

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Greta Joy Dicus, of Arkansas, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 1998.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS:

S. 1259. A bill to authorize the Secretary of Agriculture to use stewardship contracting in a demonstration program to restore and maintain the ecological integrity and productivity of forest ecosystems to insure that the land and resources are passed to future generations in better condition than they were found; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MACK (for himself, Mr. D'AMATO, and Mr. BOND):

S. 1260. A bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 1261. A bill to amend the Internal Revenue Code of 1986 to prevent the avoidance of tax through the use of foreign trusts; to the Committee on Finance.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Res. 173. A resolution to proclaim the week of September 24 through September 30, 1995, as National Dog Week; to the Committee on the Judiciary.

By Mr. GRAMS (for himself, Mr. DOLE, Mr. HELMS, and Mr. THOMAS):

S. Res. 174. A resolution expressing the sense of the Senate that the Secretary of State should aggressively pursue the release of political and religious prisoners in Vietnam; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS:

S. 1259. A bill to authorize the Secretary of Agriculture to use stewardship contracting in a demonstration program to restore and maintain the ecological integrity and productivity of forest ecosystems to insure that the land and resources are passed to future generations in better condition than they were found; to the Committee on Agriculture, Nutrition, and Forestry.

##### THE FOREST ECOSYSTEM STEWARDSHIP DEMONSTRATION ACT OF 1995

• Mr. BAUCUS. Mr. President, I introduce the Forest Ecosystem Steward-

ship Demonstration Act of 1995. On May 18, 1995, my colleague from Montana, Congressman PAT WILLIAMS introduced this bill which would allow the experimental use by the U.S. Forest Service of a variety of stewardship contracts on private land.

About a month ago I held a meeting in Kalispell about the Forest Stewardship Demonstration Act of 1995. The meeting was attended by loggers, environmentalists, and timber landowners. I received input from many individuals, businesses and organizations, including the Montana Wilderness Association, the Montana Logging Association, the Montana Wilderness Association and the Flathead Economic Policy Center. I was pleased to see people from all walks of life joining together to find common ground on what is usually a divisive issue and reach a consensus on a sound land-management program for a section of private property near Columbia Falls. The stewardship plan, created by the Flathead Forestry Project, emphasizes forest management strategies that will allow contracts to be written with enough flexibility and diversity to accommodate each system's needs.

This bill does not add red tape; does not reduce competition; and does not eliminate any existing public participation processes or environmental laws. Instead, this bill allows public forest owners and resource managers to directly selected qualified forest contractors. This new contract format allows landowners to custom design their own specific plans. Contractors will work directly for the public. In turn, this will increase the pool of contractors who can bid on public forest projects.

We all know that it is in the best interest of our forests to manage our public lands in a manner that maintains their overall health. At the same time, it is important to recognize that these are public lands and citizens should be fully involved in participating in the decisions that affect our national forests.

The Forest Ecosystem Stewardship Demonstration Act of 1995 proposes a unique plan to protect the health of our forests while also protecting the economic well-being of those who utilize the natural resources that our forests have to offer us.

This bill will give the Flathead Forestry Project the opportunity to test this proposal on a section of private property in Montana. If successful, this plan can be used as a model for similar land management programs on public lands.

I want to recognize the hard work of some of the men and women in Montana who are personally responsible for this unique legislation; Floyd Quiram, Jack Jay, Rem Koht, Bob Stone, Carol Daly, Lex Blood, Keith Olson and Steve Thompson. I am proud to introduce this legislation on their behalf, and I urge my colleagues to give it their support.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1259

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Forest Ecosystem Stewardship Demonstration Act of 1995".

#### SEC. 2. FINDINGS, PURPOSES, AND DEFINITIONS.

(a) FINDINGS.—Congress makes the following finding:

(1) In many of the units of the National Forest System, current conditions—such as unnatural fuel loads, high tree density, threat of catastrophic fires, disease, and insect infestations, habitat loss, and loss of historic species, stand diversity and integrity—adversely affect the biodiversity, health, and sustainability of the forest ecosystems of such units.

(2) A new and innovative contracting process for the National Forest System is required to meet Federal goals of improving forest resource conditions through implementation of ecosystem management.

(3) Ecosystem management is not just a biological concept. It is the convergence of a set of activities that is simultaneously ecologically sound, economically viable, and socially responsible.

(4) The improvement of the health and natural functioning of the forest resource is vital to the long-term viability of species found on National Forest System lands.

(5) Ecosystem restoration and conservation work performed with revenues from forest activities would improve employment opportunities in communities near units of the National Forest System to the benefit of long-term economic sustainability and community viability.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To improve and restore the health of forest resources through implementation of ecosystem management.

(2) To provide for employment opportunities and economic health and viability for rural communities near units of the National Forest System.

(3) To provide for flexibility in procurement and funding practices to enter into stewardship contracts to achieve management objectives and requirements prescribed in the following provisions of law:

(A) The Act of June 4, 1897 (commonly known as the Organic Administration Act; 16 U.S.C. 473-475, 477-482, 551).

(B) The Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528-531).

(C) The Forest and Rangeland Renewable Resources Act of 1974 (16 U.S.C. 1600-1614).

(D) Section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

(E) The Act of May 23, 1908, and section 13 of the Act of March 1, 1911 (16 U.S.C. 500).

(F) The Federal Grants and Agreements Act of 1977 (31 U.S.C. 6303-6308).

(G) National Forest Fund Act of March 4, 1907 (16 U.S.C. 499).

(c) DEFINITIONS.—For purposes of this Act:

(1) ACCOUNT.—The term "Account" means the Stewardship Account established under section 4.

(2) DESIGN SPECIFICATION CONTRACT.—The term "design specification contract" is used to describe contracts in which the contracting entity specifically identifies all the tasks

to be performed, and the contractor performs per the designed specifications.

(3) **FOREST STEWARDSHIP COUNCIL.**—The term "Forest Stewardship Council" means any one of the local councils established under section 3(f) of this Act to, in cooperation with resource managers: prioritize and select stewardship projects, set operational goals in the context of current national forest management policies and local forest plans, evaluate contractor performance and accomplishments, recommend progress payments for work successfully completed by contractors, and make recommendations for the improvement of the stewardship contract process.

(4) **PERFORMANCE SPECIFICATION CONTRACT.**—The term "performance specification contract" is used to describe contracts in which the contracting entity identifies the parameters of the project, and the contractor identifies the method to accomplish the work.

(5) **RESOURCE ACTIVITIES.**—The term "resource activities" includes area access, site preparation, replanting, fish and wildlife habitat restoration or enhancement, silvicultural treatments, watershed improvement, fuel treatments (including prescribed burning), and road closure or obliteration.

(6) **RESOURCE MANAGER.**—The term "resource manager" refers to the line officer responsible for management decisions associated with project implementation on a national forest.

(7) **ROADSIDE SALE.**—The term "roadside sale" refers to the sale by the Forest Service to the highest bidder(s) of all contract-designated products of the forest removed as part of the management activities conducted under a stewardship contract. (Non-designated products may be assigned to the contractor for salvage.) A roadside sale is a completely separate transaction from the awarding of the stewardship contract itself.

(8) **SECRETARY.**—The term "Secretary" means the Secretary of Agriculture.

(9) **STATEMENT OF WORK CONTRACT.**—The term "statement of work contract" is used to describe contracts in which the contracting entity gives a general overview of the project, and the bidding contractor provides the specifics on how he/she envisions the project and the end result he/she would obtain using his/her particular approach to land stewardship.

(10) **STEWARDSHIP CONTRACT.**—The term "stewardship contract" means a contract for carrying out resource activities for the improvement and restoration of forest ecosystems of units of the National Forest System and to encourage or enhance the economic sustainability and the viability of rural and regional communities. A stewardship contract could use a design specification format (definition 2, above), a performance specification format (definition 4, above), a statement of work format (definition 9, above), or some combination thereof.

### SEC. 3. USE OF STEWARDSHIP CONTRACTS.

(a) **USE AUTHORIZED.**—The Secretary shall establish and implement in the Forest Service a demonstration program through which forest- and/or district-level resource managers use stewardship contracts to carry out resource activities in a comprehensive manner to restore and preserve the ecological integrity and productivity of forest ecosystems within the National Forest System and to encourage or enhance the economic sustainability and the viability of nearby rural communities. The resource activities undertaken should be consistent with the precepts of ecosystem management and with the forest's management plan for achieving the desired future conditions of the area being treated.

(b) **USE LIMITED.**—Within the limits of available financial resources, each forest

within the National Forest System may use stewardship contracts to carry out ecosystem management projects, if those contracts:

(1) Provide for payment to the contractor based on the number of acres satisfactorily treated in accordance with an approved plan to create a desired future condition on the land.

(2) Are used for projects where the harvest of timber is secondary to creating specific resource conditions (e.g., wildlife habitat enhancement, watershed improvement, insect and disease control).

(3) Are not used for projects involving the construction of new permanent roads or entries into roadless areas.

(4) Will result in the removal of no more than 300,000 board feet of merchantable timber per project.

(5) Provide for the roadside sale of all contract-designated merchantable timber which is extracted.

(6) Are awarded competitively to qualified contractors with no more than 25 employees.

(7) Include stewardship skill and experience qualification requirements which have been established by the local Forest Stewardship Council and approved by the Forest Service.

(8) Are monitored not only by the Forest Service, but also by the local Forest Stewardship Council.

(9) Provide for periodic progress payments to contractors based on successful completion of contract activities on a per acre basis. The acceptability of the contractor's work shall be determined by the Forest Service, taking into account the recommendation of the local Forest Stewardship Council.

(c) **DEMONSTRATION RESEARCH OBJECTIVES.**—The Secretary shall insure that in the carrying out of the provisions of this Act enough flexibility is provided to resource managers to enable them to test various approaches to solving questions left unresolved in previous demonstrations of stewardship and end results contracts authorized in fiscal year 1991 and 1992 through the Department of the Interior and Related Appropriation Acts. These questions include, but are not limited to:

(1) The need for the bonding of stewardship contractors and/or possible alternatives which could reduce the financial burden on small businesses.

(2) Preferred methods of marketing timber or other products of the forest removed as a result of stewardship contract activities.

(3) The standards to be used in evaluating the quality and acceptability of the work performed by a stewardship contractor.

(4) The desirability of multi-year contracts for stewardship projects.

(5) The relative merits of using design specifications, performance specifications, or statements of work in offering, awarding, and evaluating stewardship contracts.

(6) The costs, benefits, problems, and opportunities resulting from increased community involvement in the design and monitoring of stewardship contracts.

(7) The benefits and problems resulting from restricting stewardship contracts to very small (no more than 25 employees) contractors.

(8) The extent to which local economic sustainability and rural community viability are affected by the use of stewardship contracts.

(9) The difference between estimated and actual revenues derived from roadside sales of timber.

(10) The level of utilization of timber and other products of the forest derived from stewardship contract projects as compared with conventional timber sales.

(11) The extent to which stewardship contracting contributes to the achievement of forest ecosystem management plans.

(12) The extent to which the revenues from stewardship contracts cover the cost of such contracts or are offset by the costs which could reasonably be expected to result if the contracts are not carried out (e.g., fire suppression costs in areas with heavy fuel loads).

(13) The administrative costs or savings involved in the use of stewardship contracts.

(14) The benefits and/or disadvantages of using local Forest Stewardship Councils as part of the stewardship contracting process.

(15) The benefits and/or disadvantages of various methods of selecting members, organizing, administering, and conducting the business of local Forest Stewardship Councils.

(d) **DEVELOPMENT AND USE OF CONTRACTS.**—Each resource manager of a unit of the National Forest System may enter into stewardship contracts with qualified non-Federal entities (as established in regulations relating to procurement by the Federal Government or as determined by the Secretary.) The local Forest Stewardship Council, in cooperation with the Forest Service resource manager, shall select the type of stewardship contract that is most suitable to local conditions. Contracts should clearly describe the desired future condition for each resource managed under the contract and the evaluation criteria to be used to determine acceptable performance. The length of a stewardship contract shall be consistent with the requirements of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

(e) **SELECTION OF AREAS FOR CONTRACTS.**—In selecting areas within units of the National Forest System to be subject to stewardship contracts, the Secretary, resource managers, and local Forest Stewardship Councils shall base the selection on the need to improve forest health, maintain and improve soil and water quality, and improve fisheries and wildlife habitat. Priorities for activities within individual units will be established by local resource managers, in consultation with the appropriate local Forest Stewardship Council.

(f) **ESTABLISHMENT OF LOCAL FOREST STEWARDSHIP COUNCILS.**—Local Forest Stewardship Councils shall be established for each unit of the National Forest System which offers stewardship contracts. The role of a Forest Stewardship Council will be to, in cooperation with the resource managers, prioritize and select stewardship projects, set operational goals in the context of current national forest management policies and local forest plans, evaluate contractor performance and accomplishments, recommend progress payments for work successfully completed by contractors, and make recommendations for the improvement of the stewardship contract process. Each participating National Forest System unit shall establish, after soliciting the comments of local citizens, the size of the local council, the method of selection or election of council members, the terms of service of members, and the council administrative budget, if any. At least 51 percent of members of any Forest Stewardship Council shall be drawn from the private sector, in a manner which insures representation of a broad range of public interests. The functioning of the Forest Stewardship Councils must assure a continuing and open process and must in no way interfere with the broad public involvement in Federal resource management decision making required under the National Environmental Policy Act of 1976.

(g) **APPLICATION OF CONTRACTS.**—Subject to subsection (h), the revenue received from the sale of timber or any other products of the

forest resulting to the Federal Government as a result of work carried out under a stewardship contract shall be deposited into a Stewardship Account as established in section 4(a).

(h) EFFECT ON OTHER REVENUE REQUIREMENTS.—Twenty-five percent of the revenues received from roadside sale of products extracted through stewardship contract activities shall remain available for payments to States, as required under the Act of May 23, 1908, and section 13 of the Act of March 1, 1991 (16 U.S.C. 500). The Secretary shall first collect revenues to make such payments before exercising the authority provided in subsection g.

#### SEC. 4. STEWARDSHIP CONTRACT RECEIPTS AND EXPENDITURES.

(a) RECEIPTS.—Monetary receipts received as payment for contract-designated timber and other products of the forest extracted through stewardship contract activities shall be deposited in a designated fund to be known as the "Stewardship Account". Amounts in the Account shall be used to make payments to States under the Act of May 23, 1908, and section 13 of the Act of March 1, 1911 (16 U.S.C. 500), and to fund resource activities. Amounts in the Account are hereby appropriated and shall be available to the Secretary until expended, except that those amounts found by the Secretary to be in excess of the needs of the Secretary shall be transferred to miscellaneous receipts in the Treasury of the United States. Any additional revenues made available through direct appropriations to the Forest Service for stewardship contracting and ecosystem management purposes also shall be deposited in the Account.

(b) EXPENDITURES.—Not less than 80 percent of amounts in the Account available for resource activities shall be used for the direct costs of such resource activities. The revenues received from sales of contract-designated products resulting from stewardship contracts shall be returned to the national forest from which they were generated, to be used to fund additional stewardship contracts. To the extent that additional revenues are received in the Account from direct appropriations by the Congress of funds for stewardship contract activities, such funds shall be made available to those forest units using stewardship contracts through a process to be developed by the Secretary.

(c) REPORTING.—As part of the annual report of the Secretary to Congress, the Secretary shall include an accounting of revenues, expenditures, and accomplishments related to the stewardship contracts.

#### SEC. 5. RELATION TO OTHER LAWS.

All stewardship contracts shall comply with existing applicable laws, and nothing in this Act may be construed as modifying the provisions of any other law except as explicitly provided in this Act.

#### SEC. 6. EFFECTIVE DATE.

This Act shall be effective upon passage.

#### SEC. 7. TERMINATION DATE.

Unless extended by a subsequent act of the Congress, this Act shall terminate five years from its effective date.●

By Mr. MACK (for himself, Mr. D'AMATO, and Mr. BOND):

S. 1260. A bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

#### THE PUBLIC HOUSING REFORM AND EMPOWERMENT ACT OF 1995

Mr. MACK. Mr. President, I am pleased to introduce, on behalf of Senators D'AMATO and BOND, the Public Housing Reform and Empowerment Act of 1995. This bill represents the first serious effort in decades to reform and consolidate the Nation's public and tenant-based assisted housing programs, and to redirect the primary responsibility for these programs away from the Federal bureaucracy and toward States and localities.

Public housing is home to 1.4 million American families, and much of it is good. Unfortunately, to many Americans the pictures in the national media of high rise public housing projects being imploded symbolize the failure of our housing policy. Clearly, some public housing, particularly in major cities, has fallen into a vicious cycle of crime, drug abuse, welfare dependency, and hopelessness. In far too many places, public housing developments, which are supposed to provide a housing platform from which lower-income families can achieve their own aspirations of economic independence and self-sufficiency, are little more than warehouses that rob the poorest of the poor of their dignity and hope.

The underlying principle of the Public Housing Reform and Empowerment Act is resident choice. By encouraging cost-effective and efficient use of resources, the bill gives housing authorities the ability to offer their residents tenant-based assistance where it is economically feasible. It also requires that distressed public housing be vouchered out to protect the right of residents to decent and safe housing.

A key to increasing resident choice is improving the ability of tenant-based assistance programs to meet the demand for affordable housing. This bill makes important changes in the section 8 voucher program. It repeals program requirements, such as "take one, take all," that discourage landlords from participating in the tenant-based program, and it emphasizes lease requirements similar to those in the marketplace.

Micromanagement by both Congress and the Department of Housing and Urban Development [HUD] has saddled housing authorities with rules and regulations that make it almost impossible for even the best of them to run their developments effectively and efficiently. Under today's rules, the residents of public housing face powerful disincentives to work and to achieve economic self-sufficiency. The public housing system must be changed radically before it is entirely discredited.

Our bill addresses the crisis in public housing by consolidating public housing funding into two block grants and transferring greater responsibility for the operation and management of public housing to the housing authorities. It provides greater flexibility to housing authorities to utilize their resources in a more efficient, effective,

and creative manner to improve housing quality, while also providing for local accountability in the use of those resources.

The bill ends Federal requirements that have prevented housing authorities from demolishing their obsolete housing stock, concentrated and isolated the poorest of the poor, and created disincentives for public housing residents who want to work and improve their own lives. It would, among other things, permit housing authorities to change counterproductive rent rules that currently discourage employment and prevent the creation of mixed-income public housing communities.

