CITIZENS HOUSING AND PLANNING COUNCIL

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Congress Puts Housing on The Block

The contours of a Republican housing policy and HUD budget have begun to take shape with recent actions by the Congress.

Both houses have passed budget bills for HUD, the Department of Veterans Affairs and independent agencies; a compromise bill will now be worked out by a conference committee. Once the conference bill is passed by Congress, it will be one of thirteen spending bills sent to the President for signing. The present deadline for the budget legislation to be completed and signed is November 13, when the government's temporary spending authority expires.

President Clinton has threatened to veto the HUD budget bill -- but not because of objections to the proposed housing cuts. Both the Senate and House versions would effectively terminate the Corporation for National and Community Service, one of the legislative centerpieces of the Clinton presidency.

Although a complete rewriting of federal housing law is already underway, the recently passed appropriations bills portend the direction Congress is likely to take. While budget bills can always be read as an expression of Congress' programmatic preferences, the pending appropriation bills contain an unusual amount of substantive legislation in addition to their spending provisions.

HUD Cuts No Surprise

The House and Senate are proposing to cut HUD's budget by 23.8 and 21.1 percent, respectively, from the amount initially appropriated last year. The $19.4 and $20.3 billion figures are closer to the FY1995 appropriations net of the huge recisions made last summer. Even the President, however, did not request HUD appropriations equal to the $25.5 billion initially appropriated for FY95.

The appropriations subcommittees dealing with HUD, chaired by Senator Christopher Bond of Missouri and Representative Jerry Lewis of California, must distribute the funding allocated to them by the full committees among the various agencies for which they are responsible. HUD budgets are set by the same subcommittees that handle the budgets of the VA, NASA, EPA, FEMA and a variety of smaller boards, commissions, and corporations. These agencies together are slated for a cut of about 10 percent, to $81 billion, compared to last year's funding and to President Clinton's request for this year. Although more than half the cuts are to come out of the HUD budget, the EPA and NASA are also slated for sizeable reductions.

The Republican-controlled Congress clearly wants to reign in HUD spending, which it calculates has grown from 4 percent of all domestic discretionary outlays in 1980 to 10 percent today. That task is made harder by the need to renew expiring housing assistance contracts written in the late 1970s and early 1980s. The budget bills reflect a Congressional unwillingness to continue to "lock in" federal housing spending. Consequently, the majority of the reductions will come by eliminating "incremental" housing assistance contracts, which the federal government would be politically, if not legally, compelled to renew in future years. Tenant-based rental assistance certificates and vouchers are, ironically, the form of housing assistance with the greatest policy appeal to many Republicans in Congress, but budget concerns apparently overshadow that preference.

Emphasis on Contract Commitments

Dominating federal housing budget concerns are obligations stemming from expiring assistance contracts. For renewal of expiring Section 8 contracts the House bill would appropriate $4.64 billion, the Senate $4.35 billion, compared to the $2.5 billion appropriated in FY95.

The budget bills indicate that Congress intends to move cautiously on the administration's proposal to "mark-to-market" expiring Section 8 contracts (see *The Urban Prospect*, May/June 1995). The House bill permits the Secretary of HUD to reserve unspecified amounts of funds appropriated for contract renewals in order to provide voucher assistance to tenants of projects with expiring Section 8 project-based contracts. The number of such vouchers would be limited to the number of housing units covered by the terminated or expired contracts, and the bill provides that the funds may be used in connection with any federal law permitting conversion of project-based to tenant-based subsidies enacted after the effective date of the budget bill.

The Senate bill establishes a mark-to-market demonstration program. In one of the bill's major substantive provisions, the Secretary is authorized to establish a demonstration program covering not more than 30,000 units over the next two years, selected from a diversity of geographic areas, occupancy profiles, financial and physical conditions and tenant demographics. The Secretary is required to report the results of the demonstrations every three months with a final report to include recommendations for legislative action.

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CONGRESSIONAL WATCH

HUD Debate Reveals Republican Rift

Proposed Department of Housing and Urban Development reauthorization bills, submitted by leading figures of both the House and Senate, are laying down battle lines between Republicans who would substantially reform HUD's programs and others who would eliminate the agency entirely.

