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DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT OF 1995

MARCH 30, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CLINGER , from the Committee on Government Reform and Oversight, submitted the following

REPORT

[To accompany H.R. 1345]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform and Oversight, to whom was referred the bill (H.R. 1345) to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. BILL SUMMARY

As offered the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is intended to:

[1] Create a five (5) member financial control Authority appointed by the President in consultation with Congress. The members will serve three year terms which will stagger after the first term. Qualifications for Authority appointment are to have a degree of expertise in finance or management and have no direct commercial ties to the District. All Authority members must be District of Columbia taxpayers.

[2] Heighten the responsibilities of the District of Columbia Inspector General to conform with the Federal Inspector General regulations/criteria.

[3] Create the position of Chief Financial Officer (CFO) of the District of Columbia. The CFO is appointed by the Office of the Mayor with the advice of the City Council. The Author-

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ity must confirm the Mayor's choice. Duties will include; financial responsibilities of the Mayor, tax collection and assessment, all bill paying, approving certain contracts, allocating available funds in compliance with appropriations, and to ensure that the budget and financial plan is adhered to.

[4] Create an extensive and detailed five year financial plan for the District.

This act is intended to redress the fiscal and management problems that confront the District of Columbia and thereby engender improved fiscal relations between the Federal Government and the District Government.

The Authority will be assisted in its work by a small professional staff. It can also hire experts and consultants and accept federal service personnel (with or without reimbursement) as are deemed necessary by the Authority. The Authority may also obtain information directly from Federal and District agencies with the District government required to comply with said requests. The Authority also has civil enforcement and subpoena power. The Authority is required to comply with the Sunshine Act, Privacy Act, and the Freedom of Information Act (FOIA).

The five-year financial plan sets certain criteria and standards which are designed to allow the Authority to better play a controlling role in the budgetary procedures of the District. This plan is designed to project revenues and expenditures on a year-by-year basis for each District fund. The methods utilized to project all revenues and expenditures must be stated and explained in a clear and concise fashion. The proposed budget must be balanced on a modified accrual basis by FY 1999 (October 1, 1998 to September 30, 1999). Audited operating expenditures may not exceed operating revenues in FY 1999 and beyond (this is the audit). If funds are borrowed from dedicated accounts they must be restored in a timely fashion. The financial plan will also serve to enhance the District's creditworthiness. The Authority will also have the ability to impose standards and guidelines which will apply to the financial plan.

The Mayor will be required to submit the financial plan, which is included in each year's budget, to the Authority and the Council by February 1. The Authority will have a thirty day period to review the Mayor's plan and budget and certify whether it is approved or rejected. This will commence a process by which the Mayor and the Council will each have two opportunities to gain Authority approval of the financial plan, including the budget. The Authority will provide recommendations during each review process.

If during the second review process the Council's plan and budget are not approved, the Authority forwards the Council's revised financial plan and budget, which also contains the Authority's recommendations to bring the plan and budget into compliance, to the District Government and the President for forwarding to Congress. Mid-year revisions to the plan are allowed but must include the reasons for change and offsets in spending or revenues to maintain viability of the financial plan.

The Mayor shall be required to submit quarterly reports on revenues and spending including actual cashflow statements to the Authority.

In the event there is a discrepancy from the plan or budget in either revenues or spending the Mayor must report that discrepancy to the Authority along with any explanation. If the Authority finds no compelling reason, then a variance is declared unless the District government takes necessary action to bring spending into compliance with the budget. If the City fails to do this, the Authority may withhold its distributions to the District from borrowed funds or direct the Secretary of Treasury to withhold Federal grants until compliance is obtained. The Authority does have the right to review all contracts for compliance with the financial plan. The Authority must review all labor contracts before approval and the Mayor may propose financial plan revisions or offsets to bring the proposed contract into compliance with budgetary guidelines. If the District fails to come into compliance the Authority may withhold its borrowed funds distributions from the District or direct the Secretary of the Treasury to withhold Federal grants until compliance is obtained. The Authority may also review all contracts for compliance with the financial plan.

The District may not borrow funds without approval of the Authority. The borrowing and its debt service must be consistent with the financial plan's borrowing estimates. In the event the City goes directly to the Treasury, the funds would be deposited with the Authority, which will allocate them (in compliance with the financial plan, as needed by the District). If the Authority itself borrows on behalf of the District then the funds are deposited with the Authority and distributed to the District, as needed in compliance with the purpose of the borrowing.

To continue the recovery process, the Authority may at any time submit to the Mayor, Council, the President, and Congress recommendations on actions the District or the Federal Government could take to improve the financial health and stability of the District government, the management efficiency and professionalism of the District government, the economic redevelopment of the District of Columbia, or any other action that the Authority believes would be in the best interests of the District of Columbia.

The City must notify the Authority and Congress if it does not adopt any specific recommendation along with reasons for that action. The Authority may implement rejected recommendations after Congressional consultation. If recommendations are adopted then the Mayor must report to the Authority and Congress specific implementation plans and milestones.