It also repeals Federal preferences and allow housing authorities to operate according to locally established preferences that are consistent with a community's housing needs.

While allowing well-run housing authorities much more discretion, our bill would also crack down on those housing authorities that are troubled. Although small in number, these authorities with severe management problems control almost 15 percent of the Nation's public housing stock. HUD would be required to take over or appoint a receiver for PHA's that are unable to make significant improvements in their operations. This legislation would also give HUD expanded powers to break up or reconfigure troubled authorities, dispose of their assets, or abrogate contracts that impede correction of the housing authority's problems.

Mr. President, this legislation will help protect the Federal Government's sizeable investment in public housing. It will also empower residents by increasing their involvement in developing housing agency management plans, expanding tenant management opportunities, and making public housing a springboard to dignity and hope.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1260

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Public Housing Reform and Empowerment Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purpose.
- Sec. 3. Definitions.
- Sec. 4. Effective date.
- Sec. 5. Technical recommendations; elimination of obsolete documents.

#### TITLE I—PUBLIC AND INDIAN HOUSING

- Sec. 101. Declaration of policy.
- Sec. 102. Nondiscrimination.
- Sec. 103. Authority of public housing agencies.
- Sec. 104. Definitions.
- Sec. 105. Contributions for lower income housing projects.

- Sec. 106. Public housing agency plan.
- Sec. 107. Contract provisions and requirements.
- Sec. 108. Expansion of powers.
- Sec. 109. Public housing designated for the elderly and the disabled.
- Sec. 110. Public and Indian housing capital and operating funds.
- Sec. 111. Labor standards.
- Sec. 112. Repeal of energy conservation; consortia and joint ventures.
- Sec. 113. Repeal of modernization fund.
- Sec. 114. Income eligibility for assisted housing.
- Sec. 115. Demolition and disposition of public housing.
- Sec. 116. Repeal of family investment centers; vouchers for public housing.
- Sec. 117. Repeal of family self-sufficiency; homeownership opportunities.
- Sec. 118. Conversion of distressed public housing to vouchers.
- Sec. 119. Applicability to Indian housing.

#### TITLE II—SECTION 8 RENTAL ASSISTANCE

- Sec. 201. Merger of the certificate and voucher programs.
- Sec. 202. Repeal of Federal preferences.
- Sec. 203. Portability.
- Sec. 204. Leasing to voucher holders.
- Sec. 205. Homeownership option.
- Sec. 206. Technical and conforming amendments.
- Sec. 207. Implementation.
- Sec. 208. Effective date.

#### TITLE III—MISCELLANEOUS PROVISIONS

- Sec. 301. Public housing flexibility in the CHAS.
- Sec. 302. Public housing flexibility in the HOME program.
- Sec. 303. Repeal of certain provisions.
- Sec. 304. Determination of income limits.

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) as of the date of enactment of this Act, the inventory of public housing units owned and operated by public housing agencies, an asset in which the Federal Government has invested approximately \$90,000,000,000, has traditionally provided rental housing that is affordable to low-income persons;

(3) despite serving this critical function, the public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives for economic self-sufficiency;

(4) the Federal method of overseeing every aspect of public housing by detailed and complex statutes and regulations aggravates the problem and places excessive administrative burdens on public housing agencies;

(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that—

(A) consolidates many public housing programs into a single program for the operation and capital needs of public housing;

(B) streamlines program requirements; and

(C) vests in public housing agencies that perform well the maximum feasible authority, discretion, and control with appropriate accountability to both public housing residents and localities; and

(6) voucher and certificate programs under section 8 of the United States Housing Act of 1937 are successful for approximately 80 percent of applicants, and a consolidation of the voucher and certificate programs into a single, market-driven program will assist in making section 8 tenant-based assistance more successful in assisting low-income families in obtaining affordable housing.

(b) PURPOSE.—The purpose of this Act is to consolidate the various programs and activities under the public housing programs administered by the Secretary in a manner designed to reduce Federal overregulation, to redirect the responsibility for a consolidated program to States, localities, public housing agencies, and public housing residents, and to require Federal action to overcome problems of public housing agencies with severe management deficiencies.

#### SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) PUBLIC HOUSING AGENCY.—The term “public housing agency” has the same meaning as in section 3 of the United States Housing Act of 1937.

(2) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

#### SEC. 4. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act or the amendments made by this Act, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

#### SEC. 5. TECHNICAL RECOMMENDATIONS; ELIMINATION OF OBSOLETE DOCUMENTS.

(a) TECHNICAL RECOMMENDATIONS.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives, recommended technical and conforming amendments to carry out the amendments made by this Act.

(b) ELIMINATION OF OBSOLETE DOCUMENTS.—

(1) IN GENERAL.—Effective 1 year after the date of enactment of this Act, no rule, regulation, or order (including all handbooks, notices, and related requirements) issued or promulgated under the United States Housing Act of 1937 before the date of enactment of this Act may be enforced by the Secretary.

(2) PROPOSED REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress proposed regulations that the Secretary determines are necessary to carry out the United States Housing Act of 1937, as amended by this Act.

#### TITLE I—PUBLIC AND INDIAN HOUSING

##### SEC. 101. DECLARATION OF POLICY.

Section 2 of the United States Housing Act of 1937 (42 U.S.C. 1437) is amended to read as follows:

##### “SEC. 2. DECLARATION OF POLICY.

“It is the policy of the United States to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this Act—

“(1) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families; and

“(2) consistent with the objectives of this title, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to both public housing residents and localities.”

##### SEC. 102. NONDISCRIMINATION.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

##### “SEC. 27. NONDISCRIMINATION.

“(a) PUBLIC HOUSING RESIDENTS.—No person shall be prohibited from serving on the board of directors or similar governing body of a public housing agency because of the residence of that person in a low-income housing project.

“(b) NONDISCRIMINATION BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, OR SEX.—

“(1) IN GENERAL.—No person in the United States shall, based on the race, color, national origin, religion, or sex of that person be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

“(2) APPLICABILITY OF OTHER LAWS.—Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual, as provided in section 504 of the Rehabilitation Act of 1973 shall apply to any such program or activity.”

##### SEC. 103. AUTHORITY OF PUBLIC HOUSING AGENCIES.

(a) AUTHORITY OF PUBLIC HOUSING AGENCIES.—

(1) IN GENERAL.—Section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)) is amended to read as follows:

“(2) AUTHORITY OF PUBLIC HOUSING AGENCIES.—

“(A) CEILING RENTS.—Notwithstanding paragraph (1), a public housing agency may—

“(i) adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than the actual monthly costs—

“(I) to operate such housing; and

“(II) to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

“(ii) allow families to pay ceiling rents referred to in clause (i), unless, with respect to any family, the ceiling rent established under this subparagraph would exceed the amount payable as rent by that family under paragraph (1).

“(B) MINIMUM RENT.—Notwithstanding paragraph (1), a public housing agency may provide that each family residing in a public housing project or receiving tenant-based or project-based assistance under section 8 shall pay a minimum monthly rent in an amount not to exceed \$30 per month.

“(C) MIXED-INCOME PROJECTS.—

“(i) IN GENERAL.—Notwithstanding paragraph (1), and subject to clause (ii), a public housing agency may own or operate one or more mixed-income projects, except as otherwise provided in the public housing agency plan of that public housing agency submitted in accordance with section 5A.

“(ii) RESTRICTION.—No assistance provided under section 9 shall be used by a public housing agency in direct support of any unit rented to a household that is not a low-income household.

“(D) POLICE OFFICERS.—

“(i) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan of the public housing agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing unit. The number and location of units occupied by police officers under this clause, and the terms and conditions of their tenancies, shall be determined by the public housing agency.

“(ii) DEFINITION.—As used in this subparagraph, the term ‘police officer’ means any person determined by a public housing agency to be, during the period of residence of such person in public housing, employed on a full-time basis by a Federal, State, or local government or any agency thereof (including a public housing agency having an accredited police force) as a duly licensed professional police officer.

“(E) ENCOURAGEMENT OF SELF-SUFFICIENCY.—Public housing agencies shall develop rental policies that encourage and reward employment and upward economic mobility.”.

(2) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by paragraph (1).

(B) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be—

(i) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as such section existed on the day before effective date of this Act; or

(ii) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same project or a group of comparable projects totaling 50 units or more.

(b) HIGH PERFORMING PUBLIC HOUSING AGENCIES.—

(1) IN GENERAL.—Section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437(a)) is amended by adding at the end the following new paragraph:

“(3) HIGH PERFORMING PUBLIC HOUSING AGENCIES.—

“(A) IN GENERAL.—Notwithstanding the rent calculation formula in paragraph (1), subject to subparagraph (B), the Secretary shall permit a high performing public housing agency, as determined by the Secretary, to determine the amount that a family residing in public housing shall pay as rent.

“(B) LIMITATION.—With respect to a family whose income is equal to or less than 30 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, a public housing agency may not require a family to pay as rent under subparagraph (A) an amount that exceeds the greater of—

“(i) 30 percent of the monthly adjusted income of the family; and

“(ii) \$30.”.

(2) PHASE-IN PERIOD.—If a public housing agency charges rent pursuant to section 3(a)(3) of the United States Housing Act of 1937, as added by paragraph (1) of this subsection, the agency shall phase in any increase in the amount otherwise payable by the family over a 3-year period.

(3) REPORTS TO CONGRESS.—

(A) INITIAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall report to the Congress on the impact of section 3(a)(3) of the United States Housing Act of 1937, as added by paragraph (1) of this subsection, on residents and on the economic viability of public housing agencies.

(B) FINAL REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Congress a final report on the impact of section 3(a)(3) of the United States Housing Act of 1937, as added by paragraph (1) of this subsection, on residents and on the economic viability of public housing agencies. The report shall include recommendations for any legislative changes to rent reform policies.

**SEC. 104. DEFINITIONS.**

(a) DEFINITIONS.—

(1) SINGLE PERSONS.—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended—

(A) in subparagraph (A), in the third sentence, by striking “the Secretary shall” and all that follows before the period at the end and inserting the following: “the public housing agency may give preference to single persons who are elderly or disabled per-

sons before single persons who are otherwise eligible”; and

(B) in subparagraph (B), in the second sentence, by striking “regulations of the Secretary” and inserting “public housing agency plan of the public housing agency”.

(2) DEFINITION OF ADJUSTED INCOME.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended to read as follows:

“(5) ADJUSTED INCOME.—The term ‘adjusted income’ means the income that remains after excluding—

“(A) \$480 for each member of the family residing in the household (other than the head of the household or spouse)—

“(i) who is under 18 years of age; or

“(ii) who is—

“(I) 18 years of age or older; and

“(II) a person with disabilities or a full-time student;

“(B) \$400 for an elderly or disabled family;

“(C) the amount by which the aggregate of—

“(i) medical expenses for an elderly or disabled family; and

“(ii) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed;

exceeds 3 percent of the annual income of the family;

“(D) child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education;

“(E) excessive travel expenses, not to exceed \$25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to a family assisted by an Indian housing authority; and

“(F) any other income that the public housing agency determines to be appropriate, as provided in the public housing agency plan of the public housing agency.”.

(b) DEFINITIONS OF TERMS USED IN REFERENCE TO PUBLIC HOUSING.—

(1) TECHNICAL CORRECTION.—Section 622(c) of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3817) is amended by inserting “in paragraph (3),” after “is amended”.

(2) HOUSING ACT OF 1937.—Section 3(c) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)) is amended—

(A) in paragraph (1), by inserting “and of the fees and related costs normally involved in obtaining non-Federal financing and tax credits with or without private and nonprofit partners” after “carrying charges”; and

(B) in paragraph (2), in the first sentence, by striking “security personnel,” and all that follows through the period and inserting the following: “security personnel), and all eligible activities under the Public and Assisted Housing Drug Elimination Act of 1990, or financing in connection with a low-income housing project, including projects developed with non-Federal financing and tax credits, with or without private and nonprofit partners.”;

(C) in the undesignated paragraph immediately following paragraph (3), by striking “The earnings of” and all that follows through the period at the end; and

(D) by adding at the end the following new paragraphs:

“(6) PUBLIC HOUSING AGENCY PLAN.—The term ‘public housing agency plan’ means the annual plan adopted by a public housing agency under section 5A.

“(7) DISABLED HOUSING.—The term ‘disabled housing’ means any project, building, or portion of a project or building that is

designated by a public housing agency for occupancy exclusively by disabled persons or families.

“(8) ELDERLY HOUSING.—The term ‘elderly housing’ means any project, building, or portion of a project or building, that is designated by a public housing agency for occupancy exclusively by elderly persons or families, including elderly disabled persons or families.

“(9) MIXED-INCOME PROJECT.—

“(A) IN GENERAL.—The term ‘mixed-income project’ means a project that is occupied both by one or more low-income households and by one or more households that are not low-income households.

“(B) TYPES OF PROJECTS.—The term ‘mixed-income project’ includes a project developed—

“(i) by a public housing agency or an entity controlled by a public housing agency; and

“(ii) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity controlled by a public housing agency) is a general partner, managing member, or otherwise has significant participation in directing the activities of such entity, if—

“(I) units are made available in the project, by master contract or individual lease, for occupancy by low-income families identified by the public housing agency for a period of not less than 20 years; and

“(II) the number of public housing units are approximately in the same proportion to the total number of units in the mixed-income project that, in the sole determination of the public housing agency, the value of the financial assistance provided by the public housing agency bears to the value of the total equity investment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance.

“(C) TAXATION.—A mixed-income project may elect to have all units subject to the local real estate taxes, except that units designated as public housing units shall be eligible at the discretion of the public housing agency for the taxing requirements under section 6(d).”.

**SEC. 105. CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS.**

Section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437c) is amended by striking subsections (h) through (l).

**SEC. 106. PUBLIC HOUSING AGENCY PLAN.**

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by inserting after section 5 the following new section:

**“SEC. 5A. PUBLIC HOUSING AGENCY PLAN.**

“(a) IN GENERAL.—

“(1) SUBMISSION.—Each public housing agency shall submit to the Secretary a written public housing agency plan developed in accordance with this section.

“(2) CONSISTENCY REQUIREMENT.—Each public housing agency plan submitted to the Secretary under paragraph (1) shall be—

“(A) made in consultation with the local advisory board established under subsection (c);

“(B) consistent with the Comprehensive Housing Affordability Strategy for the jurisdiction in which the public housing agency is located, as provided under title I of the Cranston-Gonzalez National Affordable Housing Act; and

“(C) accompanied by a certification by an appropriate State or local public official that the proposed public housing activities are consistent with the housing strategy of the jurisdiction to be served by the public housing agency, as required by subparagraph (B).

“(b) CONTENTS.—Each public housing agency plan shall contain, at a minimum, the following:

“(1) CERTIFICATION.—A written certification that the public housing agency is a governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of low-income housing. Any reference in any provision of law of the jurisdiction authorizing the creation of the public housing agency shall be identified and any legislative declaration of purpose in regard thereto shall be set forth in the certification with full text.

“(2) STATEMENT OF POLICY.—An annual statement of policy identifying the primary goals and objectives of the public housing agency for the year for which the statement is submitted, together with any major developments, projects, or programs, including all proposed costs and activities under the Capital and Operating Funds of the public housing agency established under section 9.

“(3) GENERAL POLICIES, RULES, AND REGULATIONS.—The policies, rules, and regulations of the public housing agency regarding—

“(A) the requirements for eligibility into each program administered by the public housing agency and the policies of the public housing agency concerning verification of eligibility, which verification shall be required upon initial commencement of residency and not less frequently than annually thereafter;

“(B) the requirements for the selection and admission of eligible families into the program or programs of the public housing agency, including the tenant screening policies, any preferences or priorities for selection and admission, and the requirements pertaining to the administration of the waiting list or lists of the public housing agency;

“(C) the procedure for assignment of persons admitted into the program to dwelling units owned, leased, managed, or assisted by the public housing agency; and

“(D) the requirements for occupancy of dwelling units, including all standard lease provisions, and conditions for continued occupancy, termination, and eviction.

“(4) MANAGEMENT.—The policies, rules, and regulations relating to the management of the public housing agency, and the projects and programs of the public housing agency, including—

“(A) a description of how the public housing agency is organized and staffed to perform the duties and functions of the public housing agency;

“(B) policies relating to the marketing of dwelling units owned or operated by the public housing agency;

“(C) policies relating to rent collection;

“(D) policies relating to security;

“(E) policies relating to services and amenities provided or offered to families assisted, including all related charges or fees, if any;

“(F) any system of priorities in the management of the operations of the public housing agency; and

“(G) a list of activities to enhance tenant empowerment and management, including assistance to resident councils and resident management corporations.

“(5) RENTS AND CHARGES.—

“(A) IN GENERAL.—The policies of the public housing agency concerning rents or other charges, the manner in which such policies are determined, and the justification for the policies.

“(B) FACTORS FOR CONSIDERATION.—In determining and justifying the policies described in subparagraph (A), the public housing agency shall take into account—

“(i) the goals of the public housing agency to serve households with a broad range of incomes, to create incentives for families to

obtain employment, and to serve primarily low-income families;

“(ii) the costs and other financial considerations of the public housing agency; and

“(iii) such other factors as the public housing agency determines to be relevant.

“(6) ECONOMIC AND SOCIAL SELF-SUFFICIENCY PROGRAMS.—A description of any programs, plans, and activities of the public housing agency for the enhancement of the economic and social self-sufficiency of residents assisted by the programs of the public housing agency. The description shall include a statement of any self-sufficiency requirements affecting residents assisted by the programs of the public housing agency.

“(7) USE OF FUNDS FOR EXISTING UNITS.—

“(A) IN GENERAL.—A statement describing the use of distributions from the Capital Fund and Operating Fund of the public housing agency, established in accordance with section 9, including a general description of the public housing agency policies or plans to keep the property of the public housing agency in a decent and safe condition.

“(B) ANNUAL AND 5-YEAR PLAN.—An annual plan and, if appropriate, a 5-year plan of the public housing agency for modernization of the existing dwelling units of the public housing agency, a plan for preventative maintenance, a plan for routine maintenance, and a plan to handle emergencies and other disasters. Each annual and 5-year plan shall include a general statement identifying the long-term viability and physical condition of each of the projects and other property of the public housing agency, including cost estimates and demolition plans, if any.