A Break from the Past

While maintaining HUD as a cabinet-level agency, legislation introduced by Representative Rick Lazio of New York, Chairman of the House Subcommittee on Housing and Community Opportunity, makes a symbolic break from past policies by repealing the Housing Act of 1937. Under a proposed "Housing Act of 1995," (H.R.2406) the existing system of public housing authorities would be replaced with a new type of entity called a local housing and management authority. Housing assistance would be provided through two block grants, one for the development, operation and support of public housing, the other providing for tenant-based assistance. The bill would also establish a 12-member Housing Foundation and Accreditation Board with oversight and accreditation authority over local housing agencies.

A similar bill, introduced in the Senate by Florida Republican Connie Mack, Chairman of the Subcommittee on Housing Opportunities and Community Development, would create two public housing block grants. The first of these would be for operating expenses while the second would cover capital needs. The Section 8 certificate and voucher programs would be consolidated into a single, tenant-based program, separate from public housing. Although the Mack bill (S.1260, co-sponsored by Senator D'Amato) would retain the 1937 Housing Act, it would require the Secretary of HUD to completely rewrite the regulations pertaining to the Act within six months.

The two bills share a number of elements, many of which were also included in the Clinton Administration's plan for restructuring HUD. Both would repeal federal preferences, eliminate the one-for-one public housing replacement rule, permit local housing agencies to develop units within mixed-income projects and enter into joint ventures, and give agencies access to criminal records for purposes of tenant screening. The bills would expand the powers of the Secretary of HUD in dealing with troubled housing agencies. Furthermore, the bills would remove problematic provisions of the Section 8 programs, including the "take one, take all" rule.

A more extreme Senate bill, sponsored by North Carolina Republican Lauch Faircloth, Chairman of the Subcommittee on HUD Oversight and Structure, would eliminate HUD and replace it with a new Office of Federal Housing Voucher Assistance under the Department of Health and Human Services. The Faircloth bill (S.1145, co-sponsored by Senator Dole) would parcel out many of the current HUD functions to other agencies, with the new agency overseeing a transition to a voucher-based system.

Vouchers Focus of Debate

With each of the leading proposals calling for a shift toward tenant-based vouchers, much of the debate is focusing on how fast and how far that shift should go. Ironically, the Administration's HUD restructuring plan, released last spring, took one of the more extreme positions on this issue. That plan envisioned the conversion of all public housing to tenant-based assistance by the year 2002. In recent comments, however, Secretary Cisneros has suggested a more gradual transition.

Senator Mack and Representative Lazio would both maintain public housing as a separate program. Under their bills, local housing agencies would be required to convert distressed projects to tenant-based assistance, while the Mack bill would require agencies to assess all of their public housing developments to determine their feasibility for conversion. Both bills would leave the question of further expanding the use of vouchers to the discretion of the local agency.

Senator Faircloth and other conservatives, however, are pushing for an entirely voucher-based system. Under the Faircloth bill, tenant-based vouchers and homeowner assistance would replace the existing public housing and Section 8 programs by the year 2000. Following the transition, voucher assistance would be delivered through either block grants to the states or, at the discretion of the states, through direct, annual contracts with "local voucher assistance agencies." If delivered through a local agency, assistance could not be provided to families for more than 60 months.

Still Far from Resolution

While both members of Congress and officials of local housing authorities have shown enthusiasm for some proposed reforms, ideological differences and the complexity of the subject warn against expecting compromise legislation before the end of the year. In defining the broad parameters of a sweeping reform, the proposals bypass some of the more difficult housing questions that would have to be addressed. Issues such as the "mark-to-market" conversion of Section 8 new construction projects and other problems involved in reconciling long-term obligations with a new system are among the matters yet to be fully resolved. For his part, Representative Lazio has suggested additional bills will be forthcoming in future months.

Beyond these technical issues, the political symbolism of eliminating the Department of Housing and Urban Development appears to be appealing to conservative Republicans, as evidenced by presidential candidate Dole's co-sponsorship of the Faircloth bill. Washington observers suggest conservatives will face tremendous pressure to reject any compromise that leaves HUD intact. ■

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HUD's authority to conduct demonstrations would apply to FHA-insured Section 8 multifamily projects whose present rents are in excess of 110 percent of the local fair market rent. At least 50 percent of the units participating must be in projects that are assisted under Section 8 new construction/ substantial rehabilitation contracts which expire after September 30, 1997. In order to place a project into the demonstration program HUD must have the consent of GNMA if it owns the insured mortgage, of the issuer under the mortgage-backed securities program of GNMA, and of any other entities party to the contractual agreement.

