesterday, Toyota confirmed selected a 230-acre site in West Vir its new engine plant, which is exp employ 300 people. Toyota plans t engine production for North Am made Corolias in late 1998.

Toyota's Georgetown plant tu 15th in the J.D. Power ranking assembly plants this year after tently ranking at or near the top years, company officials said. The of defects reported by consumers chiefly because of defective exteri bulbs, a problem that has sinc corrected, plant officials say.

"Our cars going to the custon very compatible, equal or sometim ter than those coming out of J maintained Mr. DaPrile. "We will the world producer of [Toyota's generation] minivan here in Georg so there's a lot of faith in us. I don' [Mr. Okuda] meant what was print everybody is buzzing about it."

THOMSON CORP.

Thomson Corp., Toronto, repo first-quarter loss of $56 million, o cents a share, narrower than th earlier's loss of $73 million, or 12 c share, as the company recorded from the sale of its Aberdeen new group in Scotland and several s businesses. Revenue was $1.33 down from $1.34 billion. Thomson's travel business usually drags dow quarter results, since customers boo of their vacations in the summer. Th said margins were reduced at its sp publishing division, where revenue i centrated in the second half. At the cial and professional publishing sales rose but seasonal losses higher.

Wall Street Journal – May 10th.

May 10, 1996 (11:42am)

SUMMARY OF HOUSE DEBATE OF H.R. 2406

H.R. 2406--The United States Housing Act of 1996 passed the House floor (5/9) and was sent to Conference by a vote of 315 to 109. (4 Republicans voted against; 91 Democrats supported.) HUD's position is that the bill is right with respect to public housing reforms but falls short of the desired position on the Brooke Amendment and income targeting. There are also additional Manager's Amendments that HUD has not had sufficient opportunity to review [HUD received the full Manager's Amendment package on the morning of May 8th, which was the first day of House debate].

HUD may object to the Manager's Amendment regarding:

1) the Self-sufficiency contracts,

2) the expansion of the number of PHA's participating in the Moving-to-Work demonstration from 30 to 300 (100 per year for the next three years), for which the rent caps and resident targeting provisions would no longer apply, and

3) the modification to Title V, Federal surplus property for the homeless [DPC now indicates that this amendment might not be satisfactory with homeless advocates, a change from the initial reaction we received].

Major Amendments Passed:

Manager's Amendment - Requires each tenant sign a self-sufficiency contract with the local housing authority that would become part of a time-limited lease. This binding contract sets out self-sufficiency activities and "graduation" dates. At the end of the term residents would be required to vacate, with PHA discretion to waive the contracts for "changed circumstances." No guidance is offered regarding what changed circumstances might be.

Brooke Amendment:

Amendment by Hinchey - New York (D) Would apply the Brooke Amendment to new elderly or disabled families for public or assisted housing by limiting to 30% of income the maximum rent that any elderly or disabled families could be required to pay for public housing or federally assisted housing.

Amendment by Joseph Kennedy - Massachusetts (D) Would apply the Brooke Amendment to new and current veterans by limiting to 30% of income the maximum rent

May 10, 1996 (11:42am)

that any elderly or disabled families could be required to pay for public housing or federally-assisted housing.

[Under the Manager's Amendment, applies Brooke Amendment to current residents earning 30 percent or less of area median income and establishes a similar 30 percent rent cap for all current elderly and disabled tenants.]

Income Targeting (vouchers):

Amendment by Joseph Kennedy - Massachusetts (D). Kennedy and Lazio agreed to require that 40% of tenant-based rental assistance be reserved for families below 30% of area median income. The remaining vouchers could go to any eligible low-income family with income of 60% or less of area median income. This amendment applies to new admissions.

[H.R. 2406 does not reserve any portion of vouchers for specific categories of low-income families; the Manager's amendment would reserve 50% of vouchers be reserved for families making 60% or less of area median income.] Voice Vote.

[Kennedy's original amendment required that 75% of tenant-based rental assistance be reserved for families below-income families with incomes at or below 30% of the area median income. The remaining vouchers could go to any eligible low-income family with income below 80% of the area median.]

Income Targeting (public housing):

Amendment by Joseph Kennedy - Massachusetts (D). Kennedy and Lazio agreed to require that 35% of public housing be reserved for families below 30% of area median income.

[H.R.2406 required prior to the Manager's Amendment that only 25% of a housing authority's units be reserved for very low-income families with incomes at or below 30% of the area median; under the Manager's amendment, this reserved portion would be increased to 30%.]

[Kennedy's original amendment required that 40% of new admissions to public housing each year be reserved for families with incomes at or below 30% of the area median income, and that only 15% of public housing units be made available to families with incomes between 60% and 80% of area median income. The amendment also would prohibit local housing authorities from concentrating their very low-income tenants in the same projects or buildings.]

May 10, 1996 (11:42am)

Minor Amendments Passed:

Amendment by Benjamin Cardin - Maryland (D). Requires HUD to consult with surrounding jurisdictions before settling any public or assisted housing lawsuits/litigation. Cited the recent Baltimore settlement. Voice Vote.

Amendment by Filner - California (D). Allows Section 8 Certificates to tenants of mobile homes. Voice Vote.

Amendment by Cleo Fields - Louisiana (D) Deletes the portion of bill prohibiting an individual who has been convicted of a misdemeanor within the past 5 years from serving on the Local Housing Board. Lazio accepts.

Amendment by Wayne Gilcrest - Maryland (R). Sec. 107 on Crime Prevention Plan. Allows local housing authorities to invoke local criminal trespassing laws to evicted tenants. Voice vote.

Amendment by J.D. Hayworth - Arizona (R) Would attach H.R. 3219 the Native American Housing Assistance and Self-Determination Act to H.R. 2406. Agrees to amend this amendment to apply Davis-Bacon requirements to developments of 12 units or less and accept technical amendments to Indian Loan Guarantee program.

Amendment 21, by Carolyn Maloney - New York (D) and Susan Molinari - New York (R) Require that all elderly and disabled residents living in federally-assisted housing be allowed to keep a common household pet. Local housing authorities would develop the pet regulations. Passed by voice vote, recorded vote demanded by Maloney. Passed 375-48.