The initiation of a control period exists upon enactment and if the Authority goes into a noncontrol period it can be re-initiated.

The Act would also amend the Home Rule Act to provide for the position of a CFO. The CFO is appointed by the Mayor during a control period with approval of the Council and the Authority. During control periods, in the event that there is a cause for dismissal of the CFO, that act can only be made with the consent of the Authority. During a control period, the CFO supervises and performs all of the financial responsibilities of the Mayor as well as those duties normally assigned to the position. These duties include all

tax collection and assessment, all bill paying, approving contracts, allocating available money in compliance with appropriations, and ensuring that the budget is adhered to.

New standards for the existing District of Columbia Inspector General (IG) are also included in the Act. These standards are designed to increase the regulations regarding this office so that it confirms with the Federal IG. The IG budget cannot be reduced or altered by the Mayor or the Council. The IG is appointed for a six-year term which will allow it no to conform with the four-year mayoral term. During a control period, the IG will be appointed by the Mayor with the approval of the Council and the Authority. The IG is also given the authority to manage the annual audit contract.

Certain enhancements to the power of the Council in relation to the Mayor are also included in the Act.

II. Legislative Hearings and Committee Action

The problems this legislation is designed to alleviate now approach horrendous proportions. The District of Columbia ("The City") is facing its worst crisis in over a century. Every Member of Congress is familiar with The City's financial woes. Many Americans know of its severity.

In the several months that the 104th Congress has been in session, the House Committee on Government Reform and Oversight's Subcommittee on the District of Columbia and its counterpart on the House Committee on Appropriations have endeavored to ascertain the severity of the District's financial travails and considered the options available for relief. The Subcommittee conducted two briefings on the situation, one with the Honorable Marion Barry, Mayor of the District of Columbia, and the Honorable David Clarke, Chairman of the City Council, and another with representatives of the General Accounting Office (GAO), which has been auditing The City's finances. The Subcommittee on the District of Columbia has also conducted three hearings.

The first was a joint hearing with the House Appropriations Subcommittee on the District of Columbia at which Mayor Barry and GAO representatives testified. The other two hearings focused on mechanisms state governments have utilized to assist cities for which they bore responsibility to overcome structural deficits not unlike those of the District of Columbia. The Subcommittee heard testimony from GAO officials, state and local officials, and representatives from the private sector who had either served on such boards or worked with them.

Former New York Governor Hugh L. Carey, who created and chaired the Emergency Financial Control Board in New York City two decades ago, testified before the Subcommittee at the March 2, 1995 hearing. He stated that an oversight board, similar to this legislation, was neither "a hairshit" (i.e., penitential); nor "a straight jacket" or a "restraining sheet" (i.e., designed to restrict the ability of local government to function). But, it was somewhere between "Slim Fast and Weight Watchers"—a budgetary regimen to produce fitness over a designated period of time. The Committee finds this to be a very good definition.

Governor Carey's testimony also articulated the unmistakable message that among all the things such boards are, they are not

panaceas. They are not the answer in and of themselve's. Such control boards have nothing inherent that guarantees success. Whenever they succeeded it was with the full cooperation of The City administration, from the mayor on down, the active participation of the business community, and the assistance of organized labor.

The Subcommittee held a markup of H.R. 1345 on March 29, 1995. The full Committee held a markup on March 30, 1995. In each instance, the bill won unanimous support of the Committee members.

III. Background and Need for the Legislation

A. The District of Columbia's Financial Crisis

The District of Columbia is insolvent: The City does not have enough cash to pay all of its bills. It is spending at a rate in fiscal year 1995 (October 1, 1994 to September 30, 1995) that would exceed its mandated expenditure limits by more than $600 million, nearly 20 percent above its congressional appropriation. Millions of dollars in unpaid bills are accumulating, threatening basic services provided through private contractors. Many District programs are under court order to address fundamental weaknesses. And, there is widespread belief that The City has too many employees and does not provide customer service of an acceptable quality.

The District did not reach this crisis point overnight. Nearly five years ago, the Commission on Budget and Financial Priorities of the District of Columbia (commonly known as the "Rivlin Commission") noted that the District "confronts an immediate fiscal crisis", and made a multitude of recommendations to the District to deal with that crisis. For the most part, these recommendations were not followed. Since the Rivlin Commission report until fiscal year 1994, in most years the District's general fund was "balanced", however The City's cash position has deteriorated alarmingly in recent years. This occurred despite receiving additional cash infusions and revenues totalling nearly a billion dollars since 1991. Last summer, the GAO issued a report concluding the District is faced with both unresolved long-term financial issues and continual short-term fiscal crises. In that report, the GAO detailed the District's cash and budget situation, focusing on how cash balances declined even though budgets were reportedly balanced after a general obligation bond issue in 1991. In fiscal year 1994, the District posted a $335 million deficiency, the largest since the Home Rule Act.