“(8) USE OF FUNDS FOR NEW OR ADDITIONAL UNITS AND DEMOLITION OR DISPOSITION.—

“(A) IN GENERAL.—

“(i) CAPITAL AND OPERATING FUNDS.—If applicable, a description of the plans of the public housing agency for the Capital Fund and Operating Fund distributions of the public housing agency established under section 9, for the purpose of new construction, demolition, or disposition.

“(ii) ANNUAL AND 5-YEAR PLANS.—An annual plan and a 5-year plan describing any current and future plans for the development or acquisition of new or additional dwelling units, or the demolition or disposition of any of the existing housing stock of the public housing agency, including—

“(I) any plans for the sale of existing dwelling units to low-income residents, other low-income persons or families, or organizations acting as conduits for sales to low-income residents, or other low-income persons or families, under a homeownership plan; and

“(II) the plans of the public housing agency, if any, for replacement of dwelling units to be demolished or disposed of, and any plans providing for the relocation of residents who will be displaced by a demolition or disposition of units.

“(B) DEMOLITIONS.—In the case of a demolition of any existing housing stock, each plan required under subparagraph (A)(ii) shall include—

“(i) identification of the property to be demolished;

“(ii) the estimated costs of the demolition and the sources of funds to pay for the demolition;

“(iii) the uses and explanation of the uses to which the property will be put after demolition; and

“(iv) the reasons for the demolition and for the conclusion of the public housing agency that the demolition is in the best interests of the programs of the public housing agency.

“(C) DISPOSITIONS.—In the case of a disposition of any existing housing stock, each plan required under subparagraph (A)(ii) shall include—

“(i) a description of the property to be disposed of;

“(ii) a description of the use or uses to which the property will be put after disposition, including findings with regard to—

“(I) whether the new use or uses are consistent and compatible with any public housing agency dwelling units that will remain in the immediate vicinity of the property to be disposed of; and

“(II) whether the public housing agency plans to retain any control over or rights in the property after disposition;

“(iii) identification of any consideration, whether in money, property, or both, to be received by the public housing agency as part of the disposition, and the low-income uses that the public housing agency intends for the proceeds, pursuant to the requirements of section 18; and

“(iv) the reasons for disposition of the property by the public housing agency and for the conclusion of the public housing agency that the disposition is in the best interests of the tenants, programs, and activities of the public housing agency.

“(D) OTHER INFORMATION.—The public housing agency shall, with respect to any demolition or disposition plan required by subparagraph (A)(ii), comply with the requirements of section 18, and the public housing agency plan shall expressly certify such compliance.

“(9) OPERATING FUND PLAN.—

“(A) IN GENERAL.—A plan for the Operating Fund of the public housing agency, including—

“(i) an identification of all sources and uses of funding and income of the public housing agency;

“(ii) a description for the establishment, maintenance, and use of reserves; and

“(iii) an operating budget, a budget for any modernization or development, and any plans that the public housing agency has for borrowing funds, including a description of any anticipated actions to mortgage or otherwise grant a security interest in any of the projects or other properties of the public housing agency in connection with public housing agency borrowings.

“(B) APPROVAL BY THE SECRETARY.—Each plan under subparagraph (A) involving mortgaging or granting a security interest in the projects of the public housing agency shall—

“(i) be deemed to be approved by the Secretary, unless the Secretary provides a written disapproval to the public housing agency not later than 45 days after the date on which the plan is submitted under subparagraph (A); and

“(ii) include reasonable provisions for the relocation of low-income tenants in the event of displacement.

“(10) ADDITIONAL PERFORMANCE REQUIREMENTS.—A description of any additional performance standards established by the public housing agency.

“(11) ANNUAL AUDIT.—The results of an annual audit of the public housing agency, which shall be conducted by an independent certified public accounting firm pursuant to generally accepted accounting principles.

“(c) LOCAL ADVISORY BOARD.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT.—Each public housing agency shall establish one or more local advisory boards in accordance with this subsection, adequate to reflect and represent all of the residents of dwelling units owned, operated, or assisted by the public housing agency.

“(B) INCLUSION IN PUBLIC HOUSING AGENCY PLAN.—The rules governing each local advisory board shall be included in the public housing agency plan of the public housing agency.



“(2) MEMBERSHIP.—Each local board established under this subsection shall be composed of the following membership:

“(A) Not less than 60 percent of the board shall be residents of dwelling units owned, operated, or assisted by the public housing agency.

“(B) The remainder of the board shall be comprised of—

“(i) representatives of the community in which the public housing agency is located; and

“(ii) local government officials of the community in which the public housing agency is located.

“(3) PURPOSE.—Each local advisory board established under this subsection shall assist and make recommendations in the development of the public housing agency plan for submission under this section. The public housing agency shall consider the recommendations of the local advisory board in preparing the final public housing agency plan, and shall include a copy of such recommendations in the public housing agency plan submitted to the Secretary under this section.

“(d) PUBLICATION OF NOTICE.—

“(1) IN GENERAL.—Not later than 45 days before adoption of any public housing agency plan by the governing body of the public housing agency, the public housing agency shall publish a notice informing the public that—

“(A) the proposed public housing agency plan is available for inspection at the principal office of the public housing agency during normal business hours; and

“(B) a public hearing will be held to discuss the public housing agency plan and to invite public comment thereon.

“(2) PUBLIC HEARING.—Each public housing agency shall conduct a public hearing, as provided in the notice published under paragraph (1), not earlier than 30 days nor later than 50 days after the date on which the notice was published. After such public hearing, the public housing agency shall, after considering all public comments received and making any changes it deems appropriate, adopt the public housing agency plan and submit the plan to the Secretary in accordance with this section.

“(e) COORDINATED PROCEDURES.—Each public housing agency shall, in conjunction with the State or relevant unit of general local government, establish procedures to ensure that the public housing agency plan required by this section is consistent with the applicable Comprehensive Housing Affordability Strategy for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act.

“(f) AMENDMENTS AND MODIFICATIONS TO PLANS.—

“(1) IN GENERAL.—Nothing in this section shall preclude a public housing agency, after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that no such significant amendment or modification may be implemented—

“(A) other than at a duly called meeting of commissioners (or other comparable governing body) of the public housing agency which is open to the public; and

“(B) until notification of such amendment or modification is sent to the Secretary and approved in accordance with subsection (g)(4).

“(2) CONSISTENCY.—Any significant amendment or modification to a plan submitted to the Secretary under this section shall—

“(A) comply with the requirements of subsection (a)(2); and

“(B) be considered by the local board, as provided in subsection (c).

“(g) TIMING OF PLANS.—

“(1) IN GENERAL.—

“(A) INITIAL SUBMISSION.—Each public housing agency shall submit the initial plan required by this section, and any amendment or revision to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

“(B) ANNUAL SUBMISSION.—Not later than 60 days prior to the start of the fiscal year of the public housing agency, after initial submission of the plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or reports containing information constituting changes or modifications to the public housing agency plan of the public housing agency.

“(2) REVIEW AND APPROVAL.—

“(A) REVIEW.—After submission of the public housing agency plan or any amendment or report of changes or modifications to the plan to the Secretary, the Secretary shall review the public housing agency plan, amendment, or report to determine—

“(i) in the case of a public housing agency plan, whether the contents of the plan—

“(I) set forth the information required by this section to be contained in a public housing agency plan; and

“(II) are consistent with information and data available to the Secretary; and

“(ii) in all cases, whether the activities proposed by the plan, amendment, or report are prohibited by or inconsistent with any provision of this title or other applicable law.

“(B) APPROVAL.—

“(i) IN GENERAL.—Except as provided in paragraph (3)(B), not later than 45 days after the date on which a public housing agency plan is submitted in accordance with this section, the Secretary shall provide written notice to the public housing agency if the plan has been disapproved, stating with specificity the reasons for the disapproval.

“(ii) FAILURE TO PROVIDE NOTICE OF DISAPPROVAL.—If the Secretary does not provide notice of disapproval under clause (i) before the expiration of the 45-day period described in clause (i), the public housing agency plan of the public housing agency shall be deemed to be approved by the Secretary.

“(3) SECRETARIAL DISCRETION.—

“(A) IN GENERAL.—The Secretary shall have sole discretion to require such additional information and performance requirements as deemed appropriate for each public housing agency that is designated by the Secretary as a troubled public housing agency under section 6(j).

“(B) TROUBLED AGENCIES.—The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 6(j).

“(4) STREAMLINED PLAN.—In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

“(A) public housing agencies that are determined by the Secretary to be high performing public housing agencies; and

“(B) public housing agencies with less than 250 units.”.

(b) INTERIM RULE.—

(1) IN GENERAL.—Not later than January 1, 1996, the Secretary shall issue an interim rule to require the submission of an interim public housing agency plan by each public housing agency, as required by section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate final regulations implementing section 5A of the United States Housing Act of 1937, as added by subsection (a) of this section. Such regulations shall be subject to negotiated rulemaking.

#### SEC. 107. CONTRACT PROVISIONS AND REQUIREMENTS.

(a) CONDITIONS.—Section 6(a) of the United States Housing Act of 1937 (42 U.S.C. 1437d(a)) is amended—

(1) in the first sentence, by inserting “, in a manner consistent with the public housing agency plan submitted under section 5A” before the period; and

(2) by striking the second sentence.

(b) REVISION OF MAXIMUM INCOME LIMITS; CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS; NOTIFICATION OF ELIGIBILITY.—Section 6(c) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)) is amended to read as follows:

“(c) [Reserved.]”.

(c) EXCESS FUNDS.—Section 6(e) of the United States Housing Act of 1937 (42 U.S.C. 1437d(e)) is amended to read as follows:

“(e) [Reserved.]”.

(d) PERFORMANCE INDICATORS FOR PUBLIC HOUSING AGENCIES.—Section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking “obligated” and inserting “provided”; and

(ii) by striking “unexpended” and inserting “unobligated by the public housing agency”; (B) in subparagraph (D), by striking “energy” and inserting “utility”;

(C) by redesignating subparagraph (H) as subparagraph (J); and

(D) by adding at the end the following new paragraphs:

“(H) The extent to which the agency provides effective programs and activities to promote the economic self-sufficiency of tenants.

“(I) The extent to which the agency successfully meets the goals and carries out the activities and programs of the public housing agency plan under section 5(A).”; and

(2) in paragraph (2)(A)(i), by inserting after the first sentence the following: “The Secretary may use a simplified set of indicators for public housing agencies with less than 250 units.”.

(e) LEASES.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) in paragraph (3), by striking “not be less than” and all that follows before the semicolon at the end and inserting “be the period of time required under State law”; and

(2) in paragraph (5), by striking “on or near such premises”.

(f) PUBLIC HOUSING ASSISTANCE TO FOSTER CARE CHILDREN.—Section 6(o) of the United States Housing Act of 1937 (42 U.S.C. 1437d(o)) is amended by striking “Subject” and all that follows through “, in” and inserting “In”.

(g) PREFERENCE FOR AREAS WITH INADEQUATE SUPPLY OF VERY LOW-INCOME HOUSING.—Section 6(p) of the United States Housing Act of 1937 (42 U.S.C. 1437d(p)) is amended to read as follows:

“(p) [Reserved.]”.

(h) AVAILABILITY OF CRIMINAL RECORDS FOR SCREENING AND EVICTION; EVICTION FOR DRUG-RELATED ACTIVITY.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following new subsections:

“(q) AVAILABILITY OF RECORDS.—

“(1) IN GENERAL.—

“(A) PROVISION OF INFORMATION.—Notwithstanding any other provision of law, except

as provided in subparagraph (B), the National Crime Information Center, a police department, and any other law enforcement agency shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or residents of, public housing for purposes of applicant screening, lease enforcement, and eviction.

“(B) EXCEPTION.—Except as provided under any provision of State or local law, no law enforcement agency described in subparagraph (A) shall provide information under this paragraph relating to any criminal conviction if the date of that conviction occurred 5 or more years prior to the date on which the request for the information is made.

“(2) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken on the basis of a criminal record, the public housing agency shall provide the resident or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

“(3) FEE.—A public housing agency may be charged a reasonable fee for information provided under paragraph (1).

“(4) RECORDS MANAGEMENT.—Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

“(A) maintained confidentially;

“(B) not misused or improperly disseminated; and

“(C) destroyed, once the purpose for which the record was requested has been accomplished.

“(5) DEFINITION.—For purposes of this subsection, the term ‘adult’ means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal or State law.

“(r) EVICTION FOR DRUG-RELATED ACTIVITY.—Any resident evicted from housing assisted under this title by reason of drug-related criminal activity (as such term is defined in section 8(f)(5)) shall not be eligible for housing assistance under this title during the 3-year period beginning on the date of such eviction, unless the evicted resident successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).”

#### SEC. 108. EXPANSION OF POWERS.

(a) IN GENERAL.—Section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)) is amended—

(1) in subparagraph (A)—

(A) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(B) by inserting after clause (ii) the following new clause:

“(iii) take possession of the public housing agency, including any project or function of the agency, including any project or function under any other provision of this Act;”;

(2) by redesignating subparagraphs (B) through (D) as subparagraphs (E) through (G), respectively;

(3) by inserting after subparagraph (A) the following new subparagraphs:

“(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

“(ii) The Secretary may give a public housing agency a 1-year period, beginning on the date on which the agency receives notification from the Secretary of the troubled status of the agency under clause (i), within which to demonstrate improvement satisfactory to the Secretary. Nothing in this clause shall preclude the Secretary from taking any

action the Secretary considers necessary before the commencement or the expiration of the 1-year period described in this clause.

“(iii) Upon the expiration of the 1-year period described in clause (ii), or in the case of a public housing agency identified as troubled before the effective date of this Act, upon the expiration of the 1-year period commencing on that date, if the troubled agency has not demonstrated improvement satisfactory to the Secretary and the Secretary has not yet declared the agency to be in breach of its contract with the Federal Government under this Act, the Secretary shall declare the public housing agency to be in substantial default, as described in subparagraph (A).

“(iv) Upon declaration of a substantial default under clause (iii), the Secretary—

“(I) shall either—

“(aa) petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

“(bb) take possession of the public housing agency or any development or developments of the public housing agency pursuant to subparagraph (A)(ii); and

“(II) may, in addition, take other appropriate action.

“(C)(i) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

“(I) may abrogate any contract that substantially impedes correction of the substantial default;

“(II) may demolish and dispose of the assets of the public housing agency, in accordance with section 18;

“(III) if determined to be appropriate by the Secretary, may require the establishment, as permitted by applicable State and local law, of one or more new public housing agencies; and

“(IV) shall not be subject to any State or local law relating to civil service requirements, employee rights, procurement, or financial or administrative controls that, in the determination of the receiver, substantially impedes correction of the substantial default.

“(i) For purposes of this subparagraph, the term ‘public housing agency’ includes any project or function of a public housing agency, as appropriate, including any project or function under any other provision of this Act.

“(D)(i) If the Secretary takes possession of a public housing agency, or any project or function of the agency, pursuant to subparagraph (A)(iii), the Secretary—

“(I) may abrogate any contract that substantially impedes correction of the substantial default;

“(II) may demolish and dispose of the assets of the public housing agency, in accordance with section 18;

“(III) may require the establishment, as permitted by applicable State and local law, of one or more new public housing agencies;

“(IV) shall not be subject to any State or local law relating to civil service requirements, employee rights, procurement, or financial or administrative controls that, in the determination of the Secretary, substantially impedes correction of the substantial default; and

“(V) shall have such additional authority as a district court of the United States could confer under like circumstances on a receiver to fulfill the purposes of the receivership.

“(ii) The Secretary may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary under this subparagraph for the administration of a public housing agency. The Secretary may delegate to the adminis-

trative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate.

“(iii) Regardless of any delegation under this subparagraph, an administrative receiver may not require the establishment of one or more new public housing agencies pursuant to clause (i)(III), unless the Secretary first approves an application by the administrative receiver to authorize such establishment.

“(iv) For purposes of this subparagraph, the term ‘public housing agency’ includes any project or function of a public housing agency, as appropriate, including any project or function under any other provision of this Act.”; and

(4) by adding at the end the following new subparagraph:

“(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including any project or function of the agency) pursuant to subparagraph (A)(iii), or if a receiver is appointed by a court pursuant to subparagraph (A)(ii), the Secretary or receiver shall be deemed to be acting not in that person’s or entity’s official capacity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to such liability occurred while the Secretary or receiver was in possession of the public housing agency (including any project or function of the agency), shall be the liability of the public housing agency.”

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to a public housing agency that is found to be in substantial default, on or after the date of enactment of this Act, with respect to the covenants or conditions to which the agency is subject (as such substantial default is defined in the contract for contributions of the agency) or with respect to an agreement entered into under section 6(j)(2)(C) of the United States Housing Act of 1937.

#### SEC. 109. PUBLIC HOUSING DESIGNATED FOR THE ELDERLY AND THE DISABLED.

Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

#### “SEC. 7. AUTHORITY TO PROVIDE DESIGNATED HOUSING.

“(a) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency may, in its discretion and without approval by the Secretary, designate public housing projects or mixed-income projects (or portions of projects) for occupancy as elderly housing, disabled housing, or elderly and disabled housing. The public housing agency shall establish requirements for this section in the public housing agency plan of the public housing agency.

“(b) RELOCATION ASSISTANCE.—A public housing agency that converts any existing project or building, or portion thereof, to elderly housing or disabled housing shall provide to all persons or families who are to be relocated in connection with the conversion—

“(1) notice of the conversion and relocation not less than 6 months before the date of such action;

“(2) comparable housing (including appropriate services and design features) at a rental rate that is comparable to that applicable to the unit from which the person or family has vacated; and

“(3) payment of actual, reasonable moving expenses.

“(c) COMPARABLE HOUSING.—For purposes of this section, tenant-based assistance under section 8(o) shall be deemed to be comparable housing, if the person or family who is relocated may obtain with such assistance



housing that is generally comparable to the housing that was vacated at a cost to the relocated person or family that is not in excess of the amount previously paid for the housing vacated.

“(d) **UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT.**—The Uniform Relocation and Real Property Acquisition Act shall not apply to activities under this section.”.