Amendment 20, by James Moran - Virginia (R) Subcommittee chair agreed to amendment. Applies the One Strike and You're Out policy which toughens standards for admission screening and eviction of public housing residents to residents of assisted housing (i.e. Section 8). Also allows the eviction of tenants who commit crimes off of public housing property; current policy only applies to crimes committed on public housing property.

Amendment by Tim Roemer - Indiana (D) and Edward Royce - California (R) Creates a private-sector "consensus committee" to work with HUD in revising, developing, and interpreting federal standards for the construction of manufactured homes. The committee would be composed of representattives from housing manufacturers, associated housing industry groups, homeowner and consumer groups, public officials (including state and local inspection and enforcement officials), and other general interests. MacIntosh offered an amendment. Voice Vote.

May 10, 1996 (11:42am)

Minor Amendments Passed (cont.):

Amendment by Gerald Solomon - New York (R). Denies housing assistance to an individual -- not entire family who, after the bill's date of enactment, is convicted of possessing illegal drugs with an intent to sell, or is convicted of illegal drug possession for a third time. Does not apply retroactively. Voice vote.

Amendment by Gerald Solomon - New York (R). Prohibits federal occupancy standards and instead allows states to apply their occupancy standards. Requires HUD to follow State occupancy standards that prevent overcrowding and precludes Federal occupancy standards. In the absence of State occupancy standards, a two person per-bed policy is assumed reasonable. Voice vote.

Amendment by Sanders - Vermont (I). Provides a two-tier formula (based on number of units) for determining administrative fees. Voice Vote.

Amendment by Traficant - Ohio (D). Expresses Sense of Congress that to the greatest extent practicable any products or equipment purchased with funds authorized by the bill should be American-made. Voice Vote.

Amendment No. 36 by Vento - California (D) Lazio and Vento agreed to amend Vento's amendment to extend through FY 1998 the bill's authorization for a reconstituted drug elimination grant/anti-crime program. The bill broadens the existing public housing drug elimination grant program into a crime prevention program for,public and assisted housing developments and changes the program into a block grant. [The original amendment would extend through FY 2000 the bill's authorization.] Voice Vote.

Amendment by Maxine Waters - California (D) Requires that 50% of a city's annual allocation under the Section 108 Community Development Block Grant (CDBG) loan guarantee program be used for non-housing related community and economic development activities. [Original amendment required 90% be used for non-housing related activities.]

Amendment 43, by Mel Watt - North Carolina (D) Subcommittee chair agreed to amendment. Modifies the bill's policy findings.

Amendment 44, by Mel Watt - North Carolina (D) Clarifies that HUD would be allowed to reject a local housing authority's proposed local housing management plan if the plan fails to comply with existing federal law. Lazio accepts.

May 10, 1996 (11:42am)

Major Amendments Defeated:

Amendment by Richard Durbin - Illinois (D). Would make it a federal offense punishable by up to 5 years in jail for the illegal possession or discharge of firearms in public housing zones. **Failed on Roll Call Vote.** (106-318)

Amendment by Barney Frank - Massachusetts (D), Gutierrez (D-IL), and Hinchey (D-NY) Reinstates the Brooke amendment which would limit to 30% of income any family rent's rent for public housing or assisted housing. **Failed on Roll Call Vote**. (196-222)

Amendment by Nydia Velasquez - New York (D) Sets the minimum rent for public housing units at a flat $25. [Under the bill, the minimum rent for public housing must be at least $25, and may be set as high as $50.] Voice Vote.

Motion to recommit to committee, objects to bill in current form. Amendment by Joseph Kennedy. Section 225a. Would extend Brooke Amendment to the working poor. **Failed on Roll Call Vote.** (106-226) (15 Republicans voted to recommit and 12 Democrats voted not to recommit.)

Minor Amendments Defeated:

Amendment 4, by Cleo Fields - Louisiana (D) Would have required that 25% of the board of directors of local housing authorities be residents of public housing or persons receiving federal rental assistance. (158 to 254)

Amendment 5, by Cleo Fields - Louisiana (D) Would have required each local housing authority to establish a "local advisory board" which would be responsible for assisting in the development of the authority's local housing management plan. Additionally, at least 60% of Advisory Board members must be public housing residents. Voice vote.

Amendment by Sheila Jackson Lee - Texas (D). Would have provided residents with the right to appeal decision (eviction or lease violation) to mandated impartial regional appeals board. Voice Vote.

May 10, 1996 (11:42am)

Amendments Withdrawn:

Amendment by Erlich - Maryland (R) Would prohibit the relocation of public housing from Baltimore to other jurisdictions in state if relocation connected to lawsuit. Withdrawn. Colloque with Lazio in which Erlich said he would work with Lewis to make sure funds not appropriated for such a purpose.

Amendment by Joseph Kennedy - Massachusetts (D) Would explicitly authorize 30,000 incremental tenant-based rental assistance vouchers -- i.e., authorize new rental assistance for an additional 30,000 families. Withdrawn. Lazio promises to support language in Conference that would authorize new incremental vouchers.

Amendment by Joseph Kennedy - Massachusetts (D) Allows HUD to disclose to local housing authorities those tenants that are under-reporting their income (and therefore paying too little in rent).

Amendment by Joseph Kennedy - Massachusetts (D) Offers an amendment which would extend through FY 2000 the bill's authorization for a severely distressed public housing demolition and tenant relocation grant program.

Amendment by Robert Ney - Ohio (R) Exempt mobile home parks from the requirement that after being flooded, they must be elevate to 12 feet to return to the area that had been previously flooded. On a point of order, Kennedy raised issue of germaneness to the bill. Ney conceded. Amendment is out of order.

Amendment by Vento - Minnesota (D) Requires HUD to alter income ceilings for public housing rather than an LHMA. Withdrawn. Lazio agreed to work with Vento to modify language in bill.