Last fall, in response to the burgeoning financial crisis, Congress mandated $140 million in reductions to expenditures for the District's fiscal year 1995 appropriation, stipulated harsh financial penalties for failure to comply with the appropriation financial targets, establishing a 33,588 ceiling on fulltime employee equivalents (FTEs), and initiated several actions to upgrade and expand the scope of financial disclosure to Congress.

Despite these actions, the District has refused to undertake meaningful measures to reduce spending. With more than half the current fiscal year elapsed, the District has still not disclosed how $140 million in mandated cuts to agencies will be allocated. District agencies still operate on spending plans based on the original

"pre $140 million cut" budget. In his revised budget for fiscal year 1995, Mayor Barry asked for $267 million in additional revenue and the lifting of the spending cap. In addition, the fiscal year 1996 budget proposal calls for expenditure cuts of less than three percent and an increase of more than 200 FTEs.

The District of Columbia is a governmental entity that has responsibilities of a state and county, as well as those of a city. As such, the District must provide a variety of services and programs for its residents and visitors including police and fire protection, local transportation, Medicaid, hospital care, sanitation services, employment assistance, education, and housing. The District currently provides these services with a total budget of $4.4 billion. The Congress appropriates approximately $3.3 billion of this total. These appropriated funds include a federal payment of about $650 million and $2.7 billion of locally generated income taxes, property taxes, sales taxes, and other such sources of revenue. In addition, The City receives approximately $1.1 billion in non-appropriated funds that include federal grants, as well as reimbursements for services. The largest of these non-appropriated funds are the federal portions of the Medicaid and Aid for Families with Dependent Children programs. The District's annual federal payment is intended to compensate the District for nonreimbursed services provided to the Federal Government and deficiencies in the District's tax base resulting from federally imposed limitations on The City's ability to raise certain tax revenues.

Total District revenues have increased by 27 percent since fiscal year 1989. The largest percentage growth has occurred in non-appropriated funds and the federal payment, which grew at 68 percent and 43 percent, respectively. During the same period, the District's local sources of revenue grew by 13 percent. In recent years, not only has the District been affected by a sluggish local and regional economy, but its financial condition has been aggravated by the migration of a significant number of middle class taxpayers to the suburbs, leaving behind a greater overall percentage of residents who are most in need of government assistance and services.

Although the District of Columbia Self-Government and Governmental Reorganization Act (Home Rule Act), Public Law 93–198, confers limited autonomy to the District over its local affairs, it also provides for oversight by Congress. For example, the Home Rule Act required the District to submit balanced budgets to the Congress and preludes the District from obligating or expending funds unless approved by Congress. Under the Home Rule Act, the District can issue general obligation bonds only for capital projects or to refinance existing debt. Issuance of bonds for other purposes requires amending the District's charter. In August 1991, in the wake of a financial crisis, Congress amended the District's charter to authorize $331 million in general obligation bonds to pay accumulated bills and provide the District with working capital. When receiving the $331 million authorization, District officials described the amount as sufficient to eliminate the District's negative financial position, including $284 million which had existed when the Home Rule Act was enacted. In addition, District officials maintained that this bond issuance would reduce the need for short-term borrowings. The legislation authorizing the bonds required

the District to utilize these funds rather than rely on short-term borrowings.

1. Evolution of the financial crisis

In the 1980's the District's general fund operated with revenues in excess of expenditures in most years. In November 1990, the Rivlin Commission warned of impending financial disaster, predicting budget deficits of $90 million in fiscal year 1990 and $200 million in fiscal year 1991. The Rivlin Commission issued a series of recommendations, including reducing District staff by 6,000 FTEs. The Rivlin Commission report observed that unless major steps were taken the District would face a $700 million deficit by fiscal year 1996. This is the magnitude of the deficit facing the District today.

From fiscal year 1991 through fiscal year 1993, the District submitted budgets to the Congress that showed expenditures and receipts in balance. However, even though the budgets were balanced, and despite receiving cash from a $331 general obligation bond issue in 1991, The City's cash position declined substantially. During this period, various factors helped the District balance its budget, including nearly $400 million in increased federal payments and $225 million in additional budgetary authority from other measures. These other measures included transferring funds from the Water and Sewer Fund, not recording a Washington Metropolitan Area Transit Authority payment when due against appropriated expenditures, and changing the legal definition of the property tax year.

After three years of positive general fund balances, the District recorded a $335 million dollar deficit in fiscal year 1994. Of this total deficit, $116.8 million was in appropriated funds. Deficits were recorded in most appropriated expenditure functions and subfunctions, including Health and Welfare (primary Medicaid), $71 million; Schools, $14 million; Fire, $13 million; Police, $12 million; and Public Works, $21 million. The remaining $218.6 million resulted primarily from adjustments related to Medicaid and D.C. General Hospital. The Medicaid increase related to cost settlements of prior year Medicaid program expenses that the District will be required to repay to the Federal Government during fiscal year 1995. The $85 million adjustment for the D.C. General Hospital receivable account recognizes that its loans are noncollectible due to the hospital continuing to operate at a deficit.