In conducting the demonstration the bill authorizes HUD to remove or modify any mortgage, regulatory agreement, assistance contract or restriction that it had imposed or required. It may offer project-based assistance with rents at or below fair market rents and, if the project would then be unable to pay full operating costs and debt service, HUD may offer to pay some or all of the debt service out of the appropriate insurance fund for the remaining term of the insured mortgage. The bill also authorizes HUD to forgive any FHA-insured mortgage debt that a project cannot carry at market rents and provides that, for projects that cannot cover their full operating costs, sufficient project-based rental assistance can be provided to allow it do so.

HUD would be required to renew Section 8 contracts expiring during fiscal year 1996 for projects that are not selected for the demonstration program, but for no more than two years. The rents could be at the current levels if they do not exceed 120 percent of the local FMR or at a "budget-based" rent level, to be based on the costs of operating the project, including debt service, operating expenses and contributions to reserves, vacancy and collection losses, and a 6 percent return on equity. If HUD and the owner agree, the contract can be allowed to expire and the project converted to tenant-based certificates or vouchers. Loan Management Set-Aside contracts must be renewed as well, but only for one year at budget-based rent levels.

The House and Senate bills are also quite different in their treatment of housing projects developed under the 236 and 221(d)(3) programs, many of which are becoming eligible to prepay their mortgages and thus opt out of the obligation to house low-income families. The existing Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA), created to encourage owners to remain in the programs, relies on a Section 8-like subsidy system that involves on-going and escalating costs. Congress and HUD are searching for ways to limit those costs.

The House, which would generally prefer to terminate LIHPRHA, would permit HUD to use up to $200 million from unobligated carryover balances (which HUD does not believe will be available) for preservation purposes.

The Senate bill would create a new preservation program for which it would appropriate $640 million (in addition to the $4.35 billion referred to above). The new program would not be usable until next year, however, so the appropriations are essentially for the current program.

Making extensive amendments to LIHPRHA, the Senate would remove restrictions on mortgage prepayments and attempt to shift the government's costs toward up-front incentives, eliminating the on-going subsidies. The bill would create a new "direct loan" incentive for owners who elect to stay in the program, equal in amount to the cost of rehabilitation undertaken plus 70 percent of preservation equity. The loan would be non-interest bearing until the first mortgage loan is paid in full, after which repayments would be made in amounts not greater than were paid on the first mortgage. The owner would be permitted a return of 8 percent on the remaining 30 percent of equity in the property and would no longer have to remit excess income to HUD.

Comparison of House and Senate Appropriations
($ millions)

Category	Senate	House
PH Modernization	2,510	2,500
PH Development	0	0
PH Operating	2,800	2,500
PH Demolition	500	0
Drug Elimination	290	0
Special Needs Hsg	1,184	1,441
Preservation *	624	200
Lead Paint Hazards	75	10
Sec. 8 Renewals	4,351	4,642
Sec. 8 Incremental	240	0
Homeless Asst. Grants	760	676
CDBG	4,600	4,600
HOME	1,400	1,400
Research/Admn./Other	995	1,422
Total	**20,329**	**19,391**

* House would dedicate carryover balances

A new grant program for purchasers willing to maintain the property as a low-income housing resource would be created by omitting reference to present cost limitations and authorizing HUD to provide capital grants equal to 100 percent of preservation equity, plus, for priority purchasers, expenses associated with the acquisition, loan closing and implementation of the "plan of action."

The Senate bill proposes a host of other amendments to LIHPRHA, including provisions to alter income mix requirements, to change rent adjustment mechanisms, to restrict

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rental assistance only to very low-income rather than low-income families when an owner prepays, and to require HUD to provide up to $1,500 in relocation expenses to low-income families who are displaced.