Amendment by J.C. Watts - Oklahoma (R) Would apply the Brooke Amendment which limits rent to 30% of income to elderly or disabled families receiving public or assisted housing.

lower-inc = 50% of AMI ⟩ statute
low = 80% of AMI
very low / extremely > 30%

	Current	H	S	Admin	CCC
Income Targeting					
Section 8	< 50% + fed'l prefs → < 30% w/ h'lessness	½ to < 80%	¼ to < 80%	¾ to < 30% rest < 50%	¾ to < 30%
Pub Hsg	< 80%			40% to extremely very low-inc w/cap of 60% + devlpt-by-devlpt	40% to < 30%
Brooke	~~retain for < 30%~~ rent shouldn't be < 30% inc	retain for < 30%	same → 50% ↓ protect 90% of h'holds	retain for < 60% + permit extension of work incentives	Retain Brooke (S. livable)
Min. Rents	$25 in Extender bill	$25-50	$25	$25 + hardship exemption	Senate
Moving to Work	30 PHAs	unfettered expansion to 300 (incl NYC)		oppose H + would entertain limited expansion w/ guidance on rent, inc targeting, etc	-including unit cap of 50,000
Self-Suff'y -time limits	variable			support lang supp'g collab's to address self-suff'y/welfare reform in coord'd manner - resp on sec 8/PH admins as well	oppose
Fed'l Oversight					
Occupancy Stds	Fair Hsg Act → reasonable based on health + safety	adds livability as criterion for reasonable		Oppose	oppose
Def of PWD					1. hrgs for local preferences
Resident Emp'mt				Support prov's to empower res → TOP, Resident m'ship req't on PH board	2. hrgs on demols 3. TOP

Critical Issues in Pending Housing Authorization Legislation: H.R. 2406 and S. 1260

A Briefing Paper

Jointly Prepared By

Association of Community Organizations for Reform Now (ACORN)
Center for Community Change
National Housing Law Project
National Low-Income Housing Coalition
National Center for Youth Law

May 30, 1996

Critical Issues in Pending Housing Authorization Legislation: H.R. 2406 and S. 1260

A Briefing Paper

Index

Introduction (p. 1)

1. Rent Structure for Public and Assisted Housing (p. 2)

2. Targeting of Public Housing and Section 8 Assistance (p. 5)

3. 'Moving-to-Work for the 21st Century' Demonstration (p. 7)

4. Self-Sufficiency Contracts (p. 10)

5. Resident Participation (p. 12)

6. Vouchering Out of the Public Housing Stock (p. 16)

7. Grievance Process (p. 19)

8. Tenant Rights (p. 21)

9. Occupancy Standards (p. 23)

10. Income Eligibility for CDBG and HOME Programs (p. 26)

11. Limitation on the Extent of Use of CDBG Loan Guarantees for Housing (p. 28)

12. CDBG Sanction Against Local Governments Contributions to the Troubled Status of PHAs (p. 30)

Introduction

The House and the Senate have passed legislation reforming the public housing and tenant-based Section 8 programs. This legislation is expected to be conferenced in June.

The programs affected by the legislation currently provide affordable housing for nearly three million households with very low-incomes. The median income for tenants of public housing, and Section 8 certificate and voucher holders, is under $7,000 per year. The vast majority of these households are families with children, or are elderly or disabled. In our view, Congress must prioritize the needs and interests of tenants as it considers fundamental changes to federal housing policy.

The legislation pending before the conference committee raises very significant concerns about whether the nation's public and assisted housing programs will continue to provide affordable housing for low- and very low-income Americans. The House-passed bill raises especially serious concerns in large part because it repeals the U.S. Housing Act of 1937, the cornerstone of federal housing policy for nearly 60 years.

This briefing paper lays out some of the most significant issues posed by the legislation. There are many important issues, including reform of Native American housing programs, manufactured housing, and other issues, which are not discussed in this paper.

Our organizations will strongly oppose any conference agreement that does not address the problems raised in this briefing paper.

For Further Information Contact:

Deborah Austin, National Low-Income Housing Coalition:
202/662-1530, ext. 227

Nancy Bernstine, National Housing Law Project:
202/783-5140

Deepak Bhargava, Center for Community Change:
202/342-0567

Lisa Donner, ACORN:
202/547-2500

Jim Morales, National Center for Youth Law:
415/543-3307

ISSUE:

Rent Structure for Public and Assisted Housing

BACKGROUND:

Under current law, residents of public housing and holders of Section 8 certificates pay 30% of their adjusted income as rent each month.

In response to findings that public housing was becoming unaffordable to very low-income families, in 1969 Congress created a stream of funding to Public Housing Authorities (PHAs) to help them make up the difference between what very low-income tenants could pay and the costs of operating public housing projects. Simultaneously, Congress created a rent ceiling of 25% of adjusted income --now known as the Brooke Amendment after its sponsor, Sen. Edward Brooke [R-MA]. The Brooke Amendment itself was modified in 1981, by increasing rent contributions to 30% of income, and making the 30% formula both a ceiling and a floor.

H.R. 2406:

The House bill radically restructures rents for public and assisted housing tenants.

- Sec. 225(b)(1) requires a minimum rent contribution from all tenants of between $25 and $50 per month, regardless of income;

- Sec 225(a) repeals the rent protections afforded by the Brooke Amendment for working poor families. The bill preserves the 30% ceiling only for families earning less than 30% of the Area Median Income (AMI), and for seniors, disabled people, and veterans; and

- Sec. 513 allows the 300 PHAs (including the New York City Housing Authority, which manages 108,000 units) that HUD will designate as demonstration sites under the 'Moving to Work in the 21st Century' demonstration program to set rents at any level they choose. For a very significant number of residents, the House bill would repeal the Brooke Amendment altogether.

S. 1260:

The Senate bill's alterations to the rent structure for public

- Sec. 103(a) allows, *but does not require*, PHAs to charge a minimum rent of no more than $25 per month; and

- Sec. 103 (b) preserves the 30% cap on tenant rents for families earning less than 50% of AMI, representing the vast majority of public and assisted housing residents.

OUR POSITION:

We are strongly opposed to the House provisions, which are logically inconsistent with the stated intentions of its sponsors, and would be devastating for millions of poor families. Specifically, we urge conferees to:

- **retain the 30% cap and delete the 30% floor on rents for all residents of public and assisted housing.** There is simply no sound policy rationale for repealing critical rent protections for working poor tenants, as the House bill would do. The bill's sponsors cite the Brooke Amendment as a disincentive to work. Why then protect very poor families from a rent increase (most of whom are not working), and leave exposed to higher rents working poor families? Other reasons why a 30% of AMI cut-off would be unfair and unacceptable include:

  Admin
  Senate proposal
  <60%

  > There is a huge disparity in the median incomes of localities - ranging from a median of $13,000 in Starr County, TX to $82,900 in the Stamford-Norwalk, CT MSA. These differences aren't wholly attributable to cost of living differences. They reflect real and substantial differences in income across the country that make a 30% of AMI 'cut-off' a poor threshold for Brooke protections.