Although between fiscal years 1991 and 1993 the District's general fund has shown small surpluses, the District's cash position steadily deteriorated. This decline would have been much worse had the District made all required payments when due. Specifically, in fiscal year 1993 the District deferred nearly $100 million in payments to the pension fund and the Washington Metropolitan Transit Authority. Deferred payments also occurred in fiscal years 1991 and 1992. At the end of fiscal year 1994, deferred payments became even greater. If the District had made all payments when due it would have depleted its cash reserves by the end of fiscal year 1994.

Demonstrating further the scope of the declining fiscal posture at the end of each fiscal year the District increasingly relied on the

federal payment, which is usually received in the first month of the fiscal year, to cover bills from the previous fiscal year. For example in fiscal year 1991, soon after receiving the $331 million from the general obligation bond issue for the operating deficit, the bills from the previous fiscal year (1990) consumed about 39 percent of the federal payment. Fiscal Year 1995 prior obligations are $126 million more than the Federal payment. Current trends indicate that the situation will be much worse at the end of this fiscal year as the penalties established in the fiscal year 1995 appropriations act are factored into the financial equation.

The District's budgeting process has also been problematic, contributing greatly to the financial crisis. The District's original budget estimates for revenues have been overly optimistic in recent years, with actual revenues falling far short of original estimates and actual expenditures exceeding original budget estimates. For fiscal years 1991 through 1993, the shortfalls were primarily attributable to (1) income tax revenues where original budget estimates exceeded actual revenues by about $100 million in both fiscal years 1991 and 1992, and by $34 million in fiscal year 1993; and (2) sales taxes, where fiscal year 1991, 1992, and 1993 estimates exceeded actual revenues by $58 million, $6 million, and $39 million, respectively. Additionally, Department of Human Services' expenditures exceeded original budget estimates by $64 million in fiscal year 1992 and $82 million in fiscal year 1993.

For some fiscal years the District has submitted more than one supplemental budget. In fiscal year 1993, the District submitted three supplemental budgets, the third one being approved on October 29, 1993. But even with three supplementals, actual expenditures for some activities exceeded the final supplemental budget authority. For example, actual personal services expenses in the Fire Department, Human Services, Public Works, and Public Schools exceeded the supplemental budget by amounts ranging from $2 to $12 million. Furthermore, these supplemental budgets have not included the operating deficits of the D.C. General Hospital, which totalled $109 million as of September 30, 1993.

For fiscal year 1994, a supplemental budget was submitted for approval by Congress in April 1994 that proposed $29.8 million in spending increases and $55.8 million in new revenues. These changes were needed to compensate for shortfalls in original revenue estimates and expenditure cuts submitted by the District that were not realized. However, even with this supplemental, as noted earlier, the District recorded the largest deficit in fiscal year 1994 since the Home Rule Act became law.

Not only have budget estimates been unrealistic in both revenue and expenditure projections, the fiscal year 1995 budget and long-term financial plan have yet to be finalized. The District's multiyear plan reveals the gap between expected revenues and expenditures expanding to as much as $1.8 billion by fiscal year 2001. Even with full implementation of the undefined management initiatives and expenditure cuts included in the Mayor's recent budget proposals the shortfall will be nearly $500 million in fiscal year 2001. (The Mayor's revised fiscal year 1995 and fiscal year 1996 budgets are discussed later.) However, these financial plans do not include substantial potential costs that the District could

incur for court orders and consent decrees involving corrections, foster care, juvenile rehabilitation, and mental health treatment. While the District either has agreed or been ordered by the court to implement remedies, District officials do not know how much it will cost to fully undertake the required measures. Over a longer time period, the District is still confronted with an unfunded pension liability of more than $4 billion. Furthermore, The City's most most recent capital budget does not include many needed projects and does not include financing for many authorized projects. The capital budget also pays the salary of between 900 and 1,000 FTEs. Financing is restricted because of statutory limitations on the total amount of District indebtedness. For example, the capital budget does not include most of the nearly $1 billion that will be required for improvements to Water and Sewer plants and D.C. Public School buildings.

2. Congressional actions related to fiscal year 1995 budget

The Congress passed the District of Columbia Fiscal Year 1995 Appropriation Act and the Federal Payment Reauthorization Act of 1994, which mandated a number of actions. Specifically, the 1995 Appropriation Act capped the amount of expenditures for fiscal year 1995 at $3.25 billion, $140 million below the budget that the District submitted to the Congress. In addition, total disbursements can not exceed total receipts as penalties are imposed to enforce the spending lids. It also limits the total number of FTE positions to 33,588, and requires several periodic financial reports.