**SEC. 110. PUBLIC AND INDIAN HOUSING CAPITAL AND OPERATING FUNDS.**

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended to read as follows:

**“SEC. 9. PUBLIC AND INDIAN HOUSING CAPITAL AND OPERATING FUNDS.**

“(a) **IN GENERAL.**—Except for assistance provided under section 8, all programs under which assistance is provided for public housing on the day before the effective date of the Public Housing Reform and Empowerment Act of 1995 shall be merged, as appropriate, into either—

“(1) the Capital Fund established under subsection (c); or

“(2) the Operating Fund established under subsection (d).

“(b) **USE OF EXISTING FUNDS.**—With the exception of funds made available pursuant to section 20(f) and funds appropriated for the urban revitalization demonstration program authorized under the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts—

“(1) funds made available to the Secretary for public housing purposes that have not been obligated by the Secretary to a public housing agency before the effective date of the Public Housing Reform and Empowerment Act of 1995 shall be made available, for the period originally provided in law, for use in either the Capital Fund or the Operating Fund established under this section, as appropriate; and

“(2) funds made available to the Secretary for public housing purposes that have been obligated by the Secretary to a public housing agency but that, as of the effective date of the Public Housing Reform and Empowerment Act of 1995, have not been obligated by the public housing agency, may be made available by that public housing agency, for the period originally provided in law, for use in either the Capital Fund or the Operating Fund established under this section, as appropriate.

“(c) **CAPITAL FUND.**—

“(1) **IN GENERAL.**—The Secretary shall establish a Capital Fund for the purpose of making grants to public housing agencies principally—

“(A) to make physical improvements to, to replace, or demolish public housing projects, or portions of projects; and

“(B) for associated management improvements.

“(2) **GRANTS.**—The Secretary shall make grants to public housing agencies to carry out capital and management activities, including—

“(A) the development and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings;

“(B) vacancy reduction;

“(C) addressing deferred maintenance needs and the replacement of dwelling equipment;

“(D) planned code compliance;

“(E) management improvements;

“(F) community services;

“(G) demolition and replacement;

“(H) tenant relocation; and

“(I) activities to improve the economic empowerment and self-sufficiency of public housing tenants.

“(3) **LIMIT ON USE OF FUNDS.**—Each public housing agency may use not more than 20 percent of the Capital Fund distribution of the public housing agency for activities under the Operating Fund of the public housing agency pursuant to subsection (d), provided that the public housing agency plan provides for such use.

“(d) **OPERATING FUND.**—

“(1) **IN GENERAL.**—The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing.

“(2) **GRANTS.**—The Secretary shall make grants to public housing agencies to carry out activities that relate to the operation and management of public housing, including—

“(A) anti-crime and anti-drug activities (including those activities eligible for assistance under the Public and Assisted Housing Drug Elimination Act of 1990 and the Drug-Free Public Housing Act of 1988); and

“(B) activities related to the provision of service coordinators for elderly persons or persons with disabilities pursuant to section 673 of the Housing and Community Development Act of 1992.

“(e) **ESTABLISHMENT OF FORMULAE.**—

“(1) **IN GENERAL.**—The Secretary shall establish formulae for providing assistance under the Capital Fund and the Operating Fund under this subsection.

“(2) **FORMULAE REQUIREMENTS.**—The formulae established under paragraph (1) shall include the following:

“(A) The needs of public housing agencies as identified through their public housing agency plans submitted under section 5A.

“(B) The number of public housing dwelling units owned and operated by a housing management agency and occupied by low-income families (including the costs of conversion to tenant-based assistance under section 22).

“(C) The extent to which public housing agencies provide programs and activities designed to promote the economic self-sufficiency of tenants.

“(D) The age, condition, and density of the low-income housing owned or operated by the agency.

“(E) The number of dwelling units owned and operated by the housing management agency that are chronically vacant and the amount of assistance appropriate for such units.

“(F) The amount of assistance necessary to provide rehabilitation and operating expenses for public housing dwelling units including the amount of assistance to provide a safe environment.

“(3) **TRANSITION FORMULA.**—The transition formula shall provide that each public housing agency shall receive that percentage of funds which represents the percentage of funds that the public housing agency received, on average, for modernization costs and operating expenses during the 3 fiscal years of that public housing agency preceding implementation of a formula established under paragraph (1).

“(4) **PROCEDURES.**—The Secretary shall establish formulae under paragraph (1) through negotiated rulemaking, and shall submit the formulae to the Congress for review not later than 2 years after the date of enactment of the Public Housing Reform and Empowerment Act of 1995.

“(5) **APPROVAL.**—Unless the Congress acts to disapprove a formula submitted under this subsection, the formula shall be presumed to be approved until a revised formula is adopted.

“(6) **OPERATING AND CAPITAL ASSISTANCE.**—A resident management corporation managing a public housing development pursuant

to a contract under this section shall be provided directly by the Secretary with operating and capital assistance under this title for purposes of operating the development and performing such other eligible activities with respect to the development as may be provided under the contract.

“(f) **NATIVE AMERICAN HOUSING PROGRAMS.**—Notwithstanding any other provision of law, from amounts appropriated for the Capital Fund or the Operating Fund, the Secretary shall establish such formulae and programs as may be necessary to provide such sums as may be necessary to carry out housing programs for Indians.

“(g) **TECHNICAL ASSISTANCE.**—To the extent approved in appropriations Acts for grants, the Secretary may provide—

“(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including monitoring, inspections, training for public housing agency employees and residents, and data collection and analysis; and

“(2) remedial activities associated with troubled public housing agencies, as such agencies are so designated under section 6(j).

“(h) **FUNDING FOR RESIDENT COUNCILS.**—Of any amounts made available in any fiscal year to carry out this section, \$25,000,000 shall be made available to resident councils, resident organizations, or resident management corporations, on a competitive basis, to carry out resident management activities, and other activities designed to improve the economic self-sufficiency of public housing residents.

“(i) **EMERGENCY RESERVE.**—

“(1) **IN GENERAL.**—

“(A) **SET-ASIDE.**—In each fiscal year, the Secretary shall set aside an amount not to exceed 2 percent of the amount appropriated to carry out this section for that fiscal year for use in accordance with this subsection.

“(B) **USE OF FUNDS.**—Amounts set aside under this paragraph shall be available to the Secretary for use in connection with emergencies, and to fund the cost of demolitions, modernization, and other activities if the Capital Fund and Operating Fund distributions of any public housing agency are not adequate to carry out activities relating to the goal of the public housing agency of providing decent, safe, and affordable housing in viable communities.

“(2) **ALLOCATION.**—Amounts set aside under this paragraph shall be allocated pursuant to a competition based upon relative need to such public housing agencies, in such manner, and in such amounts as the Secretary shall determine.”.

**SEC. 111. LABOR STANDARDS.**

Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended by adding at the end the following new subsection:

“(c) **WORK REQUIREMENT.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law, each adult member of each household assisted under this Act shall contribute not less than 8 hours of volunteer work per month within the community of that adult.

“(2) **INCLUSION IN PLAN.**—Each public housing agency shall include in the plan submitted to the Secretary under section 5A, a detailed description of how the public housing agency intends to implement and administer the requirements of paragraph (1).

“(3) **EXEMPTIONS.**—The Secretary may provide an exemption from the requirements of paragraph (1) for any individual who is—

“(A) not less than 62 years of age;

“(B) a person with disabilities who is unable, as determined in accordance with guidelines established by the Secretary, to comply with this section; or

“(C) working full-time, a student, receiving vocational training, or otherwise meeting work requirements of a public assistance program.”

**SEC. 112. REPEAL OF ENERGY CONSERVATION; CONSORTIA AND JOINT VENTURES.**

Section 13 of the United States Housing Act of 1937 (42 U.S.C. 1437k) is amended to read as follows:

**“SEC. 13. CONSORTIA, JOINT VENTURES, AFFILIATES, AND SUBSIDIARIES OF PUBLIC HOUSING AGENCIES.**

“(a) CONSORTIA.—

“(1) IN GENERAL.—Any 2 or more public housing agencies may participate in a consortium for the purpose of administering any or all of the housing programs of those public housing agencies in accordance with this section.

“(2) EFFECT.—With respect to any consortium described in paragraph (1)—

“(A) any assistance made available under this title to each of the public housing agencies participating in the consortium shall be paid to the consortium; and

“(B) all planning and reporting requirements imposed upon each public housing agency participating in the consortium with respect to the programs operated by the consortium shall be consolidated.

“(3) RESTRICTIONS.—

“(A) AGREEMENT.—Each consortium described in paragraph (1) shall be formed and operated in accordance with a consortium agreement, and shall be subject to the requirements of a joint public housing agency plan, which shall be submitted by the consortium in accordance with section 5A.

“(B) MINIMUM REQUIREMENTS.—The Secretary shall specify minimum requirements relating to the formation and operation of consortia and the minimum contents of consortium agreements under this paragraph.

“(b) JOINT VENTURES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency, in accordance with its public housing agency plan submitted under section 5A, may—

“(A) form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the same persons who constitute the board of commissioners or other similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or

“(B) enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit, with respect to the administration of the programs of the public housing agency, including any program that is subject to this title.

“(2) USE OF INCOME.—Any income generated under paragraph (1) shall be used for low-income housing or to benefit the tenants of the public housing agency.

“(3) AUDITS.—The Secretary may conduct an audit of any activity undertaken under paragraph (1) at any time.”

**SEC. 113. REPEAL OF MODERNIZATION FUND.**

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is repealed.

**SEC. 114. INCOME ELIGIBILITY FOR ASSISTED HOUSING.**

Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended to read as follows:

**“SEC. 16. INCOME ELIGIBILITY FOR ASSISTED HOUSING.**

“(a) IN GENERAL.—

“(1) INITIAL OCCUPANCY BY CERTAIN HOUSEHOLDS.—Of the dwelling units of a public housing agency, including public housing units in a designated mixed-income project, made available for initial occupancy—

“(A) not less than 40 percent shall be occupied by households whose incomes do not exceed 30 percent of the area median income for such households; and

“(B) any remaining dwelling units may be made available for households whose incomes do not exceed 80 percent of the area median income for such households.

“(2) ESTABLISHMENT OF DIFFERENT STANDARDS.—Notwithstanding paragraph (1), if approved by the Secretary, a public housing agency may for good cause establish and implement an occupancy standard other than the standard described in paragraph (1).

“(b) APPLICABILITY TO INDIAN HOUSING.—Subsection (a) shall not apply to any dwelling unit assisted by an Indian housing agency.”

**SEC. 115. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.**

(a) IN GENERAL.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended to read as follows:

**“SEC. 18. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.**

“(a) APPLICATIONS FOR DEMOLITION AND DISPOSITION.—Not later than 60 days after receiving an application by a public housing agency for authorization, with or without financial assistance under this title, to demolish or dispose of a public housing project or a portion of a public housing project, the Secretary shall approve the application, if the public housing agency certifies—

“(1) in the case of—

“(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

“(i) the project or portion of the project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

“(ii) no reasonable program of modifications is cost-effective to return the project or portion of the project to useful life; and

“(B) an application proposing the demolition of only a portion of a project, that the demolition will help to assure the useful life of the remaining portion of the project;

“(2) in the case of an application proposing disposition of public housing project or other real property subject to this title by sale or other transfer, that—

“(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

“(i) conditions in the area surrounding the project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

“(ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

“(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

“(i) in the best interests of the residents and the public housing agency;

“(ii) consistent with the goals of the public housing agency and the public housing agency plan of the public housing agency; and

“(iii) otherwise consistent with this title; or

“(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;

“(3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan of the public housing agency submitted under section 5A, and has certified that the actions contemplated in the public housing agency plan comply with the requirements of this section;

“(4) that the public housing agency—

“(A) will provide for the payment of the relocation expenses of each resident to be displaced;

“(B) will ensure that the amount of rent paid by the tenant following relocation will not exceed the amount permitted under this Act; and

“(C) will not commence demolition or disposition until all tenants residing in the unit are relocated;

“(5) that the net proceeds of any disposition will be used—

“(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and

“(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for the provision of low-income housing or to benefit the tenants of the public housing agency; and

“(6) that the public housing agency has complied with subsection (b).

“(b) TENANT OPPORTUNITY TO PURCHASE IN CASE OF PROPOSED DISPOSITION.—

“(1) IN GENERAL.—In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization for resale to low-income families, if such entity—

“(A) is operating only at the public housing project that is the subject of the disposition; and

“(B) has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

“(2) TIMING.—

“(A) THIRTY-DAY NOTICE.—A resident organization, resident management corporation, or other entity referred to in paragraph (1) may express interest in purchasing property that is the subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

“(B) SIXTY-DAY NOTICE.—If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of such written notice, during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

“(c) HOMEOWNERSHIP ACTIVITIES.—This section does not apply to the disposition of a public housing project, or any portion thereof, in accordance with a homeownership program under which the property is sold or conveyed to low-income persons or families or to an organization acting as a conduit for sales or conveyances to such persons or families.

“(d) REPLACEMENT UNITS.—Notwithstanding any other provision of law, replacement housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of such replacement units is fewer than the number of units demolished.”

(b) HOMEOWNERSHIP REPLACEMENT PLAN.—

(1) IN GENERAL.—Section 304(g) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-3(g)), as amended by section 1002(b) of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in

the Recovery from the Tragedy that Occurred At Oklahoma City, and Rescissions Act, 1995, is amended to read as follows:

“(g) [Reserved.]”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall be effective for plans for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary after September 30, 1995.

(c) **UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT.**—The Uniform Relocation and Real Property Acquisition Act shall not apply to activities under section 18 of the United States Housing Act of 1937, as amended by this section.

**SEC. 116. REPEAL OF FAMILY INVESTMENT CENTERS; VOUCHERS FOR PUBLIC HOUSING.**

(a) **IN GENERAL.**—Section 22 of the United States Housing Act of 1937 (42 U.S.C. 1437t) is amended to read as follows:

**“SEC. 22. VOUCHERS FOR PUBLIC HOUSING.**

“(a) **IN GENERAL.**—

“(1) **AUTHORIZATION.**—A public housing agency may convert any public housing project (or portion thereof) owned and operated by the public housing agency to a system of tenant-based assistance in accordance with this section.

“(2) **REQUIREMENTS.**—In making a conversion under this section, the public housing agency shall develop a conversion plan and an assessment under subsection (b) in consultation with the appropriate public housing officials and residents, which plan and assessment shall be consistent with and part of the public housing agency plan submitted under section 5A, and shall describe the conversion and future use or disposition of the public housing project, including an impact analysis on the affected community.

“(b) **CONVERSION ASSESSMENT.**—

“(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of the Public Housing Reform and Empowerment Act of 1995, each public housing agency shall assess the status of each public housing project owned and operated by that public housing agency and shall submit to the Secretary a report that includes—

“(A) a cost analysis of the public housing project, including costs attributable to the physical condition, modernization needs, operating costs, and market value (both before and after rehabilitation) of the project;

“(B) a market analysis of the public housing project, including an evaluation of the availability of rental dwelling units at or below the fair market rent in the market area in which the public housing project is located; and

“(C) the impact of the conversion on the neighborhood in which the public housing project is located.

“(2) **STREAMLINED ASSESSMENT.**—The Secretary may waive or otherwise require a streamlined assessment at the request of the public housing agency.

“(c) **COST OF CONVERSION.**—The cost of any conversion under this section shall be payable from funds made available from the Capital Fund and the Operating Fund established under section 9 attributable to the converted public housing and any additional funds made available by the Secretary or in an appropriations Act.”.

(b) **SAVINGS PROVISION.**—The amendment made by subsection (a) does not affect any contract or other agreement entered into under section 23 of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act.

**SEC. 117. REPEAL OF FAMILY SELF-SUFFICIENCY; HOMEOWNERSHIP OPPORTUNITIES.**

(a) **IN GENERAL.**—Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended to read as follows:

**“SEC. 23. PUBLIC HOUSING HOMEOWNERSHIP OPPORTUNITIES.**

“(a) **IN GENERAL.**—Notwithstanding any other provision of law, a public housing agency may sell low-income dwelling units, to the low-income residents of the public housing agency, to other low-income persons or families, or to organizations serving as conduits for sales to such persons.

“(b) **SALE PRICES, TERMS AND CONDITIONS.**—Any sales under subsection (a) may involve such sales prices, terms, and conditions as the public housing agency may determine in accordance with procedures set forth in the public housing agency plan of the public housing agency submitted under section 5A.

“(c) **PROTECTION OF NONPURCHASING FAMILIES.**—If a tenant decides not to purchase a unit, or is not qualified to do so, the public housing agency shall—

“(1) ensure that rental assistance under section 8 is made available to the tenant; and

“(2) provide for the payment of the reasonable relocation expenses of the tenant.

“(d) **NET PROCEEDS.**—The net proceeds of any sales under this section remaining after payment of all costs of the sale and any unassumed, unpaid indebtedness owed in connection with the dwelling units sold unless waived by the Secretary, shall be used for purposes relating to low-income housing and in accordance with the public housing agency plan of the public housing agency submitted under section 5A.”.

(b) **SAVINGS PROVISION.**—The amendment made by subsection (a) does not affect any contract or other agreement entered into under section 23 of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act.

**SEC. 118. CONVERSION OF DISTRESSED PUBLIC HOUSING TO VOUCHERS.**

(a) **IN GENERAL.**—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

**“SEC. 28. CONVERSION OF DISTRESSED PUBLIC HOUSING TO VOUCHERS.**

“(a) **IDENTIFICATION OF UNITS.**—Each public housing agency shall identify any public housing developments—

“(1) that are on the same or contiguous sites;

“(2) that total more than—

“(A) 600 dwelling units; or

“(B) in the case of high-rise family buildings or substantially vacant buildings, 300 dwelling units;

“(3) that have a vacancy rate of at least 10 percent for dwelling units not in funded, on-schedule modernization programs;

“(4) identified as distressed housing that the public housing agency cannot assure the long-term viability as public housing through density reduction, achievement of a broader range of household income, or other measures; and

“(5) for which the estimated cost of continued operation and modernization of the developments as public housing exceeds the cost of providing tenant-based assistance under section 8 for all families in occupancy.

“(b) **CONSULTATION.**—Each public housing agency shall consult with the applicable public housing tenants and the unit of general local government in identifying any public housing under subsection (a).