  > Families earning 30% or more of AMI are still poor. In 95% of the 3184 localities for which HUD has data, 30% of AMI is lower than the national poverty level - $15,600.

  > In 25% of the localities, the 30% of AMI cut-off would be less than $8,840, the annual earnings of a person working full-time at the minimum wage. These 831 localities are spread throughout 38 of the 50 states.

  > In localities in which 30% of AMI amounts to less than the earnings of a minimum-wage worker, Congress would be punishing families for moving from welfare to work by hitting them with a potentially devastating rent increase.

- **adopt provisions in both bills allowing PHAs to institute ceiling rents and to disregard new earned income to provide incentives for work.** Together with the repeal of the 30% of income floor on rents, these provisions should address any real and perceived disincentives to work created by the existing rent structure.

- **adopt the Senate minimum rent provision.** HUD has calculated that approximately 170,000 households in public and Section 8 housing will be affected by the minimum rent provisions in the FY '96 appropriations bills. These families have little or no income. Many reside in states with extremely low benefits under Aid to Families with Dependent Children (AFDC), and states that have recently eliminated or reduced payments under general assistance programs for childless individuals. Others are making a transition from homelessness or are in the process of applying for benefits under public assistance programs.

  A required minimum rent provision not only risks evictions and greater homelessness, but also runs counter to the grain of this legislation, which is to grant greater flexibility to local housing authorities. Finally, the enacted minimum rent provisions do not produce significant revenue, and fail to justify their immense human and social costs.

- **scale back and substantially revise the Moving to Work demonstration** (see separate paper on MTW).

ISSUE:

Targeting of Public Housing and Section 8 Assistance

BACKGROUND:

Current law targets between 75% and 85% of public housing new admissions to households earning 50% or less of the area median income (AMI) and 85% of tenant-based Section 8 new admissions to families earning 50% or less of the AMI.

H.R. 2406:

Sections 222 and 321 would relax current targeting in public and section 8 housing.

- o Thirty-five percent of public housing units that become available for occupancy are targeted to households with incomes at 30% of the area median income or less.
- o Forty percent of the assistance in the Section 8 program would be reserved for families earning less than 30% of the area median.

Sec 222 also would prohibit PHAs from concentrating very low-income families in partcular buildings or developments. The Secretary of HUD would have the ability to review and enforce the anti-concentration provision.

S. 1260:

Section 114 targets public housing and Section 8 assistance that becomes available during the year in the follow manner:

- o For public housing, forty percent of units to households with incomes at or below 30% of the area median; seventy-five percent of the units to households with incomes at or below 60% of the area median; and the balance of the new admissions could be allocated to households between 60% and 80% of the area median.
- o For tenant-based Section 8, 50% of units that become available would have to go to families earning less than 30% of AMI, and the balance could go to families earning up to 80% of AMI.

OUR POSITION:

Housing need is most acute for very low-income families, particularly families earning less than 30% of AMI. As Congress contemplates repeal of federal preferences for very low-income households, it is all the more important that targeting requirements reach the population most in need. We believe that both bills fail to target enough housing assistance to very low-income households. This is especially true with respect to tenant-based Section 8, which does not raise issues of concentration of poor families in certain neighborhoods because the assistance is by its nature portable.

We urge the conference to:

- Target 40% of the units in public housing that become available during a year and 75% of the section 8 new admissions to households earning no more than 30% of the area median income. identical

- Target not more than 15% of the units that become available during the year to households earning between 60% and 80% of the area median. ?

- Adopt the Senate language which makes clear that all income targets are based on the units and/or assistance that becomes available <u>during the year</u>. The House bill is ambiguous on this very critical point.

- We strongly support the House language which prohibits concentration of very low-income families in certain buildings or developments.

ISSUE:

Moving to Work Demonstration for the 21st Century

BACKGROUND:

The enacted FY '96 appropriations bill contains a 'moving to work' demonstration for 30 Public Housing Authorities (PHAs). The House bill essentially expands this demonstration to 300 sites. The demonstration sites would be able to combine various funding streams, and would be totally deregulated with respect to federal standards on rent contributions, income eligibility, tenant rights, and civil rights.

H.R. 2406:

Sec 513 creates a 'Moving to Work Demonstration for the 21st Century' (MTW). The bill requires that:

- HUD designate 300 high-performing PHAs over three years (including New York City in the first year).
- PHAs selected for the demonstration would be given extremely broad latitude to combine modernization and operating funds for public housing, and tenant-based Section 8 funds, "to facilitate the transition to work on such terms and conditions as the authority may propose." [Sec. 513(b)(3)]
- Virtually **all** federal rules, including those governing rents, income eligibility, and tenant rights would be eliminated for the demonstration sites.

S. 1260:

No comparable position.

OUR POSITION:

We strongly oppose the sweeping House provision, which amounts to a back-door gutting of the Brooke Amendment and other critical protections. At most, any demonstration should (a) be limited to the 30 sites already authorized, with a cap on the number of units involved of no more than 50,000; (b) ensure that basic federal protections with respect to income targeting and civil rights laws continue to apply; (c) give tenants the opportunity to block the selection of a site if a significant number object to a PHA's plans.

- There is no sound policy reason to deregulate totally 300 PHAs. The size of the proposed demonstration raises significant concerns. Depending on which PHAs are selected, the demonstration could create a huge loophole from basic federal standards for a substantial portion of the nation's stock of public housing. New York City alone, which HUD would be required to select in the first year of the demonstration, has more than 100,000 units of public housing that would be totally deregulated.

- The aims of the demonstration --apparently to encourage work by residents, and to foster greater income mixing-- would be accomplished by other provisions of both the House and Senate bills. Both bills allow PHAs to implement rent structures that create incentives to work (such as ceiling rents and earned income disregards), repeal federal preferences for admitting very low-income families to public housing, and loosen federal targeting requirements substantially. Both bills also allow considerable flexibility in the expenditure of funds under the operating and capital fund block grants, and some shifting of money between the two streams.