The potential penalties for overspending contained in the 1995 Appropriation Act are substantial. Assuming that the authorized Federal payment for fiscal year 1996 of $660 million is appropriated, the fiscal year 1995 Appropriation Act would require the District to escrow twenty percent ($132 million) of the fiscal year 1996 Federal payment. The Congress required the escrow to force the District to reach the spending levels mandated by the Act and pay certain "penalties" to the U.S. Treasury if the fiscal year 1995 spending reductions were not made. As the Act's conference report explains, the District is to pay from the escrow and, if necessary, other District funds (1) the amount that actual expenditures were not reduced by the $140 million, and (2) the amount, if any, actual disbursements exceeded actual receipts. Table 1, illustrates the amount of the "penalties" given various possible spending levels.

TABLE 1.—POTENTIAL FISCAL YEAR 1995 SPENDING CAP PENALTIES

[In millions of dollars]

	$140 million budget cut penalty	Disbursements over receipts penalty	Total penalty
Hypothetical examples: Amount that actual expenditures exceed budget and disbursements exceed receipts: [1]			
$0 or less	$0	$0	$0
$100	$100	$100	$200
$267	$140	$267	$407
$407	$140	$407	$547
$631	$140	$631	$771

[1] These hypothetical examples assume that the amount actual expenditures exceed the budget and disbursements exceed receipts are equal. In actual practice, these amounts would probably be different.

Source: GAO calculations.

The acts also require several periodic financial and performance reports. For example, the Federal Payment Reauthorization Act of 1994 requires the Mayor to submit to the Congress:

An annual performance accountability plan (beginning March 1, 1995) for all departments, agencies and programs, including the performance goals;

an annual performance accountability report (beginning March 1, 1997) that discusses actual performance achieved compared to the goal and the status of any court orders applicable during the year and actions needed to comply;

an annual five-year financial plan for the District (beginning March 1, 1995) that describes the steps to eliminate any differences between expenditures from, and revenues attributable to, each fund of the District during the first five fiscal years beginning after the submission of the plan; and

an annual financial plan report (beginning March 1, 1997) on the extent to which the District was in compliance during the preceding year with the applicable requirements of the financial plan.

3. The District's response to the financial crisis

The District has done little to effectively reduce spending in fiscal year 1995: proposing increasing amounts of expenditures in future fiscal years, including no net personnel FTE reductions in future budgets, and no meeting the reporting requirements stipulated in the fiscal year 1995 Appropriations Act. In fact, as of the middle of March, the District has not even allocated the $140 million in Congressionally mandated spending reductions to its agencies. The Congress mandated that total appropriated expenditures not exceed $3.254 billion in fiscal year 1995, but according to the District's own estimates, appropriated expenditures this year for The City could be nearly $3.9 billion. The District's revised fiscal year 1995 budget requests $3.5 billion in spending authority and an additional $267 million in additional federal revenue (purportedly for Medicaid). Even this level of spending is based on implementation of $364 million in expenditure reductions that at best are optimistic.

a. Initial District actions to address overspending

During the first part of fiscal year 1995, the District's attention was almost entirely on what was necessary to obtain the $250 million in short-term borrowing from Wall Street. The key action during this period was a consensus agreement among the D.C. Council Chairman and the current and former Mayor that included management actions and initiatives to reduce potential overspending and cut costs, a budget that would demonstrate the $140 million in budget cuts mandated by the Congress, and a positive cash position forecast based on the two aforementioned steps. The D.C. Council passed a revised budget on December 21, 1994 that included (1) expenditure reductions and revenue increases of $448 million and (2) increased agency allocations and reprogrammings of $309 million. The net reduction of $139 million included only $99 million in expenditure cuts and $40 million in additional revenue.

This $40 million increase was subsequently repealed. While the net amount met the $140 million Congressional mandate, it failed to honor both the letter and the spirit of the intent of Congress, which had ordered all of the $140 million to be in expenditure reductions. Although, the net result of Council actions has been $99 million in cuts, these reductions have not yet been allocated to approve spending plans. As a result, District agencies are still operating on "pre-$140 million cut" spending programs.

The District government also adopted an apportionment procedure in an attempt to control spending; but this process does not appear to be reducing expenditures. The District directed agencies to limit spending to 25 percent of their appropriation in the first quarter and 15 percent in the second quarter. However, these apportionments were also based on the originally submitted "pre-$140 million cut" budget and do not cover most expenditures. Both entitlement programs and personnel expenditures, which comprise 80 percent of total expenditures, are excluded from the allocation controls. In addition, the apportionment process could only be delay rather than reduce expenditures.

Several District agency officials have indicated that personnel expenditures alone in the second quarter would exceed the 15 percent apportionment. For example, D.C. General Hospital officials stated that payroll costs in the second quarter would consume all of the apportionment, and Fire and Emergency Medical Service officials said that the February 17 firefighter payroll put them over their allocation. For D.C. Schools, all of their allocation would be expended when the March 1 teacher payroll is due. As the District continues to process payroll accounts even though the apportionments are being exceeded, the result, according to agency officials, is no funds remain to purchase supplies. Fire and Emergency Medical Services officials said that their inability to purchase supplies could result in threatening situations. And the press has reported that D.C. General Hospital is facing shortages of critical medical supplies on a daily basis.

b. Fiscal year 1995 revised and 1996 budgets request more Federal aid, cut little

On March 8, 1995, Marry Barry transmitted a revised fiscal year 1995 budget and a fiscal year 1996 budget to the D.C. Council. The revised fiscal year 1995 budget asked for an increased expenditure level to $3.52 billion and $267 million in additional Federal aid. The fiscal year 1996 budget requests a slight reduction in spending of $3.41 billion, but still above the original $3.25 billion appropriated for fiscal year 1995.