“(c) **REMOVAL OF UNITS FROM THE INVENTORIES OF PUBLIC HOUSING AGENCIES.**—

“(1) **IN GENERAL.**—Each public housing agency shall develop a plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a), over a period of not more than 5 years, from the inventory of the public housing agency and the annual contributions contract. The plan shall be approved as part of the public

housing agency plan under section 5A and by the relevant local official as consistent with the Comprehensive Housing Affordability Strategy under title I of the Housing and Community Development Act of 1992, including a description of any disposition and demolition plan for the public housing units.

“(2) **EXTENSIONS.**—The Secretary may extend the deadline in paragraph (1) by not more than 5 years if the Secretary makes a determination that the deadline is impracticable.

“(3) **DEMOLITION AND DISPOSITION.**—To the extent approved in advance in an appropriations Act, the Secretary may establish requirements and provide funding under the Urban Revitalization Demonstration program for demolition and disposition of public housing under this section.

“(d) **CONVERSION TO TENANT-BASED ASSISTANCE.**—

“(1) **IN GENERAL.**—The Secretary shall make authority available to a public housing agency to provide tenant-based assistance pursuant to section 8 to families residing in any development that is removed from the inventory of the public housing agency and the annual contributions contract pursuant to subsection (b).

“(2) **CONVERSION PLANS.**—Each conversion plan under subsection (c) shall—

“(A) require the agency to notify families residing in the development, consistent with any guidelines issued by the Secretary governing such notifications, that the development shall be removed from the inventory of the public housing agency and the families shall receive tenant-based or project-based assistance, and to provide any necessary counseling for families; and

“(B) ensure that all tenants affected by a determination under this section that a development shall be removed from the inventory of a public housing agency shall be offered tenant-based or project-based assistance and shall be relocated to other decent, safe, and affordable housing that is, to the maximum extent practicable, housing of their choice.

“(e) **ADMINISTRATION.**—

“(1) **IN GENERAL.**—The Secretary may require a public housing agency to provide such information as the Secretary considers necessary for the administration of this section.

“(2) **APPLICABILITY OF SECTION 18.**—SECTION 18 DOES NOT APPLY TO THE DEMOLITION OF DEVELOPMENTS REMOVED FROM THE INVENTORY OF THE PUBLIC HOUSING AGENCY UNDER THIS SECTION.”.

**SEC. 119. APPLICABILITY TO INDIAN HOUSING.**

In accordance with section 201(b)(2) of the United States Housing Act of 1937, except as otherwise provided in this Act, this title and the amendments made by this title shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, as such term is defined in section 3(b) of the United States Housing Act of 1937.

**TITLE II—SECTION 8 RENTAL ASSISTANCE**

**SEC. 201. MERGER OF THE CERTIFICATE AND VOUCHER PROGRAMS.**

Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended to read as follows:

“(o) **VOUCHER PROGRAM.**—

“(1) **PAYMENT STANDARD.**—

“(A) **IN GENERAL.**—The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

“(B) ESTABLISHMENT OF PAYMENT STANDARD.—The payment standard shall not exceed 120 percent of the fair market rental established under subsection (c) and shall be not less than 80 percent of that fair market rental.

“(C) SET-ASIDE.—The Secretary may set aside not more than 5 percent of the budget authority available under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

“(D) APPROVAL.—The public housing agency shall submit the payment standard of the public housing agency as part of the public housing agency plan submitted under section 5A.

“(E) REVIEW.—The Secretary shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent. The Secretary shall require each public housing agency to modify the payment standard based on the results of such review.

“(2) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—

“(A) FAMILIES RECEIVING TENANT-BASED ASSISTANCE; RENT DOES NOT EXCEED PAYMENT STANDARD.—For a family receiving tenant-based assistance under this title, if the rent for that family (including the amount allowed for tenant-paid utilities) does not exceed the payment standard established under paragraph (1), the monthly assistance payment to that family shall be equal to the amount by which the rent exceeds the greatest of the following amounts, rounded to the nearest dollar:

“(i) Thirty percent of the monthly adjusted income of the family.

“(ii) Ten percent of the monthly income of the family.

“(iii) If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by such agency to meet the housing costs of the family, the portion of such payments that is so designated.

“(B) FAMILIES RECEIVING TENANT-BASED ASSISTANCE; RENT EXCEEDS PAYMENT STANDARD.—For a family receiving tenant-based assistance under this title, if the rent for that family (including the amount allowed for tenant-paid utilities) exceeds the payment standard established under paragraph (1), the monthly assistance payment to that family shall be equal to the amount by which the applicable payment standard exceeds the greatest of the following amounts, rounded to the nearest dollar:

“(i) Thirty percent of the monthly adjusted income of the family.

“(ii) Ten percent of the monthly income of the family.

“(iii) If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by such agency to meet the housing costs of the family, the portion of such payments that is so designated.

“(C) FAMILIES RECEIVING PROJECT-BASED ASSISTANCE.—For a family receiving project-based assistance under this title, the rent that the family is required to pay shall be determined in accordance with section 3(a)(1), and the amount of the housing assist-

ance payment shall be determined in accordance with subsection (c)(3) of this section.

“(3) FORTY PERCENT LIMIT.—At the time at which a family initially receives tenant-based assistance under this title with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

“(4) ELIGIBLE FAMILIES.—At the time at which a family initially receives assistance under this subsection, a family shall qualify as—

“(A) a very low-income family;

“(B) a family previously assisted under this title;

“(C) a low-income family that meets eligibility criteria specified by the public housing agency;

“(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

“(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

“(5) ANNUAL REVIEW OF FAMILY INCOME.—Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection.

“(6) SELECTION OF FAMILIES.—

“(A) IN GENERAL.—Each public housing agency may establish local preferences consistent with its public housing agency plan submitted under section 5A.

“(B) EVICTION FOR DRUG-RELATED ACTIVITY.—Any individual or family evicted from housing assisted under this subsection by reason of drug-related criminal activity (as defined in subsection (f)(5)) shall not be eligible for housing assistance under this title during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include waiver for any member of the family of an individual prohibited from receiving assistance under this title whom the public housing agency determines clearly did not participate in and had no knowledge of such criminal activity, or if the circumstances leading to the eviction no longer exist).

“(C) SELECTION OF TENANTS.—The selection of tenants shall be made by the owner of the dwelling unit, subject to the annual contributions contract between the Secretary and the public housing agency.

“(7) LEASE.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit shall provide that—

“(A) the screening and selection of households for such units shall be the function of the owner;

“(B) the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant;

“(C) except as otherwise provided by the public housing agency, may provide for a termination of the tenancy of a resident assisted under this subsection after 1 year;

“(D) the dwelling unit owner shall offer leases to tenants assisted under this subsection that are—

“(i) in a standard form used in the locality by the dwelling unit owner; and

“(ii) contain terms and conditions that—

“(I) are consistent with State and local law; and

“(II) apply generally to tenants in the property who are not assisted under this section;

“(E) the dwelling unit owner may not terminate the tenancy of any person assisted under this subsection during the term of a lease that meets the requirements of this section unless the owner determines, on the same basis and in the same manner as would apply to a tenant in the property who does not receive assistance under this subsection, that—

“(i) the tenant has committed a serious violation of the terms and conditions of the lease;

“(ii) the tenant has violated applicable Federal, State, or local law; or

“(iii) other good cause for termination of the tenancy exists; and

“(F) any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for such action, and any relief shall be consistent with applicable State and local law.

“(8) INSPECTION OF UNITS BY PUBLIC HOUSING AGENCIES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall—

“(i) inspect the unit before any assistance payment is made to determine whether the dwelling unit meets housing quality standards for decent and safe housing established—

“(I) by the Secretary for purposes of this subsection; or

“(II) by local housing codes that exceed housing quality standards or by housing agency-designed codes that exceed housing quality standards; and

“(ii) make periodic inspections during the contract term.

“(B) LEASING OF UNITS OWNED BY PUBLIC HOUSING AGENCY.—If an eligible household assisted under this subsection leases a dwelling unit that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government, or another entity approved by the Secretary, to make inspections and rent determinations as required by this paragraph.

“(9) EXPEDITED INSPECTION PROCEDURES.—The Secretary shall establish a demonstration project to identify efficient procedures to determine whether units meet housing quality standards for decent and safe housing established by the Secretary. The demonstration project shall include the development of procedures to be followed in any case in which a family receiving tenant-based assistance under this subsection is moving into a dwelling unit, or in which a family notifies the Secretary that a dwelling unit in which they no longer live fails to meet housing quality standards. The Secretary shall also establish procedures for the expedited repair and inspection of units that do not meet housing quality standards.

“(10) VACATED UNITS.—If a family vacates a dwelling unit, no assistance payment may be made under this subsection for the dwelling unit after the month during which the unit was vacated.

“(11) RENT.—

“(A) REASONABLE MARKET RENT.—The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market.

“(B) NEGOTIATED RENT.—A public housing agency shall, at the request of a family receiving tenant-based assistance under this

subsection, assist such family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency shall not make housing assistance payments to the owner under this subsection with respect to such unit.

“(C) UNITS EXEMPT FROM LOCAL RENT CONTROL.—If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of such contract, the rent for such unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

“(D) TIMELY PAYMENTS.—Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

“(E) PENALTIES.—Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency.

“(12) MANUFACTURED HOUSING.—

“(A) IN GENERAL.—A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as its principal place of residence. Such payments may be made for the rental of the real property on which the manufactured home owned by any such family is located.

“(B) RENT CALCULATION.—

“(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

“(ii) PAYMENT STANDARD.—The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

“(iii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment under this paragraph shall be determined in accordance with paragraph (2).

“(13) CONTRACT FOR ASSISTANCE PAYMENTS.—

“(A) IN GENERAL.—If the Secretary enters into an annual contributions contract under this subsection with a public housing agency pursuant to which the public housing agency will enter into a housing assistance payment contract with respect to an existing structure under this subsection, the housing assistance payment contract may not be attached to the structure unless the owner agrees to rehabilitate or newly construct the structure other than with assistance under this Act, and otherwise complies with the requirements of this section. The public housing agency may approve a housing assistance payment contract for such structures for not more than 15 percent of the funding available for tenant-based assistance administered by the public housing agency under this section.

“(B) EXTENSION OF CONTRACT TERM.—In the case of a housing assistance payment contract that applies to a structure under this paragraph, a public housing agency shall enter into a contract with the owner, contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, to extend the term of the underlying housing assistance payment contract for such period as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the owner's successors in interest.

“(C) RENT CALCULATION.—For project-based assistance under this paragraph, housing assistance payment contracts shall establish rents and provide for rent adjustments in accordance with subsection (c).

“(14) INAPPLICABILITY TO TENANT-BASED ASSISTANCE.—Subsection (c) does not apply to tenant-based assistance under this subsection.

“(15) HOMEOWNERSHIP OPTION.—A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y).”

## SEC. 202. REPEAL OF FEDERAL PREFERENCES.

(a) SECTION 8 EXISTING AND MODERATE REHABILITATION.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

“(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that are not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;”

(b) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(1) REPEAL.—Section 545(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended to read as follows:

“(c) [Reserved.]”

(2) PROHIBITION.—Notwithstanding any other provision of law, no Federal tenant selection preferences shall apply with respect to—

(A) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 (as such section existed on the day before October 1, 1983); or

(B) projects financed under section 202 of the Housing Act of 1959 (as such section existed on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act).

(c) RENT SUPPLEMENTS.—Section 101(k) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is amended to read as follows:

“(k) [Reserved.]”

(d) CONFORMING AMENDMENTS.—

(1) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(A) in section 6(o), by striking “preference rules specified in” and inserting “written selection criteria established pursuant to”;

(B) in section 7(a)(2), by striking “according to the preferences for occupancy under” and inserting “in accordance with the writ-

ten selection criteria established pursuant to”;

(C) in section 7(a)(3), by striking “who qualify for preferences for occupancy under” and inserting “who meet the written selection criteria established pursuant to”;

(D) in section 8(d)(2)(A), by striking the last sentence;

(E) in section 8(d)(2)(H), by striking “notwithstanding subsection (d)(1)(A)(i), an” and inserting “An”;

(F) in section 16(c), in the second sentence, by striking “the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)” and inserting “the written selection criteria established by the public housing agency pursuant to section 6(c)(4)(A)”; and

(G) in section 24(e)—

(i) by striking “(e) EXCEPTIONS.—” and all that follows through “The Secretary may” and inserting the following:

“(e) EXCEPTION TO GENERAL PROGRAM REQUIREMENTS.—The Secretary may”; and

(ii) by striking paragraph (2).

(2) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704 et seq.) is amended—

(A) in section 455(a)(2)(D)(iii), by striking “would qualify for a preference under” and inserting “meet the written selection criteria established pursuant to”;

(B) in section 522(f)(6)(B), by striking “any preferences for such assistance under section 8(d)(1)(A)(i)” and inserting “the written selection criteria established pursuant to section 8(d)(1)(A)”; and

(3) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—The second sentence of section 226(b)(6)(B) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4116(b)(6)(B)) is amended by striking “requirement for giving preferences to certain categories of eligible families under” and inserting “written selection criteria established pursuant to”.

(4) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking “preferences for occupancy” and all that follows before the period at the end and inserting “selection criteria established by the owner to elderly families according to such written selection criteria, and to near-elderly families according to such written selection criteria, respectively”.

(5) REFERENCES IN OTHER LAW.—Any reference in any Federal law other than any provision of any law amended by paragraphs (1) through (5) of this subsection or section 201 to the preferences for assistance under section 6(c)(4)(A)(i), 8(d)(1)(A)(i), or 8(o)(3)(B) of the United States Housing Act of 1937 (as such sections existed on the day before the date of enactment of this Act) shall be considered to refer to the written selection criteria established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(6)(A), respectively, of the United States Housing Act of 1937, as amended by this subsection and section 201 of this Act.

## SEC. 203. PORTABILITY.

Section 8(r) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)) is amended—

(1) in paragraph (1), by striking “assisted under subsection (b) or (o)” and inserting “receiving tenant-based assistance under subsection (o)”;

(2) in paragraph (3)—

(A) by striking “(b) or”; and

(B) by adding at the end the following new sentence: “The Secretary may reserve amounts available for assistance under subsection (o) to compensate public housing

agencies that issue vouchers to families that move into the jurisdiction of the public housing agency under portability procedures.”; and

(3) by adding at the end the following new paragraph:

“(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease.”.

#### SEC. 204. LEASING TO VOUCHER HOLDERS.

Section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) is amended to read as follows:

“(t) [Reserved.]”.

#### SEC. 205. HOMEOWNERSHIP OPTION.

Section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) is amended—

(1) in paragraph (1)(A), by inserting before the semicolon “, or owns or is acquiring shares in a cooperative”;

(2) in paragraph (1)(B)(i), by inserting before the semicolon “and demonstrates to the public housing agency that it has sufficient resources for homeownership”;

(3) by amending paragraph (2) to read as follows:

“(2) DETERMINATION OF AMOUNT OF ASSISTANCE.—

“(A) MONTHLY EXPENSES DO NOT EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

“(i) Thirty percent of the monthly adjusted income of the family.

“(ii) Ten percent of the monthly income of the family.

“(iii) If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by such agency to meet the housing costs of the family, the portion of such payments that is so designated.

“(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the following amounts, rounded to the nearest dollar:

“(i) Thirty percent of the monthly adjusted income of the family.

“(ii) Ten percent of the monthly income of the family.

“(iii) If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by such agency to meet the housing costs of the family, the portion of such payments that is so designated.”;

(4) by striking paragraphs (3) and (4); and

(5) by redesignating paragraphs (5) through (8) as paragraphs (3) through (6), respectively.

#### SEC. 206. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CONTRACT PROVISIONS AND REQUIREMENTS.—Section 6(p)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437d(p)(1)(B)) is amended by striking “holding certificates and vouchers” and inserting “receiving tenant-based assistance”.

(b) LOWER INCOME HOUSING ASSISTANCE.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) in subsection (a), by striking the second and third sentences;

(2) in subsection (b)—

(A) in the section heading, by striking “RENTAL CERTIFICATES AND”; and

(B) in the first undesignated paragraph—

(i) by striking “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary”; and

(ii) by striking the second sentence;

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by striking “(A)”; and

(ii) by striking subparagraph (B);

(B) in the first sentence of paragraph (4), by striking “or by a family that qualifies to receive” and all that follows through “1990”;

(C) by striking paragraph (5) and redesignating paragraph (6) as paragraph (5);

(D) by striking paragraph (7) and redesignating paragraphs (8) through (10) as paragraphs (6) through (8), respectively;

(E) in paragraph (6), as redesignated, by inserting “(other than a contract under section 8(o))” after “section”;

(F) in paragraph (7), as redesignated, by striking “(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o))” and inserting “, other than a contract for tenant-based assistance under this section”; and

(G) in paragraph (8), as redesignated, by striking “Secretary” and inserting “contract administrator”;

(4) in subsection (d)—

(A) in paragraph (1)(B)(iii), by striking “on or near such premises”; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking the third sentence and all that follows through the end of the subparagraph; and

(ii) by striking subparagraph (B) and inserting the following:

“(B) [Reserved.]”;

(5) in subsection (f)—

(A) in paragraph (6), by striking “(d)(2)” and inserting “(o)(11)”; and

(B) in paragraph (7)—

(i) by striking “(b) or”; and

(ii) by inserting before the period the following: “and that provides for the eligible family to select suitable housing and to move to other suitable housing”;

(6) by striking subsection (j) and inserting the following:

“(j) [Reserved.]”;

(7) by striking subsection (n) and inserting the following:

“(n) [Reserved.]”;

(8) in subsection (q)—

(A) in the first sentence of paragraph (1), by striking “and housing voucher programs under subsections (b) and (o)” and inserting “program under this section”;

(B) in paragraph (2)(A)(i), by striking “and housing voucher programs under subsections (b) and (o)” and inserting “program under this section”; and

(C) in paragraph (2)(B), by striking “and housing voucher programs under subsections (b) and (o)” and inserting “program under this section”;

(9) in subsection (u), by striking “certificates or” each place such term appears; and

(10) in subsection (x)(2), by striking “housing certificate assistance” and inserting “tenant-based assistance”.

(c) RENTAL REHABILITATION AND DEVELOPMENT GRANTS.—Section 17(d)(6)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437o(d)(6)(B)) is amended by striking “holding certificates under” and inserting “receiving tenant-based assistance”.