- The House bill totally eliminates any targeting requirements for public housing --meaning that a critical resource for very poor families in desperate need of affordable housing may be lost forever. There is good reason to believe that some PHAs will seek to convert some or all of their housing into market rate housing that is out of reach for poor families. We believe that the demonstration sites should be subject to the same targeting requirements as all other PHAs under the final conference agreement.

- Finally, the language of the bill suggests that the demonstration sites may be exempt from basic civil rights laws. We believe that the demonstration should be modified to clarify that the following laws will continue to apply: 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. PHAs operating under the demonstration should continue to be required to affirmatively further fair housing. The same laws are already specifically referenced under the HOPE VI program. [United States Housing Act of 1937; Sec. 24(d)(3)(E)]

- The House bill has only skeletal provisions for a public hearing to ensure that residents are involved in the planning for a PHA's application to become a demonstration site. The House bill should be modified to allow residents to block an application if a significant number of residents file a written complaint with the Secretary of HUD objecting to either the process the PHA used to solicit input, or to the substantive provisions of the proposed demonstration.

ISSUE:

"Self sufficiency contracts" and time limits on housing assistance

BACKGROUND:

The House version of the public housing bill would for the first time impose time limits on the receipts of housing assistance, and would require PHAs to develop and supervise indivdual personal improvement plans with residents.

H.R. 2406:

Section 106 mandates "tenant self sufficiency contracts" developed and supervised by the PHAs as a condition of receipt of either section 8 assistance or residence in public housing for nonelderly, nondisabled adults who are not already working or in education or training programs. These contracts:

- Would include enforceable interim goals related to job training, mental health support, and any other factors the PHA chose, and a specific "graduation" date for the termination of housing assistance.

- Would be incorporated as mandatory provisions of tenant leases. Violation of the agreements, including the required specific interim goals and deadlines, would be grounds for eviction or withholding of assistance.

S.1260: No comparable provision

OUR POSITION:

We are strongly opposed to the House provision. There should not be time limits on access to decent shelter, nor required micro management of tenants' lives by housing authorities. Time limits and mandatory personal improvement plans are no more appropriate for public housing and section 8 tenants than they are for beneficiaries of the mortgage interest deduction.

- The contracts make little sense as a mechanism to encourage work. They would threaten tenants with eviction or loss of assistance either as a result of failure to meet their interim goals, or because they have in fact met their goals. Ending housing assistance for tenants who find jobs ignores the reality that many people who work still have income far too low to afford unsubsidized housing in their communities.

- A plan to evict some families from public and assisted housing when they meet the terms of their contracts by finding jobs contradicts this legislation's stated goal of encouraging working families to stay in public housing, and promoting a greater mix of incomes.

- People denied housing assistance because they have failed to meet an "interim goal" on skills training, or job search, or any of the other criteria will only be less able to complete training programs, or find and keep jobs if they are homeless, paying an unsustainably high portion of their incomes for rent, or living in unsafe conditions. Their children will certainly not be able to enjoy safe and stable childhoods.

- The self sufficiency plans in H.R. 2406 would arbitrarily treat tenants who are currently working or in training programs totally differently from others who will be employed or in training programs in the future; some working residents would be allowed to stay in public or assisted housing, while for others "graduation" to a job would mean the end of any housing assistance.

- Giving PHAs the authority to take administrative action up to and including eviction for tenants' failure to meet goals related to matters such as mental health counseling gives them excessive and undue power. It presents a serious danger that a few PHAs could use this authority to unfairly displace low income tenants in order to replace them with higher income residents, or to evict individual tenants who spoke out against mismanagement.

- Finally, mandatory self sufficiency contracts also run directly counter to this legislation's stated purpose of deregulating and decontrolling public housing agencies. They would impose a new and extremely complicated requirement that each PHA produce and monitor a comprehensive life plan with tenants. This is a huge task, for which the housing authorities are in no way equipped, and which is duplicative of the work of other social service providers.

ISSUE:

Resident Participation

BACKGROUND:

Existing law attempts to temper the management and operational authority of housing authorities in relation to residents by 1) providing residents with the opportunity for comment and participation when important decisions are being made regarding their homes and 2) funding legitimate resident activities. These protections may somewhat reduce the disparity between housing authority and resident on issues around which there are legitimate resident concerns. For example, HUD is authorized to fund a wide range of resident activities including formation of resident management entities and capacity-building as well as identification and acquisition of supportive services. In addition, despite the repeal of federal preferences in the FY 1996 Appropriations Act local preferences must be established in writing following a public hearing to elicit local needs and priorities. Similarly, the demolition or disposition of a development or a portion of a development must be preceded by consultation with affected tenants.

H.R. 2406:

General

Sec. 237 authorizes $15 million in funding for the resident opportunity program for activities including:

- technical assistance to develop **resident management** entities
- the development of management capability
- **identification of resident support needs** and their acquisition
- **economic uplift activities** including job training, economic development, security and other non-management self-sufficiency activities

The provision authorizes the Secretary to require resident councils to use housing authorities or other organizations as contract administrators for financial assistance received under the program. In addition, resident groups are prohibited from contracting for technical assistance in advance of being awarded a grant.

Setting Local Preferences

Secs. 223 and 321(c) replace federal preferences for public housing and choice-based assistance with **mandatory local preferences** using information obtained pursuant to public comment on the local housing management plan and the comprehensive housing affordability strategy.

Demolition and Disposition

Sec. 261 requires the local housing authority to **merely "confer" with residents** of the development when making decisions regarding demolition or disposition of a project.

Resident Membership on Board

Sec. 103(b)(2) generally requires that each housing authority board have **at least one member who is an elected public housing resident.** Exceptions include:

- housing authorities which perform "substantial activities other than acting as the..." housing authority (an advisory committee established by such a housing authority would be required to have resident membership)
- housing authorities operating less than 250 units
- where State law precludes resident service

S.1260:

General

Sec. 122 authorizes grants totaling $25 million by HUD to the PHAs on behalf of residents or directly to resident organizations to provide supportive services and resident empowerment activities including:

- activities related to physical improvements to create space for supportive services
- service coordinators
- development of work readiness and related skills
- child care

- resident management and other activities

The Senate bill contains no provisions comparable to the House bill requiring resident councils to use housing authorities as contract administrators and barring them from contracting for technical assistance prior to the award of a grant.