While both chambers would increase substantially funding related to contract renewals—including tenant-based contracts—neither would appropriate any funds for incremental Section 8 certificates or vouchers. Only tenant-based subsidies required to replace project-based subsidies would be provided. Last year Congress appropriated about $2.6 billion for approximately 55,000 5-year certificates and vouchers, although virtually all were eliminated by the post-election budget recisions.

The budget committees are also seeking to save money on tenant-based Section 8 renewals by lowering the basis for determining fair market rent levels from the 45th to the 40th percentile of the local housing market's rental distribution. The House would also raise to 32 percent of gross income the amount paid by Section 8 tenants in out-of-pocket rent.

A Preference for Grants

With Congress preoccupied with the future budgetary implications of contract expirations and unwilling to fund new on-going commitments, the emphasis has shifted toward year-by-year block grants.

Both the House and Senate budget bills would maintain Community Development Block Grant appropriations at last year's $4.6 billion and the HOME Investment Partnership Program at $1.4 billion.

Special needs housing, including Section 202 housing for the elderly, Section 811 supportive housing for persons with disabilities, and Housing Opportunities for Persons with AIDS, would actually fare better under the House bill, with $1.44 billion earmarked for those purposes. Those programs would receive $1.18 billion under the Senate version. Homeless Assistance Grants would receive $676 million and $760 million under the House and Senate bills, respectively, in addition to the $297 million that was deferred from 1995 appropriations. Neither appropriation would conform to the Clinton Administration's intention to restructure McKinney Act programs, but the Senate bill requires HUD to report on ways to merge them with the HOME program.

Cleaning House

With the pending budget bills Congress has signalled its intention to repair, reform and reduce the nation's public housing stock.

For the first time in many years there will be no funds appropriated for new public housing development, except that for Indian families. At the same time, both the house and Senate bills would appropriate $2.5 billion for public housing modernization, a sum equal to that available last year. The Senate would, however, permit housing authorities to utilize modernization funds for a variety of purposes, including new development, and would authorize new subsidy arrangements to encourage more mixed-income, public/private projects. The Senate would also provide $500 million in public housing demolition, site revitalization and replacement housing grants and $290 million in drug elimination grants, although the administration did not request funding for those programs.

The Clinton administration has proposed a rapid phase-out of public housing operating subsidies in favor of tenant-based assistance, but Congress appears to favor a more conventional approach to budget cutting. The House would provide $2.5 billion and the Senate $2.8 billion in operating subsidies this year, compared to the $2.9 billion appropriated in FY95. The House bill earmarks, however, $862 million for non-incremental Section 8 assistance that may be used in connection with subsequent legislation that might be aimed at converting public housing. The Senate bill would create a more specific conversion program immediately.

The Senate would require that public housing authorities identify distressed developments that total more than 600 units (or 300 high-rise) on contiguous sites, have a vacancy rate of at least 10 percent, and for which the estimated cost of modernizing and operating as public housing exceeds the estimated cost of providing all tenants Section 8 assistance. The PHAs would be required to remove these developments from their inventory within five years, through demolition or disposition, providing that the removal plan is determined to be consistent with the local Comprehensive Housing Affordability Strategy by the relevant local official. All residents would be entitled to Section 8 assistance and relocation assistance, if necessary.

The Senate bill also authorizes a new Moving to Work demonstration program aimed at giving public housing and Section 8 families greater incentives to become self-sufficient. Under the demonstration, housing agencies may combine operating subsidies, modernization funds and Section 8 assistance to provide housing in a manner that "facilitates the transition to work."

Both bills offer amendments to current law that would permit public housing authorities to establish ceiling rents that reflect the reasonable market value of the housing—thus eliminating an effect of the "Brooke Amendments" that have been criticized for emptying public housing of its most upwardly mobile tenants. The Senate bill would also permit local PHAs to establish $25 per month minimum rents.

The appropriations subcommittees also seem eager to eliminate many of the regulations that PHAs and other housing managers have criticized as counterproductive. For instance, both bills would eliminate the take-one, take-all requirement for owners renting apartments to Section 8 tenants. Public and assisted housing managers will be even more relieved by repeal of the federal preference criteria for tenant selection, which is included in both bills. The criteria have been criticized for interfering with sound management practices and for resulting in an undue concentration of very poor households in public and assisted housing. ■

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