(d) PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—Section

21(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)) is amended—

(1) in the first sentence, by striking “(at the option of the family) a certificate under section 8(b)(1) or a housing voucher under section 8(o)” and inserting “tenant-based assistance under section 8”; and

(2) by striking the second sentence.

(e) DOCUMENTATION OF EXCESSIVE RENT BURDENS.—Section 550(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended—

(1) in paragraph (1), by striking “assisted under the certificate and voucher programs established” and inserting “receiving tenant-based assistance”;

(2) in the first sentence of paragraph (2)—

(A) by striking “, for each of the certificate program and the voucher program” and inserting “for the tenant-based assistance under section 8”; and

(B) by striking “participating in the program” and inserting “receiving tenant-based assistance”; and

(3) in paragraph (3), by striking “assistance under the certificate or voucher program” and inserting “tenant-based assistance under section 8 of the United States Housing Act of 1937”.

(f) GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.—Section 861(b)(1)(D) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12910(b)(1)(D)) is amended by striking “certificates or vouchers” and inserting “assistance”.

(g) SECTION 8 CERTIFICATES AND VOUCHERS.—Section 931 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437c note) is amended by striking “assistance under the certificate and voucher programs under sections 8(b) and (o) of such Act” and inserting “tenant-based assistance under section 8 of the United States Housing Act of 1937”.

(h) ASSISTANCE FOR DISPLACED TENANTS.—Section 223(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 4113(a)) is amended by striking “assistance under the certificate and voucher programs under sections 8(b) and 8(o)” and inserting “tenant-based assistance under section 8”.

(i) RURAL HOUSING PRESERVATION GRANTS.—Section 533(a) of the Housing Act of 1949 (42 U.S.C. 1490m(a)) is amended in the second sentence by striking “assistance payments as provided by section 8(o)” and inserting “tenant-based assistance as provided under section 8”.

(j) REPEAL OF MOVING TO OPPORTUNITIES FOR FAIR HOUSING DEMONSTRATION.—Section 152 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437f note) is repealed.

(k) PREFERENCES FOR ELDERLY FAMILIES AND PERSONS.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking “the first sentence of section 8(o)(3)(B)” and inserting “section 8(o)(6)(A)”.

(l) ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS.—Section 201(m)(2)(A) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(m)(2)(A)) is amended by striking “section 8(b)(1)” and inserting “section 8”.

(m) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203(g)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(g)(2)), as amended by section 101(b) of the Multifamily Housing Property Disposition Reform Act of 1994, is amended by striking “8(o)(3)(B)” and inserting “8(o)(6)(A)”.

#### SEC. 207. IMPLEMENTATION.

In accordance with the negotiated rule-making procedures set forth in subchapter



III of chapter 5 of title 5, United States Code, the Secretary shall issue such regulations as may be necessary to implement the amendments made by this title after notice and opportunity for public comment.

#### SEC. 208. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall become effective not later than 1 year after the date of enactment of this Act.

#### (b) CONVERSION ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide for the conversion of assistance under the certificate and voucher programs under subsections (b) and (c) of section 8 of the United States Housing Act of 1937, as such sections existed before the effective date of the amendments made by this title, to the voucher program established by the amendments made by this title.

(2) CONTINUED APPLICABILITY.—The Secretary may apply the provisions of the United States Housing Act of 1937, or any other provision of law amended by this title, as such provisions existed on the day before the effective date of the amendments made by this title, to assistance obligated by the Secretary before such effective date for the certificate or voucher program under section 8 of the United States Housing Act of 1937, if the Secretary determines that such action is necessary for simplification of program administration, avoidance of hardship, or other good cause.

### TITLE III—MISCELLANEOUS PROVISIONS

#### SEC. 301. PUBLIC HOUSING FLEXIBILITY IN THE CHAS.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by redesignating the second paragraph designated as paragraph (17) (as added by section 681(2) of the Housing and Community Development Act of 1992) as paragraph (20);

(2) by redesignating paragraph (17) (as added by section 220(b)(3) of the Housing and Community Development Act of 1992) as paragraph (19);

(3) by redesignating the second paragraph designated as paragraph (16) (as added by section 220(c)(1) of the Housing and Community Development Act of 1992) as paragraph (18);

(4) in paragraph (16)—

(A) by striking the period at the end; and

(B) by striking “(16)” and inserting “(17)”;

(5) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively; and—

(6) by inserting after paragraph (10) the following new paragraph:

“(11) describe how the jurisdiction’s plan will help address the needs of public housing and coordinate with the local public housing agency plan under section 5A of the United States Housing Act of 1937.”

#### SEC. 302. PUBLIC HOUSING FLEXIBILITY IN THE HOME PROGRAM.

Section 212(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended—

(1) in paragraph (3), by adding “or” at the end;

(2) by striking paragraphs (4) and (5); and

(3) by redesignating paragraph (6) as paragraph (4).

#### SEC. 303. REPEAL OF CERTAIN PROVISIONS.

(a) MAXIMUM ANNUAL LIMITATION ON RENT INCREASES RESULTING FROM EMPLOYMENT.—

(1) REPEAL.—Section 957 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12714) is repealed.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be deemed to have the same effective date as section 957 of the Cranston-Gonzalez National Affordable Housing Act.

(b) ECONOMIC INDEPENDENCE.—

(1) REPEAL.—Section 923 of the Housing and Community Development Act of 1992 (42 U.S.C. 12714 note) is repealed.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be deemed to have the same effective date as section 923 of the Housing and Community Development Act of 1992.

#### SEC. 304. DETERMINATION OF INCOME LIMITS.

(a) IN GENERAL.—Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended—

(1) in the fourth sentence—

(A) by striking “County” and inserting “and Rockland Counties”; and

(B) by inserting “each” before “such county”; and

(2) in the fifth sentence, by striking “County” each place such term appears and inserting “and Rockland Counties”.

(b) REGULATIONS.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary shall issue regulations implementing the amendments made by subsection (a).

### PUBLIC HOUSING REFORM AND RESIDENT EMPOWERMENT ACT—SUMMARY OF KEY PROVISIONS

#### FINDINGS

Recognizes the Federal government’s limited capacity and expertise to manage and oversee 3,400 public housing agencies nationwide. Acknowledges the concentration of the very poor in very poor neighborhoods, disincentives for economic self-sufficiency, and lack of resident choice have been the unintended consequences resulting from Federal micromanagement of housing programs in the past.

#### PURPOSE

To reform the public housing system by consolidating programs, streamlining program requirements, and providing maximum flexibility and discretion to public housing authorities (PHAs) who perform well with strict accountability to residents and localities, and to address the problems of housing authorities with severe management deficiencies.

#### BASIC PROVISIONS

Program consolidation.—Consolidates public housing programs into two flexible block grants—one for operating expenses and one for capital needs. Requires HUD to establish new formulas through negotiated rule-making.

Elimination of obsolete regulations.—Eliminates all current HUD rules, regulations, handbooks, and notices pertaining to the 1937 Housing Act one year after enactment; requires HUD to propose new regulations necessary to carry out revised Act within 6 months.

Public housing agency plan [PHAP].—As a condition for funding, requires each PHA to submit annually a written agency plan to HUD, developed with an advisory board made up of residents and members of the community. The plan is intended to serve as an operating, management and planning tool for PHAs. The plan would include: a description of the PHA’s uses for operating and capital funds; a description of the PHA’s management policies; procedures relating to eligibility, selection, and admission; and policies involving marketing, rents, security, and tenant empowerment activities.

Vouchering out of public housing.—Allows PHAs to convert any public housing development to a tenant-based or “voucher” system, but requires the vouchering out of all severely distressed public housing. Requires each PHA to assess all public housing for the purpose of vouchering out by performing a

cost and market analysis and an impact analysis on the affected community.

Choice and opportunity for residents.—Provides families with vouchers and the freedom to move out of housing projects that are in deplorable, unlivable condition. Involves residents in the process of developing a PHA plan that is responsive to their needs. Provides funds for resident organizations to develop resident management and empowerment activities.

Federal preferences.—Repeals Federal preferences and allows PHAs to operate according to locally established preferences consistent with local housing needs.

Income targeting and eligibility.—Allows PHAs to serve families with incomes up to 80 percent of median income, except that at least 40 percent of the units must be reserved for families whose income does not exceed 30 percent of the area median.

Rent flexibility.—Allows high performing PHAs to establish rents with protections for very low income families (families with incomes below 30 percent of the area median would not have to pay more than 30 percent of their income for rent, except that a PHA could charge a minimum rent up to \$30 per month). Encourages PHAs to develop rental policies that encourage and reward employment and upward mobility.

Ceiling rents.—Allows PHAs to set ceiling rents that reflect the reasonable rental value of units in order to remove the disincentive for residents to work or seek higher paying jobs where rents are based on a percentage of income.

Minimum rents.—Allows PHAs to set a minimum rent for both Section 8 and public housing units, not to exceed \$30 per month.

Income adjustments.—Allows a PHA to disregard certain income in calculating rents to take away the disincentive for tenants to work and earn higher incomes.

Troubled PHAs.—Requires HUD to take over or appoint a receiver for PHAs that are in substantial default within one year of enactment. Expands HUD’s powers for dealing with troubled PHAs by allowing it to break up troubled agencies into one or more agencies, abrogate contracts that impede correction of the agency’s default, and demolish and dispose of a PHA’s assets.

Demolition and disposition.—Repeals the one-for-one replacement requirement and streamlines the demolition and disposition process to permit PHAs to dispose of vacant or obsolete housing.

Criminal activity.—Strengthens the ability of PHAs to evict residents for drug-related criminal activity; denies housing assistance to residents evicted for drug-related activities for up to three years; and provides PHAs with greater access to the criminal conviction records of adult applicants and residents.

Consortia and joint ventures.—Allows PHAs to form a consortium with other PHAs, form and operate wholly-owned or controlled subsidiaries, or enter into joint ventures, partnerships or other business arrangements to administer housing programs.

Designated housing for the elderly and disabled.—Permits PHAs to separate elderly and disabled persons by designating specific projects or parts of projects for a particular population only.

Work requirements.—Requires residents to perform 8 hours of community work per month with the exception for the elderly, disabled and those working full time.

Section 8 tenant based assistance.—Merges the voucher and certificate program into a single voucher program that emphasizes lease requirements similar to the market place. Repeals requirements that are administratively burdensome to landlords, such as “take one take all,” endless lease, federal

preferences, and ninety-day termination notice requirements.

Mr. D'AMATO. Mr. President, I rise to cosponsor the Public Housing Reform and Empowerment Act of 1995. I wish to salute Senators CONNIE MACK and KIT BOND for their successful leadership in the development of this legislation. Without their guidance and direction, there would not be a public housing reform bill before you today. Both Senators are to be commended for their strong commitment to improving housing conditions in America.

Mr. President, "The Public Housing Reform and Empowerment Act of 1995" is an important first step in the lengthy process of addressing the housing concerns of our nation. It represents a significant starting point in the passage of long overdue reforms of the Department of Housing and Urban Development [HUD]. Given limited Federal resources and the need to balance the budget within 7 years, Congress must find more cost-effective ways to provide affordable housing. This bill represents a concrete step in the fulfillment of Congress' responsibility to the American taxpayer to ensure that every Federal dollar is maximized to its greatest potential.

Substantial input from HUD, public housing authorities, tenant associations and other interested parties has been received and incorporated into this legislation. However, I look forward to additional examination of this bill and further improvement of its provisions.

Mr. President, the Honorable Senator from Florida has outlined the provisions of the bill in great detail. I would like to comment on several guiding principles of the legislation. First, it would reform the public housing system through the devolution of control from the Federal Government to the public housing authorities and their tenants. It would consolidate programs, streamline program requirements and provide greatly increased flexibility to public housing authorities.

The bill also provides incentives to facilitate the transition from welfare to work and empower public housing tenants. This will allow our nation's public housing residents a greater opportunity to achieve economic independence. Furthermore, the bill would streamline the demolition and disposition process of distressed housing projects through the repeal of the one-for-one replacement requirement and other measures.

The bill recognizes that public housing is most effective when there is a viable income mix among its residents. Federal preferences would be repealed. High performance public housing authorities would be allowed to establish rents with protections provided for very low-income families. The "Brooke Amendment," which does not allow a rent greater than 30 percent of tenant income, would be waived in some instances. I will continue to closely ana-

lyze the impact, both immediate and future, which such a waiver would have on the tenants whom we are committed to serving. Also, special protections should be considered for elderly and disabled individuals living on fixed incomes.

The safety and security of the residents of public and assisted housing is a paramount objective. To that end, the bill would allow public housing authorities increased access to criminal conviction records and permit greater flexibility in the eviction of drug criminals. Public housing authorities depend on drug elimination funding to provide police to safeguard law-abiding tenants. I will continue to closely examine the practical effects of the bill's provision which would fold the drug elimination grant program into a block grant.

"The Public Housing Reform and Empowerment Act" officially embarks us on the reinvention of the Department of Housing and Urban Development and the redirection of our Nation's housing policy. I would like to personally congratulate Senator MACK for his initiative and steadfastness in producing a public housing reform bill which is thoughtful and well-balanced. As chairman of the Banking Subcommittee on Housing Opportunity and Community Development, he faces the strong challenge of reforming the Department of Housing and Urban Development. I strongly support the Senator's deliberate and measured approach to addressing the complex and difficult housing issues before us.

HUD is at a crossroads. HUD's fiscal crisis, poor management, and lack of capacity have placed the Department in a situation in which it can no longer continue with business as usual. HUD is expected to do too much and has too many varied and competing constituencies. We must determine which current functions should be transferred to other Federal agencies or other levels of government and which programs, if any, should be preserved within HUD.

The Banking Committee and its Housing Subcommittees will continue to evaluate proposals for HUD reorganization and elimination. Congress will seek to thoroughly address a myriad of housing issues.

I would like to acknowledge Senator LAUCH FAIRCLOTH, chairman of the Banking Subcommittee on HUD Oversight and Structure, for his diligence in his oversight role of the Department of Housing and Urban Development. His forthright views on the future of HUD effectively serve to widen the debate on the Department's potential for reform.

Additional legislative initiatives to reform HUD will be offered. However, reforms must be made with caution and careful consideration of budgetary and social impacts. Congress must assess fully the potential ramifications of statutory change on State and local governments and entities, the capital and bond markets, property owners and

managers, local communities, and program recipients.

We must remember that the fundamental goal of this process is to address adequately the affordable housing and community development needs of our citizens in a time of dwindling Federal resources. It is imperative that we protect our needy poor and working class residents whom these programs are intended to serve. I believe this bill balances the social purpose of public and assisted housing programs while also responding to Federal fiscal constraints.

I look forward to working with all Members of the Banking Committee on a bipartisan basis to ensure the swift passage of this important housing initiative.

Mr. BOND. Mr. President, today, Senator MACK, Senator D'AMATO, and I are introducing a housing reauthorization bill, the Public Housing Reform and Empowerment Act of 1995.

Over the last several months, I have worked with my colleagues on the appropriating committee where I serve as chairman of the VA/HUD Appropriations Subcommittee, and my fellow members of the housing authorizing committee to do something about the train wreck that has occurred in public housing. Within this context, this public housing reform bill dovetails with many of the public housing reforms contained in the VA/HUD FY 1996 appropriations bill and reflects the need to provide streamlined programs and local responsibility as the most appropriate method to address local housing needs. This bill also represents a complete overhaul of the public housing system and a move away from HUD's "one size fits all" mentality.

As I discussed on this floor this summer, when the rescissions bill was before us, HUD not only is a dysfunctional agency but it has made far too many commitments to be able to live up to those commitments. HUD has undertaken advance commitments for new housing beyond its ability and capacity particularly under these budget constraints to fund.

We have in the rescissions bill taken over \$6 billion out of the current year's budget authority for Department of Housing and Urban Development. In the coming fiscal year, our subcommittee has over \$9 billion less for budget authority than we do in the current year. As a result, the budgetary pressures are forcing us to reevaluate all HUD housing and community development programs, including the public housing programs. It is not only the budget pressures, Mr. President; it is the total lack of foresight in planning in HUD that has led us to the situation where reforms are vitally needed.

Any of us who go back to our States and talk with people who are in housing, who are concerned about providing housing for those in need, know that reforms are needed. The housing reauthorization bill that I am introducing with my colleagues on the Banking

Committee today goes a long way towards making the changes in law that will enable public housing authorities in local jurisdictions to make the decisions that are so vitally important to assure that we continue to supply housing to those who are counting on it.

In public housing, frankly, we are going to move to two flexible block grants, one for operating funds, one for capital grants. I emphasize flexibility; for example, the operating funds should be used by well performing public housing authority as that housing authority wants and needs. Too many times in too many areas we have seen HUD trying to second-guess the decisions made by those who are on-site directly responsible to the residents or tenants they serve, and the decisions have been delayed or denied. There has been an inordinate amount of red tape and delay, hamstringing the ability of public housing authorities to move forward.

This block grant system would allow PHAs to make the decisions on operating funds. PHAs also would have a separate fund for capital grants. This would enable them to decide how to modernize or rehabilitate public housing or, in many instances, demolish unusable and obsolete public housing.

We also tell housing authorities that if they have uninhabitable housing units that are not good places to raise families, that are unsafe, unclean, crime and drug havens, then they ought to tear them down and move those families out. This to me is a very important step for us to clean up our communities and provide decent housing for the people who depend upon publicly assisted housing.

We think there are tremendous savings and tremendously improved services that will come about from getting HUD out of the business of micromanaging public housing at the local level.

Now, we believe that good performing public housing authorities ought to be freed of the day-to-day regulation by HUD. We would require that all public housing authorities submit a public housing agency plan to HUD that tells how they are going to serve their tenants. They would have an advisory committee made up of 60 percent of the tenants or residents who would work with them on the plan, but the housing authority would have the final authority.

That plan would be submitted to the HUD Secretary, and the Secretary would have 45 days to disapprove it. If it were not disapproved, it would be in effect. The only reasons the Secretary could disapprove a plan is if it is incomplete, does not comply with law, or HUD has other information that the housing authority is not living up to the commitments made in its previous plans. So there would be some minimal oversight for good performing public housing.

We also make it clear that where public housing authorities are not

doing their job, HUD can then step in and provide more extensive oversight, and if they are totally failed public housing authorities, HUD would be empowered to take over the authorities, be able to petition for a receiver and take over the management, turn it over to a competent manager, either private sector, not-for-profit or for-profit manager to make sure that the people who are in public housing are well served.