The Mayor had previously announced that overspending in District agencies could result in $3.89 billion in expenditures or $631 million over the $3.25 billion expenditure limit established by the Congress. The District proclaimed that this deficit was comprised of Medicaid cost settlements and adjustments, agency overexpenditures, and the required $140 million in Congressionally mandated cuts. In addition, the Mayor explained that there was a $91 million cash shortage, making the total shortfall $722 million.

The revised fiscal year 1995 budget proposed to address the $631 million in agency overspending by (1) requesting an additional

$267 million from the Federal Government, (2) requesting rescission of the mandated $140 million in budget cuts, and (3) "reducing" the overspending by $364 million. The spending cuts include agency reductions totalling $224 million, $70 million in furlough and renegotiated salary agreements, and $70 million in debt restructuring.

Although the budget proposes to reduce the overspending, many of the cuts envisioned are not specific and in some cases have already been superseded by events. For example, of the total of 224 million in agency cuts, based on plans describing these cuts, $190 million describe specific initiatives. The remaining $34 million in cuts are not specifically outlined. Other initiatives that are specific would generate little cash savings or simply transfer costs to other funds. For example: 25 agencies planned to generate savings by eliminating 221 vacant positions; four agencies were generating "savings" by transferring positions from appropriated to non-appropriated funds, and two agencies were transferring costs to other funds or agencies within the District.

These specific examples illustrate these types of initiatives:

the Department of Employment Services planned to transfer $490,000 in costs to the Department of Human Services,

the Department of Consumer and Regulatory Affairs planned to eliminate seven vacant positions, and

the Office of Personnel planned to transfer 16 FTEs to non-appropriated positions and eliminate eight vacant positions.

In other instances, the plans had been superseded by other events, as shown in the following examples:

The Department of Corrections plans included savings that would be realized from closing a prison facility, halfway houses, and a drug counseling center. However, the prison facility cannot be closed because of a court order and the Mayor's office reversed its decision on closing the halfway houses and drug counseling center. These changes will result in the spending plans falling short of spending cut targets by several million dollars. In addition, the Corrections plan included the reduction-in-force (RIF) of 241 employees. Prison officials said there are currently 500 vacancies in correctional officers, 300 of which are court-ordered positions. Currently, staffing levels are maintained through the extensive use of overtime. They noted that a RIF of corrections officials would add to this overtime spending.

The Medicaid program initiatives were designed to save $30 million. But the Mayor informed us that this $30 million would not be saved and instead is including this amount in the $267 million he is requesting from the federal government.

And finally, the D.C. public schools officials said that the $45 million amount used to indicate school overspending was overstated and that only $32 million in cuts were needed to meet their budget target. In total about $66 million of the $224 million in agency spending plan reductions are either not specified or would not generate actual savings.

The remaining $140 million in savings is also tentative. The District said it would save $70 million in furlough and salary reductions. As of mid-March, just two furlough days had taken place

with unknown savings and no pay reductions have been implemented. The remaining $70 million was to be realized from refinancing the outstanding debt. This task was made more difficult by the lowered District bond ratings and may not be realized.

c. Medicaid spending and budgeting changes

The largest action in the District's plan to close the revenue-spending gap in fiscal year 1995, is receiving $267 million in an additional federal payment designated for Medicaid. The District said that the appropriated portion of Medicaid expenditures would climb to $550 million in fiscal year 1995 or $267 million more than the congressionally approved budget. However, according to estimates by GAO, nearly 60 percent ($152 million) of this revenue is not needed for Medicaid cash expenditures that could occur in fiscal year 1995.

d. District not cutting personnel

A key problematic area in the District is the management of personnel. The City has one employee for every eleven residents and many perceive service provided by District agencies to be poor. District personnel positions are financed by both appropriated and non-appropriated funds. the District reports personnel data in a variety of ways including FTEs, the number of personnel receiving paychecks, and full-time on-board staff. An FTE is used to measure the number of equivalent positions and takes into account how many hours are actually being worked. For example, two employees working half-time would be counted as one FTE.