Local Preferences

Sec. 106 permits PHAs to establish local preferences consistent with the PHA plan and the CHAS. A public hearing and opportunity for comment is a required element in promulgation of the PHA plan.

Demolition and Disposition

Sec. 115 which authorizes demolition and disposition of public housing provides for **resident comment only in the context of** expression of an **interest in purchasing** a development slated for sale and the requirement that the demolition or disposition plan be consistent with the public housing agency plan.

Resident Membership on Board

Sec. 102 requires that each housing authority board have at least one public housing resident, except where PHA board members are salaried and serve full-time.

OUR POSITION:

The voice which current law affords residents at various key points in decision-making about the operation, management or elimination of public housing is more critical than ever in times of declining resources and vesting of control at the local level. True resident empowerment and devolution of control to the local level demands that residents have an active role in decisions affecting their homes. We strongly support the funding level included in the Senate bill.

- H.R. 2406 authorizes funding for a resident opportunity program that is similar to that authorized by current law. We support the House language with two exceptions. We urge deletion of the provision authorizing HUD to require resident organizations use PHAs or other entities as contract administrators. This provision will have a chilling effect on the independece of resident organizations. We also urge deletion of the prohibition on resident organizations' ability to contract with outside organizations for technical assistance prior to receiving a grant. If Congress wishes to address perceived abuses in contracting, it should require HUD to publish a list of pre-approved technical assistance providers that resident groups could choose from.

- An additional category of funding should be established under H.R. 2406 which includes funding for all activities related to the interests for which resident councils and resident management corporations may be formed under sec. 234(a).

- **Public hearings** with reasonable notice and opportunity for public comment should be required **for adoption of local preferences.**

- The housing authority should be required to negotiate, or at least consult with, residents and the residents council, if any, after having provided them complete information about its proposed plans for demolition or disposition and adequate time should be afforded for residents to prepare for the negotiations or consultations.

- We support the House language requiring that each PHA board have at least one member who is a duly elected public housing resident. We oppose, however, the exemptions in the House bill.

ISSUE:

Vouchering Out of the Public Housing Stock

BACKGROUND:

Conversion of hard units of public housing to vouchers results in a **diminution in the supply of affordable housing.** The notion of replacing operating and capital subsidies for public housing with a universal voucher system for residents for use either in their current units or in the private rental market has been at the center of the recent housing policy debate. Supporters perceive conversion as a means of divesting housing authorities of the most troublesome and unmanageable segment of their stock. Detractors, among other things, question reduction of the stock at a time when no replacement resources are available.

H.R. 2406:

Sec. 203(b) **mandates** the **conversion** of certain large blocks of units to vouchers. The criteria are:

- o 300 or more units
- o a vacancy rate of 10 percent
- o long-term viability cannot be assured
- o vouchers are less costly alternative for housing current occupants [or an equivalent number of families]

The bill also contains the following provision permitting housing authorities to convert to **vouchers at will.** No comparable authorization is available in existing law.

Sec. 263 authorizes any local housing and management authority to **voluntarily convert any part of its stock to "choice-based housing"**. The criteria include:

- o a conversion plan which includes both impact and cost analyses and "significant" resident input
- o broad authority in HUD to expedite conversions through generous waivers
- o the conversion must be less costly than continuing to operate the development(s) as conventional public housing
- o residents of the development must be principal beneficiaries

S. 1260:

Sec. 120 **requires conversion** to vouchers **of** public housing units determined to be **distressed** consistent with criteria set out by the National Commission on Severely Distressed Public Housing. Among the criteria:

- vouchers must be more cost effective than maintaining the units as conventional public housing
- consultation with residents and general local government is required
- a five year implementation plan is required with an additional five years available at the Secretary's discretion
- a voucher, project-based assistance or alternative public housing must be available for each displaced household
- HUD must ensure removal of units identified as distressed upon a housing authority's failure to do so

Unlike the House bill, S. 1260 contains no provision authorizing vouchers on demand.

OUR POSITION:

We support the Senate's more reasoned and constrained approach to vouchering out public housing. It targets only distressed public housing and requires consultation with residents. We strongly oppose the House's voluntary voucher scheme. Any statutory mandate permitting universal voluntary replacement of hard units with vouchers cannot be supported in times of severely limited resources for housing serving very low and low income persons.

- True devolution requires that in <u>every</u> instance conversion be discretionary with the local authority rather than mandatory.
- The test of any conversion must be its **benefit to the affected neighborhood and tenants.**
- Voluntary vouchering out of units should not be permitted in the absence of far more stringent criteria than provided in the House bill including specific analysis of the **ability of the relevant local market to absorb vouchers.**

- Any analysis of cost effectiveness should compare the long-term cost of converting from project-based to tenant-based assistance.

- The overly broad House bill fails to include an **adequate criteria for evaluating non-viability** relying on the vague assessment of "impact on the surrounding community".

ISSUE:

Grievance Process

BACKGROUND:

The grievance process offers a **fair, simple and expeditious avenue for the resolution of individual complaints about arbitrary, unfair or illegal actions on the part of the housing authority.** Since mandated for local housing authorities in the 1970s lease and grievance procedures have provided a means for conflict resolution without resort to eviction and homelessness. Drastic results such as eviction, requiring judicial disposition, can be avoided or postponed pending an informal resolution attempt through the grievance process.

H.R. 2406:

Sec. 111(b) **mandates that local housing authorities exclude all evictions from the grievance process** if HUD determines that State court provides basic due process.

S. 1260:

Contains no comparable provision.

OUR POSITION:

We strongly oppose the House provision. The grievance process has provided an efficient, low-cost mechanism for handling most disputes that rise to the level of an eviction. Congress has already acted to except cases involving criminal activity which threatens other residents and staff.

- Since 1971, **public housing authorities and tenants have been using the grievance procedure to handle almost all disputes that rise to the level of an eviction.** The only exceptions are for cases involving criminal activity that threatens other tenants and staff. Using the grievance process gets most of the cases resolved before either the PHA or the tenant has to bear the expense and spend the time of going to court. Public housing grievance procedures were one of the first alternative dispute resolution devices in the country and one of the most successful.