I have seen too many instances, as I have visited public housing authorities around this country, where they are not being well served; the residents are not being well served because too much time, effort and energy is being spent on complying with rules, requirements, and directives that HUD bureaucrats have laid down that make no sense and do not serve local needs.

In addition to the basic structure, we get rid of permanently the one-for-one hard unit replacement rule on public housing. That has prevented many, many housing authorities and communities from tearing down outmoded, obsolete and unsafe public housing units. Even though there may only be 25 percent occupancy, the rules that HUD has previously operated under say if you tear down a dilapidated, unsafe housing project, which is only 25 percent occupied, you have to replace it with 100 percent of the units. This removes the ability to make common sense decisions on the demolition and disposition of public housing. The Secretary of HUD has agreed with us, that the one-for-one replacement rule needs to go. That is essential for our communities.

This legislation would still continue to protect the poorest of the poor by requiring public housing authorities to continue to make 40 percent of all units available to families whose incomes do not exceed 30 percent of the area median income, and to make all other units available to families with incomes no greater than 80 percent of median.

This bill also addresses the problem of mixed populations in public housing where we house both the elderly and the young disabled, including drug abusers, alcoholics, and people with mental disabilities. This has been a significant housing problem and this housing legislation would provide local flexibility to designate elderly-only housing and disabled-only housing, subject to strong tenant protections. The existing, burdensome HUD requirements have proven to be unacceptable and unworkable.

Finally this bill reforms and consolidates the section 8 voucher and certificate programs into a single voucher program which is designed to reduce administrative burden and increase the acceptability of vouchers in the private housing market.

I think of this bill as part of a down-payment on a larger HUD reform which I expect will be pursued through appropriations and the Banking Committee.

I reemphasize that the job is not simple; as chairman of the VA/HUD Appropriations Subcommittee and as a member of the Housing Opportunities Subcommittee of the Senate Banking Committee, I can personally attest to the many complexities of HUD programs and the need to redirect federal housing and community development policy from federal micromanagement to state and local decisionmaking.

HUD has become the poster child for bad government. Nevertheless, I am not recommending that we dismantle HUD, but I do suggest that we devolve many of HUD's responsibilities to states and localities or other entities better able to handle them.

Mr. President, I see that my time has expired. I ask unanimous consent that a letter in support of this measure prepared by the Missouri National Association of Housing Officers be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MISSOURI CHAPTER, NATIONAL ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS,

Jefferson City, MO, September 15, 1995.

Hon. CHRISTOPHER S. BOND,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR BOND: The members of the Missouri Chapter of the National Association of Housing and Redevelopment Officials (NAHRO), representing 250 members of public housing organizations across the state today voted to endorse the draft Bond-Mack Public Housing Reform and Empowerment Act of 1995.

There is a need for safe, affordable housing in every community. Yet public housing authorities cannot hope to meet the needs of their communities in a new era of spending limitations without the flexibility to design and administer housing programs for their own set of challenges. Further, de-emphasizing the Housing and Urban Development Department's reams of regulations in favor of better accountability assessment and incentives is an idea which is long overdue.

The Bond-Mack legislation offers a reasonable step toward continuing a federal housing policy with consistent eligibility guidelines and rent floors, yet allowing the establishment of local priorities by providing broad flexibility for demolishing and disposing of obsolete public housing and simplifying the procedures for designating elderly and disabled public housing.

Especially important in this difficult budget time is the Bond-Mack bill's elimination of the numerous, restrictive funding categories administered by HUD in favor of a flexible Operating Fund and Capital Fund with part of the Capital Fund available for use for Operating Fund projects. The bill also consolidates the Section 8 voucher and certificate programs into a single voucher program, which translates into improved administrative efficiencies.

Public housing authorities welcome the opportunity to show that we can improve housing and streamline bureaucratic regulations if given the opportunity. The Bond-Mack bill recognizes that only by replacing restrictive federal regulations with local flexibility can public housing meet the needs of its communities in tough budget times, and we appreciate having had the opportunity to work

with you and your staff during the drafting of the bill. Missouri NAHRO looks forward to continuing to work closely with you as the legislation continues to develop and move toward final passage.

Sincerely,

ALLEN POLLOCK, PE,  
President, MO NAHRO.

By Mr. MOYNIHAN:

S. 1261. A bill to amend the Internal Revenue Code of 1986 to prevent the avoidance of tax through the use of foreign trusts; to the Committee on Finance.

THE USE OF FOREIGN TRUSTS TO AVOID U.S. TAXES

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation designed to stem the use of foreign trusts for the avoidance of U.S. taxes. The administration's fiscal year 1996 budget, which contained a series of proposals for change in the taxation of income from foreign trusts, called attention to this problem earlier this year. Since then, I have been committed to developing practical rules to dramatically improve tax compliance when foreign trusts are used, without unduly burdening legitimate financial transactions. The bill I introduce today represents a serious attempt to achieve that balance.

It is difficult to estimate precisely the magnitude of tax avoidance occurring through the use of foreign trusts. But we have some disturbing evidence. Under current law, U.S. taxpayers are required to report the assets held in foreign trusts that they have established. But the IRS reports that only \$1.5 billion of foreign trust assets were reported in 1993. The estimates of total U.S. source funds held abroad in tax haven jurisdictions are staggering by comparison, in the hundreds of billions.

In 1989, the New York Times reported that financial institutions in the Cayman Islands, Luxembourg, and the Bahamas had \$240 billion, \$200 billion, and \$180 billion, respectively, on deposit from the United States. (New York Times, October 29, 1989, pg. 10.) More recently, Barron's estimated that a total of \$440 billion was on deposit in the Cayman Islands in 1993, with 60 percent of that amount—\$264 billion—coming from the United States. (Barron's, January 4, 1993, pg. 14.) To put this in some perspective, Barron's calculated that there was more American money on deposit in the Cayman Islands than in all of the commercial banks in California. Although only a portion of U.S. funds abroad are held in foreign trusts, the Treasury Department estimates that tens of billions of dollars are held in offshore asset protection trusts established by U.S. persons.

Undoubtedly motivations behind establishing offshore accounts vary, and tax advantages may pale in comparison to the ability to protect assets from U.S. tort or other liabilities. Whatever the initial motivation for moving assets offshore, however, it seems clear that a very large portion of the assets

soon disappear insofar as U.S. tax reporting is concerned. The result is rampant tax avoidance. Because tax haven jurisdictions typically have bank secrecy laws, the IRS is effectively precluded from uncovering the information necessary to enforce our tax laws. Tax enforcement is almost entirely dependent upon voluntary reporting by taxpayers, and the evidence is clear that voluntary compliance in this area is lacking.

Something must be done, and the intent behind this bill is to end the ease with which taxpayers can reduce their tax bills by legally or illegally taking advantage of existing foreign trust rules.

Over the past several months I have received extensive comments from practitioners and academics concerning the administration's original foreign trust proposals and possible alternatives. These comments have been very useful. I would like to thank in particular the tax section of the New York State Bar Association for their detailed analysis. A tremendous amount of work went into their submission, prepared on request and within a very short period of time.

The bill I introduce today is substantially revised from the original administration bill—S. 453—to reflect many of the comments received. It has been developed over the last few months in cooperation with my counterpart on the Ways and Means Committee, Congressman GIBBONS, who has been unwavering in his efforts to improve tax compliance in the foreign area. I have also worked with the Treasury Department to develop rules that adequately address the needs for effective tax administration.

There are a number of aspects to this legislation. The provisions designed to enable the IRS to obtain better information on foreign trusts are perhaps the most significant. The bill would substantially strengthen the current information reporting rules on transfers to, and annual operations of, foreign trusts. Among other changes, the bill includes new rules designed to lead most foreign trusts established by U.S. persons to appoint a U.S. agent that can provide trust information to the IRS. In addition, the recipients of monies from foreign trusts would be required to report amounts received. Penalties for failure to comply with reporting requirements would be raised so that they have genuine deterrent effect—as contrasted to the nominal penalties of current law.

The bill would also close a number of loopholes in the existing grantor trust tax rules, a series of rules that specify when the existence of a trust will be ignored for tax purposes because the creator of the trust retains sufficient control over the assets transferred to be appropriately treated as continuing to own the assets. For example, a foreign person—generally not taxable in the United States—transferring assets to a trust for the benefit of U.S. persons

generally would not be treated as the tax owner of the assets in the trust unless the trust was fully revocable. Instead, the U.S. beneficiary receiving income from the trust would be taxed on receipt of that income.

The ability to manipulate other foreign trust rules also would be curbed. A U.S. beneficiary's use of property of a foreign trust would be treated as the receipt of a distribution from the trust, taxable to the beneficiary. In addition, a U.S. beneficiary receiving a distribution from a foreign trust's accumulated income would be charged a market rate of interest on taxes due—on a prospective basis—rather than the currently prescribed 6 percent simple interest.

Finally, the bill includes rules to provide greater certainty as to the classification of a trust as foreign or domestic. Under current law, there is considerable uncertainty on this issue because the determination is based on all relevant facts.

A more comprehensive description of the bill, and of the major differences between the legislation that I introduce today and the original administration proposal, has been prepared. I ask unanimous consent that this summary, together with the bill, be placed in the RECORD at the conclusion of my remarks.

Mr. President, I believe this legislation represents a balanced approach to the problem of tax avoidance through the use of foreign trusts, and a significant improvement over the administration's initial legislative proposal. There should be an opportunity to act this year to end the use of foreign trusts to avoid U.S. taxes. I look forward to continuing this effort.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1261

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Foreign Trust Tax Compliance Act of 1995".

**SEC. 2. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.**

(a) IN GENERAL.—Section 6048 of the Internal Revenue Code of 1986 (relating to returns as to certain foreign trusts) is amended to read as follows:

**"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.**

**"(a) NOTICE OF CERTAIN EVENTS.—**

**"(1) GENERAL RULE.—**On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

**"(2) CONTENTS OF NOTICE.—**The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

**"(A)** the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

“(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

“(3) REPORTABLE EVENT.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘reportable event’ means—

“(i) the creation of any foreign trust by a United States person,

“(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

“(iii) the death of a citizen or resident of the United States if—

“(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

“(II) any portion of a foreign trust was included in the gross estate of the decedent.

“(B) EXCEPTIONS.—

“(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

“(ii) PENSION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

“(I) described in section 404(a)(4) or 404A, or

“(II) determined by the Secretary to be described in section 501(c)(3).

“(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term ‘responsible party’ means—

“(A) the grantor in the case of the creation of an inter vivos trust,

“(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

“(C) the executor of the decedent's estate in any other case.

“(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

“(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

“(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

“(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

“(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

“(A) IN GENERAL.—If the rules of this subsection apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

“(B) UNITED STATES AGENT REQUIRED.—The rules of this subsection shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time

as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

“(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

“(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

“(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

“(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

“(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

“(A) the name of such trust,

“(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

“(C) such other information as the Secretary may prescribe.

“(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

“(d) SPECIAL RULES.—

“(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

“(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

“(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

“(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.”

(b) INCREASED PENALTIES.—Section 6677 of such Code (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

**“SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.**

“(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

“(1) is not filed on or before the time provided in such section, or

“(2) does not include all the information required pursuant to such section or includes incorrect information, the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

“(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

“(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

“(2) subsection (a) shall be applied by substituting ‘5 percent’ for ‘35 percent’.

“(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term ‘gross reportable amount’ means—

“(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

“(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

“(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

“(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

“(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).”

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting “, or”, and by inserting after subparagraph (T) the following new subparagraph:

“(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).”

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is of such Code amended by striking the item relating to section 6048 and inserting the following new item:

“Sec. 6048. Information with respect to certain foreign trusts.”

(3) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6677 and inserting the following new item:

“Sec. 6677. Failure to file information with respect to certain foreign trusts.”

## (d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

### SEC. 3. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

#### (a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B) and inserting the following:

“(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.”

(2) Subsection (a) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

“(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

“(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

“(i) any obligation of a person described in subparagraph (C), and

“(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

“(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

“(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

“(i) the trust,

“(ii) any grantor or beneficiary of the trust, and

“(iii) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust.”

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 of such Code is amended by striking “section 404(a)(4) or 404A” and inserting “section 6048(a)(3)(B)(ii)”.

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 of such Code is amended by adding at the end the following new paragraphs:

“(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

“(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on

the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

“(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

“(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

“(5) OUTBOUND TRUST MIGRATIONS.—If—

“(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

“(B) such trust becomes a foreign trust while such individual is alive, then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.”

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 of such Code is amended by adding at the end the following new paragraphs:

“(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

“(4) TREATMENT OF FORMER UNITED STATES PERSONS.—To the extent provided by the Secretary, for purposes of this subsection, the term ‘United States person’ includes any person who was a United States person at any time during the existence of the trust.”

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

“(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)).”

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

“(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

### SEC. 4. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

#### (a) GENERAL RULE.—

(1) Subsection (f) of section 672 of the Internal Revenue Code of 1986 (relating to special rule where grantor is foreign person) is amended to read as follows:

“(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

“(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

“(2) EXCEPTIONS.—

“(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

“(I) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

“(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

“(ii) EXCEPTION.—Clause (i) shall not apply to any trust which has a beneficiary who is a United States person to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to a foreign person who is the grantor of such trust. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift is excluded from taxable gifts under section 2503(b).

“(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

“(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

“(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

“(B) paragraph (1) shall not apply for purposes of applying part III of subchapter G (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

“(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

“(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.”

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting “subsection (f) and” before “sections 674”.

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) of such Code is amended by adding at the end the following new sentence: “Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term ‘taxes imposed on the trust’ includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.”

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 of such Code is amended by adding at the end the following new subsection:

“(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly



paid by the foreign trust to such United States person."

(2) Section 665 of such Code is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust, no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

#### SEC. 5. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039E the following new section: "**SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.**"

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds \$10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be nec-

essary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

#### SEC. 6. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 of the Internal Revenue Code of 1986 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for prior taxable years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996."

(b) ABUSIVE TRANSACTIONS.—Section 643(a) of such Code is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes."

(c) TREATMENT OF USE OF TRUST PROPERTY.—

(1) IN GENERAL.—Section 643 of such Code (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) USE OF FOREIGN TRUST PROPERTY.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary, the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) USE OF OTHER PROPERTY.—Except as provided in regulations prescribed by the Secretary, any direct or indirect use of trust property (other than cash or marketable securities) by a person referred to in subparagraph (A) or (B) of paragraph (1) shall be treated as a distribution to the grantor or beneficiary (as the case may be) equal to the fair market value of the use of such property. The Secretary may prescribe regulations treating a loan guarantee by the trust as a use of trust property equal to the value of the guarantee.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION OF USE.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(4) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting "643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) USE OF TRUST PROPERTY.—The amendment made by subsection (c) shall apply to—

(A) loans of cash or marketable securities after September 19, 1995, and

(B) uses of other trust property after December 31, 1995.

## SEC. 7. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

“(D) any estate or trust if—

“(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

“(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.”

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) of such Code is amended to read as follows:

“(31) FOREIGN ESTATE OR TRUST.—The term ‘foreign estate’ or ‘foreign trust’ means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 of such Code (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

“If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.”

(2) PENALTY.—Section 1494 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

## SUMMARY OF FOREIGN TRUST PROPOSALS

### I. INFORMATION REPORTING

#### A. Transferors to Foreign Trusts

Current Law. U.S. persons are required to report transfers of money or property to a foreign trust. Any person who fails to file the required information is subject to a penalty of 5 percent of the amount transferred to the foreign trust, up to a maximum of \$1,000. A reasonable cause exception is available.

Reasons for Change. Existing penalties have not proven adequate to encourage some U.S. taxpayers to report transfers to foreign trusts. Information reporting of transfers to such trusts is necessary to identify transactions subject to existing excise taxes and to identify foreign trusts that must be monitored in the future.

Proposal. The proposal would increase the penalty for failure to report a transfer to a foreign trust. The new penalty would be 35 percent of the gross value of the property transferred. In addition, monetary penalties could be imposed for continuing noncompliance with IRS requests for information. The reasonable cause exception is retained. The proposal would be effective for transfers occurring after the date of enactment.

Differences from the Administration Proposal. The current proposal is similar to the Administration proposal.

#### B. U.S. Grantors of Foreign Trusts

Current Law. A U.S. grantor of a foreign trust is required to provide an annual accounting of trust activities to the IRS. Any person who fails to file the required information is subject to a penalty of 5 percent of the value of the corpus of the trust, up to a maximum of \$1,000. A reasonable cause exception is available.

Reasons for Change. Existing information reporting rules predate the significant expansion of the foreign grantor trust rules in 1976. In general, penalties for noncompliance with reporting requirements are minimal. As a result, U.S. grantors of foreign trusts often do not report the income earned by foreign trusts. Because these foreign trusts are frequently established in tax haven jurisdictions with stringent secrecy rules, IRS attempts to verify income earned by foreign trusts are often unsuccessful. A regime which allows the IRS access to information held by the foreign trust is necessary to enforce existing law.

Proposal. The proposal would require a U.S. grantor of a foreign trust to cause the trust to (1) appoint a U.S. agent that can provide relevant information to the IRS; and (2) provide an annual accounting of trust activities, including separate schedules (K-1s) for income attributable to the U.S. grantor. If the foreign trust does not appoint a U.S. agent, the IRS would be authorized to determine, in its discretion, the tax consequences of any trust transactions. The proposal would retain the existing penalty for failure to file of 5 percent of the value of the trust corpus, except that the penalty would no longer be limited to \$1,000. In addition, monetary penalties could be imposed for continuing noncompliance with IRS requests for information. The reasonable cause exception is retained. The proposal would be effective for taxable years of the U.S. grantor beginning after the date of enactment.

Differences from the Administration Proposal. The Administration proposal would have allowed the IRS to redetermine tax consequences if the trust did not appoint a U.S. agent or if the trust did not file the required information. The current proposal modifies the Administration proposal by limiting the special IRS redetermination rule to instances where the trust does not appoint a U.S. agent. The Administration proposal would have imposed a monetary penalty of 35 percent of trust income if either the agent were not appointed or the information were not provided. The current proposal modifies this penalty to 5 percent of trust assets, and only imposes the penalty if the required information is not reported.