The GAO reported that information on the exact number of District personnel is difficult to verify. Different sources of funding compounded by the lack of integration among the payroll, personnel, and budgeting systems makes it very difficult to establish the exact number of personnel. Although most of the payroll function is centralized in the District's Controller Office, personnel records are less centralized. For example, the payroll for D.C. Public Schools is processed by the District Controller, but the School's personnel records are maintained in the school's own personnel office not the District's Office of Personnel. In addition, inconsistencies between personnel and payroll records were identified by Coopers & Lybrand as a part of its internal controls testing for the fiscal year 1993 financial statements. They pointed out that one-third of the payroll transactions they tested did not have any authorization, and nearly two-thirds did not have proper authorization.

Internal controls for personnel and payroll in the District's Public Schools have been severely criticized by the District Auditor in a report issued in April, 1993. The report contained numerous instances of internal controls problems and concluded that:

> It is apparent that the Board of Education has no credible financial controls or information checks and balances in place to oversee the planning and spending of education funds. The processes of planning, budgeting, and spending have no apparent internal controls. The lack of controls allows for personnel expenses to exceed authorizations, and allows positions to be created in excess of authorizations.

It is clear that there is no operating reconciliation of budget, payroll and personnel.

Reducing the number of District personnel has been a stated management objective for a number of years. Based on information from the District, between the first quarter of fiscal year 1993 and the first quarter of fiscal year 1995, the number of actual FTEs decreased from 46,422 to 44,438. During this period, appropriated positions decreased from 36,475 to 34,394 and non-appropriated positions increased from 9,947 to 10,044. The District of Columbia Fiscal Year 1995 Appropriation Act required that the total number of FTE positions financed from appropriated funds not exceed 33,588, which is 2,000 FTEs below the 35,588 contained in the original fiscal year 1995 budget. On February 17, 1995, the District announced that it had reduced the number of FTEs by 3,058 to 32,530. This total is below the 33,588 ceiling, but the number of reductions warrants further explanation. Although, the District said it cut more than 3,000 positions, some of these positions were not staffed as of the end of fiscal year 1994. Specifically, as of September 1994 there were 33,675 actual FTEs on board. Therefore, the actual reduction since the beginning of the fiscal year in actual FTEs is 1,145. In fact, because the District had 33,675 actual FTEs on-board as of September 1994, the District only needed to cut 87 positions to meet the Congressionally mandated FTE limit.

e. Required reports not being submitted

As noted earlier, the District of Columbia Fiscal Year 1995 Appropriation Act and the Federal Payment Reauthorization Act of 1994 each required several periodic financial and performance reports. However, the District has not complied with these reporting requirements. For example, even though due on March 1, 1995, the District has neither submitted the annual performance accountability plan, nor the annual 5-year financial plan. In addition, although the District submitted the first quarterly report on January 17, 1995, the report was incomplete and essentially useless.

This report was to include:

A cash flow statement that includes comparisons of actual to forecasted cash receipts and disbursements for each month and a cash forecast for the remainder of the fiscal year,

Explanations of the differences between actual and forecasted amounts and the impact on cash and the budget,

An aging of accounts receivable and accounts payable, and

A report showing full-time equivalent (FTE) positions by type of position and funding source.

To respond to this requirement, on January 17, 1995, the District submitted more than 500 pages of documents. Although some valuable information was included in this data, for the most part, the information is not in a form that is useful to monitor the District's financial situation.

First, the revised cash flow statement was not realistic. The statement projected that the ending cash balance for the fiscal year on September 30, 1995, will be $50 million. However, GAO testified that this projection was based on many unapproved actions, double counting of some items, and other unsupported financial data. According to GAO, when aggregated, these questionable items result

in a cash position of negative $400 million at the end of the fiscal year. The GAO also reports that other adjustments to this cash flow statement would result in increasing the projected year-end cash deficit to nearly half a billion dollars.

Another part of the quarterly financial report included a statement from the District's financial management system of first quarter expenditures. The report neither included summaries or analysis of the data, not projections of expenditures for the remainder of the fiscal year. This makes it impossible to utilize this report to compare actual first quarter expenditures with budgeted amounts or to project year-end expenditures.

Other parts of the quarterly financial report also did not provide useful information. The lists of unpaid vouchers (payables) and accounts receivable also were not summarized in the report. The legislation required an aging of payables and receivables. The lists of payables included a date for each line item, but this date is the date the voucher was entered in the District's financial management system and not the date of the voucher. This date is even more meaningless for this listing, because in the first quarter, as a part of the District's efforts to control cash, vouchers were held for extended periods being entered in the system.

The quarterly financial report also included some data on The City's number of FTE personnel for various periods. However, the District did not submit several categories of required information on personnel, including the actual number of full-time, part-time, and temporary employees, and the source of funding for these employees.

The District of Columbia's financial situation is uncontrolled. The District has not responded to congressional direction and continues to request additional federal funding, higher spending levels, and retention of its oversized workforce. Congress in the early 1990's provided substantial additional aid to the District with The City promising spending reductions. This did not happen. History has demonstrated that The City cannot or is unwilling to make the difficult decisions necessary to restore District finances to a sound position. The District needs the assistance of an outside entity to ensure that this is done.