- Going to court is a difficult, intimidating experience for most people, especially for poor people threatened with losing their homes. Very few tenants who are defendants in eviction cases are represented by lawyers, but all PHAs are. **Unrepresented tenants** who do not know what the court rules are **have great difficulty getting their side of the case heard.** In contrast the **grievance process is less formal** and tenants can be assisted by friends or paralegals. The greater informality and lesser intimidation enables tenants to secure treatment that is more fair.

- Critics of the grievance process have always alleged that having to go through grievances delays evictions of tenants involved in drugs or other criminal activity. In 1990, Congress answered that criticism by allowing **PHAs to by-pass the grievance process when the evictions involve drug-related activities or criminal activities that threaten others.** In the Housing Opportunities Extension Act of 1996, enacted just this past March 28th, Congress refined that exception further, by making sure that it covers all drug-related activity, even if it is away from the premises, and all threats to others, even if they are not criminal. There is no need to exclude any other kind of eviction from the grievance process. This amendment retains all of the changes made in the Extension Act.

- H.R. 2406 mandates that PHAs exclude evictions from the grievance process, instead of merely granting them the flexibility to do so when they need to. In these days of deregulation and devolution, it is **not appropriate to deprive PHAs of the flexibility of using a grievance process if they want to.**

ISSUE:

Tenant Rights

BACKGROUND:

Statutory and case law have sought a balance between the right of residents to security of tenure in their homes and the needs of housing authorities to access to information necessary to operate safely and efficiently. Admission and occupancy standards have been designed to assure that residents are not unfairly denied housing assistance for their past conduct or that of members of their household. Similarly, access to criminal records has been restrained. Current law provides a reasonable notice period prior to eviction in order to increase affected residents' opportunity to challenge unfair or illegal actions.

H.R. 2406:

Sec. 105(b)(1)(A) **requires PHAs** to establish admission and occupancy standards which **exclude persons** who the housing authority determines are **illegally using** a controlled substance **or** has **reasonable cause to believe** such person's **illegal use or abuse may interfere with others** health, safety or peaceful enjoyment.

Sec. 224(b) gives local housing authorities **unlimited access to criminal records** of applicants for and residents of public housing.

Sec. 226(3) makes the **public housing eviction notice** period 14 days or whatever state law requires, whichever is **shorter** in nonpayment cases, and whatever state law mandates in other cases.

Sec. 222(e) requires local housing authorities to establish policies **barring from admission for a minimum three year period families terminated due to drug-related criminal activities.**

Sec. 514(a)(2) authorizes a section 8 owner to deny admission to an applicant where the owner has determined that the applicant or any member of his/her household was engaged in criminal activity.

S. 1260:

Sec. 107((h) authorizes law enforcement at the housing authority's request to provide **criminal conviction records of adult applicants** of public housing for applicant screening, lease enforcement and eviction purposes. **Access is limited to records** that are **not more than five years old** and the **resident or applicant is permitted to dispute the accuracy and relevance** of a criminal record relied upon in advance of any adverse action on the basis of the record.

Sec. 107(r) bars any resident evicted because of drug-related criminal activity from eligibility for housing assistance for three years from the date of eviction absent successful completion of a rehabilitation program.

OUR POSITION:

While we support reasonable actions to make public and assisted housing safe living environments, we strongly oppose admission and occupancy standards which are unduly exclusionary or rely on long past criminal conduct.

Applicants for federal housing assistance should not be disqualified based upon histories of alcohol or substance abuse. The conference agreement statutory proviso should state clearly that **only "current" use should be grounds for exclusion.**

S. 1260's provision restricting access to criminal records to 5 years should be receded to by the House in order to avoid denying housing assistance to otherwise eligible applicants whose criminal activity was in the past and for whom housing assistance is central to rebuilding their own and their families' lives.

ISSUE:

Occupancy standards

BACKGROUND:

Occupancy standards are limitations on the number of persons permitted in a dwelling. Housing providers commonly use overly-restrictive standards as a justification for refusing to rent or evicting a family. Housing providers also use overly- restrictive standards as a smokescreen for intentional discrimination that fair housing law prohibits. In addition, some zoning laws, under the guise of occupancy standards, limit housing opportunities for persons with disabilities living in group homes.

Most states and local governments have overcrowding standards in housing codes. These standards rely on health and safety factors, apply uniformly to all housing, and use the size of the unit to determine occupancy levels. These are legitimate restrictions on occupancy and are expressly protected under federal law. 42 U.S.C. Section 3607 (b)(1). Many housing providers, however, restrict occupancy to levels that are far below the level permitted under these housing codes.

Unnecessary restrictions on occupancy limit housing choices for low income families who already face a severe shortage of affordable housing. Federal and state courts have determined that overly-restrictive occupancy standards are illegal. They violate the fair housing rights of families with children, Latinos, Asians, and African-Americans because these groups are more likely than others to have a large number of household members. In one case, a housing provider tried to evict a couple because the birth of their baby caused the family to exceed the occupancy standard of two persons per bedroom. The federal court ruled that the occupancy standard violated the Fair Housing Act because the presence of three persons in the unit did not exceed overcrowding standards. See United States v. Tropic Seas, Inc., 887 F.Supp. 1347 (D.Hawaii 1995).

Zoning laws frequently limit the number of unrelated persons that may live together in a single family dwelling. These laws prevent or impede the formation of group homes for persons with disabilities. The United States Supreme Court has ruled that zoning limits on the number of unrelated persons in a unit are not reasonable occupancy standards and therefore are subject to legal challenge under the Fair Housing Act. City of Edmonds v. Oxford House, Inc., 115 S.Ct. 1776 (1995). The Court explained that reasonable occupancy standards are uniform limitations designed "to protect health and safety by preventing dwelling overcrowding." Id. at 1781.