#### C. Beneficiaries of Foreign Trusts

Current Law. U.S. persons receiving distributions from foreign nongrantor trusts are required to report them on their U.S. income tax return. If distributions are not reported, the U.S. person could be subject to general tax penalties for failure to report taxable income. A reasonable cause exception is available. U.S. persons receiving distributions from a foreign grantor trust are not required to report them to the IRS.

Reasons for Change. Existing penalties have not proven adequate to encourage some

U.S. taxpayers to report distributions from foreign nongrantor trusts. In addition, requiring reporting of distributions from foreign grantor trusts will allow the IRS to verify that the foreign trust is a grantor trust.

Proposal. The proposal would require a U.S. person receiving money or property from a foreign trust, whether a grantor trust or a nongrantor trust, to disclose the distribution on the individual's Federal income tax return. If a beneficiary does not disclose distributions or does not have sufficient records to substantiate the tax treatment of the distributions, then the distributions will be considered distributions of accumulated income from the trust's average year (the years the trust has been in existence divided by two). If the beneficiary does not disclose distributions or provides inaccurate information, a penalty equal to 35 percent of the trust distributions would be imposed upon the beneficiary. In addition, monetary penalties could be imposed for continuing noncompliance with IRS requests for information. The reasonable cause exception is retained. It is intended that the IRS respect the privacy of foreign taxpayers to the extent consistent with the interests of tax administration. This proposal would be effective with respect to distributions received after the date of enactment.

Differences from the Administration Proposal. The Administration proposal placed the responsibility of reporting trust distributions on the trust. The current proposal places that responsibility on the beneficiary.

### II. OUTBOUND FOREIGN GRANTOR TRUSTS

Under current law, a special rule applicable to foreign trusts established by a U.S. person for the benefit of U.S. persons provides that such trusts are generally “grantor trusts”, and the U.S. transferor is treated as the owner of property transferred to the trust. The proposal revises certain exceptions to this foreign grantor trust rule.

#### A. Sales to Foreign Trusts

Current Law. Sales of property to a foreign trust at fair market value are not transfers that are subject to the foreign grantor trust rule.

Reasons for Change. U.S. persons who transfer property to foreign trusts sometimes attempt to inappropriately avoid the foreign grantor trust rule by selling property to a foreign trust in exchange for a note from the trust which the U.S. transferor may not intend to collect. (If there is no bona fide debt, these transactions are subject to challenge under current law, because the exchange would not be at fair market value.)

Proposal. The proposal disregards any obligation issued or guaranteed by the trust to any related person in determining whether a sale to a foreign trust is for fair market value. This proposal would be effective for assets transferred to foreign trusts after February 6, 1995.

Differences from the Administration Proposal. The Administration proposal would have disregarded any trust obligation issued or guaranteed by the trust to any U.S. person. The current proposal only applies this rule to trust obligations issued to related persons.

#### B. Pre-immigration Trust

Current Law. The foreign grantor trust rule does not apply to a foreign settlor who transfers property to a foreign trust for the benefit of U.S. persons even if the settlor later becomes a U.S. person.

Reasons for Change. Prior to becoming residents of the United States, foreign persons often put their assets into irrevocable trusts in tax haven jurisdictions for the benefit of U.S. persons. As a result, the future trust income escapes U.S. tax until distribution. Thus, under current law, U.S. persons

who have immigrated to the United States are able to avoid current taxation of trust income in ways that are not available to other U.S. persons.

**Proposal.** If a foreign person transfers property to a foreign trust with U.S. beneficiaries and the foreign person then becomes a U.S. person within five years of the transfer, the transferor would be treated as the owner of the trust assets when he becomes a U.S. person. This proposal would be effective for assets transferred to foreign trusts after February 6, 1995.

Differences from the Administration Proposal. The current proposal is similar to the Administration proposal.

#### *C. Outbound Trust Migrations*

**Current Law.** Although Revenue Ruling 91-6, 1991-1 C.B. 89, describes the rules that must be applied when a foreign trust becomes a domestic trust, current rules do not clearly describe the tax consequences of a domestic trust becoming a foreign trust.

**Reasons for Change.** Outbound trust migrations are becoming more common as tax haven jurisdictions enact legislation to enable U.S. trusts to move to those jurisdictions. Rules should be clarified to ensure that taxpayers will not be able to achieve tax results through the outbound migration of a domestic trust that they could not achieve directly by the creation of a foreign trust.

**Proposal.** If a domestic trust becomes a foreign trust during the life of a U.S. person who transferred assets to the domestic trust, the U.S. transferor will be considered the grantor of the foreign trust. This proposal would generally be effective for trust migrations after February 6, 1995.

Differences from the Administration Proposal. Under the Administration proposal, unless outbound trust migrations were part of a prearranged plan, beneficiaries of the migrating trust would be considered the grantors of the trust. Under the current proposal, if a U.S. person who transferred assets to a migrating trust is alive, that person is considered the grantor of the trust. If the transferor is not alive, a migrating trust is subject to the section 1491 excise tax (described below).

#### *D. Other Provisions*

**Transfers at Death.** The Administration proposal would have treated U.S. beneficiaries as grantors of foreign trusts which were funded at the death of a U.S. person. The current proposal does not include these provisions.

**Discretionary Beneficiaries.** Because of changes to the treatment of transfers at death and trust migrations, the provisions in the Administration proposal relating to the determination of a beneficiary's proportionate interests in trusts are no longer necessary. The current proposal does not include these provisions.

#### III. INBOUND FOREIGN GRANTOR TRUSTS

**Current Law.** A person with certain powers over the trust assets (the "grantor") is taxed as if he owned the trust assets directly. This treatment is designed to prevent attempts to shift income from U.S. grantors to U.S. beneficiaries who are likely to be paying taxes at lower rates than the grantor of the trust. Consequently, under existing anti-abuse grantor trust rules, the grantor of such a trust is taxed as if he owned the trust assets directly, even if he retains only minimal economic connections with the trust assets.

Revenue Ruling 69-70, 1969-1 C.B. 182, provides that if a foreign person is treated as the owner of a trust, a U.S. beneficiary of that trust is not taxable on trust income distributed to him.

However, special rules in the Code modify the general grantor trust rules where a U.S.

beneficiary has made prior gifts to a foreign grantor. In such a case, the U.S. beneficiary is treated as the owner of the foreign trust assets to the extent of the U.S. beneficiary's prior gifts to the foreign grantor. The rule is designed to prevent wealthy U.S. persons who have immigrated to the United States from avoiding U.S. tax on their worldwide income. Prior to the enactment of this rule, before moving to the United States some immigrants transferred their assets to a foreign relative, who then retransferred those assets to a foreign trust for the benefit of the immigrant. Because the foreign relative retained limited powers over the trust, the immigrant treated the foreign relative as the owner of the trust assets, and did not pay U.S. tax on trust distributions.

**Reasons for Change.** Existing law inappropriately permits foreign taxpayers to affirmatively use the domestic anti-abuse grantor trust rules. Existing restrictions on the ability of foreign taxpayers to use these rules are not adequate to prevent U.S. beneficiaries, who enjoy the benefits of United States citizenship or residency, from avoiding U.S. tax on their income from trusts.

**Proposal.** The grantor trust rules generally will only apply to a trust if those rules would result in an amount being included (directly or indirectly) in the gross income of a U.S. citizen, domestic corporation, or a controlled foreign corporation. The grantor trust rules would continue to apply to trusts revocable by the grantor of the trust, to certain compensatory trusts, and for purposes of applying the foreign personal holding company rules and the passive foreign investment company rules. It is intended that no inference regarding the interpretation of present law be drawn from the exclusion of certain trusts, including compensatory trusts, from the application of the special rules of the proposal. These rules are not intended to apply to normal security arrangements involving a trustee (including the use of indenture trustees and similar arrangements). The proposal retains current rules regarding the treatment of U.S. immigrants who made prior gifts to a foreign grantor.

New rules would harmonize the treatment of purported gifts by corporations and partnerships with the new foreign grantor trust rules. In addition, U.S. persons would be required to report the receipt of what they claim to be large gifts from foreign persons in order to allow the IRS to verify that such purported gifts are not in fact, disguised income to the U.S. recipients.

If a foreign trust that is a grantor trust under current law becomes a nongrantor trust pursuant to this rule, the trust would be treated as if it were resettled on the date the trust becomes a nongrantor trust. Neither the grantor nor the trust would recognize gain or loss. The section 1491 excise tax would not be applied to such a trust if the trust migrates before December 31, 1996. Under special transition rules, these rules would not apply to certain foreign trusts where the foreign grantor retains substantial powers over the trust assets, if those trusts were funded prior to September 19, 1995. Otherwise, this proposal would be effective on the date of enactment.

Differences from the Administration Proposal. The current proposal modifies the Administration proposal by providing exceptions for revocable trusts, controlled foreign corporations, and compensatory trusts. The Administration proposal did not contain the special transition rules described above.

#### IV. FOREIGN NONGRANTOR TRUSTS

##### *A. Accumulation Distributions*

**Current law.** U.S. beneficiaries of foreign trusts are subject to a nondeductible interest charge on distributions of accumulated in-

come earned by the trust in earlier taxable years. The charge is based on the length of time during which the tax was deferred because the accumulated income was not distributed. Under existing law, the interest charge is equal to 6 percent simple interest per year multiplied by the tax imposed on the distribution. Accumulated income is deemed to be distributed on a first-in, first-out basis. If adequate records are not available to determine the portion of a distribution that is accumulated income, the distribution is deemed to be an accumulation distribution from the year that the trust was organized.

**Reasons for Change.** Current rules need to be revised to eliminate U.S. tax incentives for accumulating income in foreign trusts. Practitioners sometimes advise U.S. persons to accumulate income trust because U.S. tax rules impose interest at such a low rate (6 percent simple interest). Thus, interest paid by U.S. beneficiaries of foreign trusts should be modified to reflect market rates of interest.

However, current rules also need to be liberalized to tax more appropriately distributions of accumulated income from foreign trusts. Currently, a U.S. beneficiary pays an interest charge on any distribution of accumulated trust income as if the oldest trust earnings were distributed first. The interest charge on such a distribution may be so high as to discourage the U.S. beneficiary from receiving any distributions from the trust. In addition, current rules effectively require U.S. beneficiaries to obtain extensive information about the foreign trust or, if information is not obtained, pay a substantial interest charge based on the assumption that all trust distributions were made from the year that the trust was organized.

**Proposal.** For periods of accumulation after December 31, 1995, the rate of interest charged on accumulation distributions would correspond with the interest rate that taxpayers pay on underpayments of tax.

**Distributions of accumulated trust income** would be deemed to come from a weighted average of the trust's accumulated income. This calculation should be simpler than current law because existing provisions require the taxpayer to maintain separate pools of accumulated income for each year of the trust. Under this weighted average method, the taxpayer would only need to maintain a single pool of undistributed income.

If information is not available regarding trust distributions, distributions would generally be deemed to be from income accumulated in the average year of the trust (the years the trust has been in existence divided by two). If a taxpayer is not able to demonstrate when the trust was created, the IRS may use an approximation based on available evidence.

Taxpayers have used a variety of methods (e.g., tiered trusts, divisions of trusts, mergers of trusts, and similar transactions with corporations) to convert a distribution of accumulated income into a distribution of current income or corpus. The proposal would authorize the IRS to recharacterize such transactions. Transactions that may be entered into to avoid the interest charge on accumulation distributions (e.g., excessive "compensation" paid to trust beneficiaries who are directors of corporations owned by the foreign trust) may be subject to recharacterization.

The proposal also clarifies existing law by providing that if an alien beneficiary of a foreign trust becomes a U.S. resident and thereafter receives an accumulation distribution, no interest would be charged during periods of accumulation that predate U.S. residency. The proposal would generally

be effective for distributions after the date of enactment.

Differences from the Administration Proposal. The current proposal is similar to the Administration proposal liberalizes current law by imposing the interest charge based on the weighted average life of the trust's accumulated income instead of the trust's oldest undistributed income. The current proposal also makes a corresponding change to the treatment of trust distributions when information about the trust is not available.

#### B. Constructive Distributions

Current law. The tax consequences of the use of trust assets by beneficiaries is ambiguous under present law. Taxpayers may assert that a beneficiary's use of assets owned by a trust does not constitute a distribution to the beneficiary.

Reasons for Change. If a corporation makes corporate assets available for a shareholder's personal use (e.g., a corporate apartment made available rent-free to a shareholder), the fair market value of the use of that property is treated as a constructive distribution. Further, if a controlled foreign corporation makes a loan to a U.S. person, the loan is treated as a deemed distribution by the foreign corporation to its U.S. shareholders. The use of nongrantor foreign trust assets by trust beneficiaries should give rise to tax consequences that are similar to those associated with the use of corporate assets by corporate shareholders.

Proposal. If a U.S. beneficiary (or a U.S. related person) uses assets of a nongrantor foreign trust, the value of that use would be treated as income to the foreign trust which is deemed distributed to the U.S. beneficiary. Thus, if a nongrantor foreign trust made a residence available for use by a U.S. beneficiary, the difference between the fair rental value of the residence and any rent actually paid would be treated as a constructive distribution to that beneficiary. If a nongrantor foreign trust purported to loan cash or marketable securities to a U.S. beneficiary, the loan proceeds would be treated as a constructive distribution by the foreign trust to the U.S. beneficiary. For this purpose, an organization exempt from U.S. tax would not be considered a U.S. person. It is intended that no inference be drawn from the proposal as to the treatment under present law of the use of trust assets by beneficiaries and others. The provisions would be effective for loans of cash or marketable securities after September 19, 1995, and uses of other trust property after December 31, 1995.

Difference from the Administration Proposal. The current proposal is similar to the Administration proposal.

### V. RESIDENCE OF TRUSTS

#### A. Definition

Current Law. Under current law, a "foreign estate or trust" is an estate or trust the "income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A" of the Internal Revenue Code. Section 7701(a)(31). This definition does not provide criteria for determining when an estate or trust is foreign.

Court cases and rulings indicate that the residence of an estate or trust depends on various factors, such as the location of the assets, the country under whose laws the estate or trust is created, the residence of the trustee, the nationality of the decedent or settlor, the nationality of the beneficiaries, and the location of the administration of the trust. See e.g., *B.W. Jones Trust v. Comm'r*, 46 B.T.A. 531 (1942), *aff'd*, 132 F.2d 914 (4th Cir. 1954).

Reasons for Change. Present rules provide insufficient guidance for determining the residence of estates and trusts. In addition, the increasing mobility of people and capital make certain factors (e.g., nationality of the settlor or beneficiaries, situs of assets) less relevant. Because the tax treatment of an estate, trust, settlor or beneficiary may depend on whether the estate or trust is foreign or domestic, it is important to have an objective definition of the residence of an estate or trust. Fewer factors for determining the residence of estates or trusts would increase the flexibility of grantors and trust administrators to decide where to locate the trust and in what assets to invest. For example, if the location of the administration of the trust were no longer a relevant criterion, grantors of foreign trusts would be able to choose whether to administer the trusts in the United States or abroad based on nontax considerations.

Proposal. An estate or trust would be considered to be a domestic estate or trust if two factors are present: (1) a court within the United States is able to exercise primary supervision over the administration of the estate or trust; and (2) a U.S. fiduciary (alone or in concert with other U.S. fiduciaries) has the authority to control decisions of the estate or trust.

The first factor is intended to refer to the court with authority over the entire estate or trust, and not merely jurisdiction over certain assets or a particular beneficiary. Normally, the first factor would be satisfied if the trust instrument is governed by the laws of a U.S. State. One way to satisfy this factor is to register the estate or trust in a State pursuant to a State law which is substantially similar to Article VII of the Uniform Probate Code as published by the American Law Institute. The second factor would normally be satisfied if a majority of the fiduciaries are U.S. persons and a foreign fiduciary (including a "protector" or similar trust advisor) may not veto important decisions of the U.S. fiduciaries. In applying this factor, the IRS would allow an estate or trust a reasonable period of time to adjust for inadvertent changes in fiduciaries (e.g., a U.S. trustee dies or abruptly resigns where a trust has two U.S. fiduciaries and one foreign fiduciary).

The new rules defining domestic estates and trusts would be effective for taxable years of an estate or trust that begin after December 31, 1996. The delayed effective date is intended to allow an estate or trust a period of time to conform its governing instrument or to change fiduciaries so that the estate or trust may effectively elect to be treated as domestic or foreign. However, trustees will be allowed to elect to apply these rules for taxable years ending after the date of enactment.

Differences from the Administration Proposal. The current proposal is similar to the Administration proposal.

#### B. OUTBOUND TRUST MIGRATION

Current Law. Under current law, a 35 percent excise tax is imposed upon any appreciation in property that is transferred by a U.S. person to a nongrantor foreign trust. A taxpayer can avoid the excise tax by electing to pay income tax on any appreciation in the transferred property. No excise tax is imposed on transfers to foreign grantor trusts. Current law is not clear as to whether the excise tax applies when a nongrantor domestic trust changes its residence to become a nongrantor foreign trust.

Reasons for Change. The excise tax is designed to prevent U.S. persons from transferring assets to a nongrantor foreign trust without paying U.S. tax on the appreciation in those assets. Taxpayers should not be able

to achieve tax results through migration of a domestic trust that they could not achieve directly by the creation of a foreign trust.

Proposal. The proposal would treat a nongrantor domestic trust that becomes a nongrantor foreign trust as having transferred, immediately before becoming a nongrantor foreign trust, all of its assets to a foreign trust. The section 1491 excise tax would apply to this transfer. Penalties would be imposed for failure to report any transaction subject to the excise tax. The provisions would be effective on the date of enactment.

Differences from the Administration Proposal. Under the Administration proposal, outbound migrations of trust with U.S. beneficiaries would generally have been subject to the foreign grantor trust rule, and the migrations would therefore not have been subject to the excise tax. Because the current proposal limits the application of the foreign grantor trust rule to certain outbound trust migrations, the current proposal applies the excise tax to outbound trust migrations that result in a nongrantor foreign trust.

### ADDITIONAL COSPONSORS

S. 141

At the request of Mrs. KASSEBAUM, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 141, a bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes.

S. 358

At the request of Mr. HEFLIN, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 381

At the request of Mr. HELMS, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 381, a bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 545

At the request of Mr. BUMPERS, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 545, a bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property.

S. 773

At the request of Mrs. KASSEBAUM, the names of the Senator from Virginia