H.R. 2406:

Section 508 -- **which covers all housing, not just public housing** -- repeals fair housing protections by:

- o increasing the power of housing providers to deny housing to families with children and certain racial groups that tend to have large households
- o superseding the Fair Housing Act's definition of reasonable occupancy standards which emphasizes health and safety of residents
- o establishing a new federal definition of occupancy standards emphasizing the discretion of housing providers to manage property over the rights of residents
- o claiming to establish a presumption in favor of state occupancy policies when in fact it limits the applicability of state overcrowding laws "protecting the health and safety of residents"
- o imposing a standard of two persons per bedroom on states unless they adopt an occupancy law allowing housing providers to "properly manage residents"
- o overturning, without ever mentioning, City of Edmonds v. Oxford House, Inc. (1995) in which the Supreme Court held that zoning restrictions on group homes for persons with disabilities were not reasonable occupancy standards.

S. 1260:

Jim Morales - 415/543-3307
Ctr for Youth Law

No comparable provision.

OUR POSITION:

We strongly oppose Section 508 because it:

- o makes significant changes in fair housing law and housing policy without the benefit of any committee hearing
- o repeals the fair housing rights of families with children and racial and ethnic minorities to challenge discriminatory occupancy standards
- o limits the overall housing stock available for low income families, some of whom will be forced out of publicly-

assisted housing by other aspects of the legislation

- is an insidious measure to limit fair housing protections for persons with disabilities living in group homes

- tramples state authority to establish occupancy standards based on objective concerns about residents' health and safety

ISSUE:

Income Eligibility for CDBG and HOME Programs

BACKGROUND:

For the purpose of determining whether people with "low and moderate" incomes benefit from the use of CDBG funds, the CDBG statute defines "low and moderate" as a household income which does not exceed 80% of the "areawide" median income. [Section 102(a)(20)] (Note that the base is "areawide" median income, not the median income of a given jurisdiction; consequently, the relatively high medians of suburban areas inflate the medians utilized by central cities.)

A paragraph of the CDBG statute allows HUD to adjust the 80% threshhold up or down in areas with "unusually high or low family incomes". [Section 102(a)(20)(B)] With this authority, HUD has attempted to comply with the statute's "primary objective" of "principally" benefitting low and moderate income people by "capping" the income threshhold in very high income areas. HUD has established this cap at the "national median income" (not 80% of the national median). For example, in 1996 the areawide median income for the Washington, DC metro area is $68,300, meaning 80% of its median income is $54,650 -- far above the "national median income" cap of $41,600. Consequently, in the Washington, DC metro area the HUD cap is used to measure whether low and moderate income people benefit from the use of CDBG funds.

H.R. 2406:

Section 510 modifies the CDBG statute at Section 102(a)(20)(B) by deleting the words "high or" from the existing clause, "because of unusually high or low family incomes in such areas". The practical effect is to proscribe HUD's current practice of using the "national median income" as a cap. The omission of the words "high or" forces HUD to use as a threshhold the actual figure of "80% of the areawide median" in high-income jurisdictions. As a result, CDBG funds could be used to aid people with incomes of $66,300 in Stamford CT; $53,900 in San Jose CA; $49,300 in suburban Chicago; and, $46,650 in Boulder CO.

Section 510 similarly modifies the HOME program.

S. 1260:

No comparable provision.

OUR POSITION:

We strongly oppose this provision. CDBG and HOME are very limited resources. The CDBG statute has always declared that the use of this scarce money is to "principally" benefit lower income people. Section 510 would violate the historic "primary objective" of CDBG. The 37 metro areas (and the hundreds of jurisdictions that they include) would be allowed to spend CDBG for people whose incomes are very high. For example, in Passaic NJ the threshhold would be $50,700, allowing CDBG to aid those whose incomes were over three times the poverty level, and nearly six and a half times greater than the minimum wage income level. A conservative estimate places far more than $500,000,000 of CDBG alone at risk.

ISSUE:

Limitation on the Extent of Use of CDBG Loan Guarantees for Housing

BACKGROUND:

Under the CDBG Program, jurisdictions can use an amount equal to five times their annual CDBG entitlements as "collateral" to guarantee loans from the private sector for private or public projects. This is known as the "Section 108 Loan Guarantee Program". Generally, the revenues from the assisted project are expected to repay the loan, not CDBG. However, if something goes wrong, CDBG funds are tapped to meet the debt obligation. (e.g., the Festival Market Place in Richmond VA.)

According to a formal HUD report to Congress, 27% of the $229 million in Section 108 use in 1993 was for housing-related activities. HUD guesses that, currently, 20% of the $2 billion available for Section 108 is used for housing-related activities.

H.R. 2406:

Section 516 would limit a jurisdiction's use of Section 108 for housing-related activities to only 50% of the aggregate amount available to it. (HUD is not certain whether the 50% limitation on housing-related activities applies to all of a jurisdiction's Section 108 committments as a whole, or only to individual applications.)

S. 1260:

No comparable provision.

OUR POSITION:

We oppose this provision.

- This is being "prescriptive", denying jurisdictions the discretion to use their Section 108 Loan Guarantee as they deem appropriate.

- Traditionally, Section 108 was used for public works and facilities (eg sports stadiums), or for assistance to for-profit firms (eg General Motors), and has not sufficiently provided direct benefit to low-income people.

- When used for housing purposes, greater public accountability is possible since it is easier to ensure that lower income people occupy a dwelling unit than it is to determine whether they are employed at a sports facility or automotive plant.

ISSUE:

CDBG Sanction Against Local Governments Contributing to the Troubled Status of a LHMA

BACKGROUND:

None

H.R. 2406:

Section 436(e) would allow HUD to withhold or "redirect" a jurisdiction's CDBG money if HUD decided that the jurisdiction "contributed" to a Local Housing and Mangagement Authority becoming one which is "troubled".

S. 1260:

No comparable provision

OUR POSITION:

While it is important to be able to apply sanctions, we are concerned about the potential harmful effect on low income people. Because the "primary objective" of the CDBG Program is to "principally" benefit lower income people, we are concerned that a sanction which withholds CDBG funds might have an unduely adverse impact on low income people, especially public housing residents.

A possible variation on the Section 436(e) provision is the withholding of a jurisdiction's CDBG "Program Administration" funds. (Up to 20% of a jurisdiction's CDBG entitlement amount can be used for overall program administration, which generally pays the salaries and overhead of its "community development" staff. This 20% cap does not apply to staff integral to the direct delivery of an activity such as housing rehabilitation, so would not necessarily deny assistance to low income people.)