B. FEW OPTIONS AVAILABLE FOR RECOVERY

1. Why a financial control authority?

As the foregoing demonstrates, the District of Columbia is experiencing a chronic and profound budgetary crisis. The City's problems exceed the challenge of debt management alone. The evidence and testimony before this Committee amply demonstrate that the problems creating budgetary shortfalls in The City result from over spending and poor management.

In proposing to create a financial control authority, however, the Committee has considered a variety of other mechanisms for financial relief. These include indefinite deficit funding by the Congress, or a "cash bailout"; a municipal reorganization under chapter 9 of the U.S. Bankruptcy Code; creation of a Federal receivership; and, retrocession of the District of Columbia to the State of Maryland. But these alternative remedies would too narrowly address the

"symptom" of a runaway deficit without treating the underlying "disease." The District of Columbia's deficits are attributable to a myriad of problems, discussed supra, primary of which are municipal employment and service levels which exceed combined municipally-derived revenue and Federal aid.

2. Cash bailout

Without meaningful government reform and strong fiscal discipline, there is absolutely no evidence that Federal loan guarantees or even large infusions of cash would relieve permanently the underlying causes of the current budget crisis. Some might argue that because the District of Columbia and Congress enjoy a unique Constitutional relationship, Congress should step forward and provide immediate financial relief. At best, this stopgap measure would be short term and would not resolve the problems that caused the immediate crisis. Moreover, Congress has tried this approach, only to find the District in worse financial condition after it acted.

The District faced a cash shortage in 1990. At the time, the federal payment was permanently authorized at $425 million per year. The Congress has not raised the authorization or appropriation for several years. If the then existing law had continued from 1990, the District would have received the following federal payments:

FY 1991 federal payment authorized and appropriated	$425MM
FY 1992 federal payment authorized and appropriated	$425MM
FY 1993 federal payment authorized and appropriated	$425MM
FY 1994 federal payment authorized and appropriated	$425MM
FY 1995 federal payment would have been	$425MM
Total	$2.125 billion

Instead, following Mayor Kelly's inauguration in January 1991, Congress went to extraordinary lengths to help the District of Columbia. The following chart is quite instructive:

1991 Dire Emergency Supplemental	$100MM + $100MM
1991 accumulated deficit bond authorization.	$331MM + $331MM
FY 1992 federal payment	$630MM + $205MM
Formula federal payment ACT FY 1993	$624MM + $199MM
Formula federal payment ACT FY 1994	$632MM + $207MM
Federal payment FY 1995 (lower than authorized because of "spike" caused by changing property tax year).	$660MM + $235MM
Total	+1,277 billion more than District would have received prior to 1991.

So, Congress appropriated or allowed the District government to raise $1,277 billion more cash than it would have had otherwise from 1991–1995. The effect of Congress's generosity is plain to see in the current financial situation which is far worse than before.

3. Municipal reorganization under the U.S. Bankruptcy Code

Although it would clearly come within Congress' authority under the Constitution's Bankruptcy Clause to amend the U.S. Bankruptcy Code to permit a chapter 9 filing by the District of Colum-

bia, there is little practical significance or advantage to such a legislative gesture.

It is not mere coincidence that none of the major cities that have worked with Control Board's have ever filed or successfully reorganized under chapter 9. Reorganization under the U.S. Bankruptcy Code is designed to facilitate debt management and thereby rehabilitate private or municipal debtors. Under chapter 9, the jurisdiction of the court is limited; it may not interfere with (1) the political or governmental powers of the debtor, (2) property or revenues of the debtor, or (3) the debtor's use or enjoyment of any income-producing property. Hence, the Bankruptcy Code as it stands is neither intended to nor designed to promote judicial restructuring of a municipal government that suffers chronic, structural budget deficits.

Chapter 9 was a logical remedy for Orange County, California, because it dealt primarily with debt-management issues. There, a fundamentally solvent municipal entity became insolvent very quickly as a result of its high-risk investment practices. But the issues facing the District of Columbia are much more entrenched and may require political and structural, as well as financial remediation.

Testimony before this Committee suggests that Control Board's operate most effectively when they embody local cooperation for concerted, if unpopular, reform measures and external pressure to impose financial reform and oversight. The Committee believes that this balance will be most successfully achieved within a format that requires the District government to work under the potentially tighter and more far-reaching constraints imposed by the Authority created in this bill, rather than under the narrow powers granted a Federal judge under the U.S. Bankruptcy Code.

Chapter 9 very explicitly reserves control of the municipal debtor to the debtor; the standing government is charged with the responsibility of engineering its own rehabilitation. Unlike a Control Board, the Court provides no mechanism for acquiring independent financial expertise services. Nor can it provide legally binding guidance to the debtor on administrative or structural reform. The Court's role is limited to confirming the legally-binding plan negotiated by the debtor and its creditors. Such plans generally contemplate restructuring of debt rather than more fundamental changes in governmental operations. Testimony before the Committee suggests that the Financial Control Authority created may provide a source of creative solutions to the District's underlying problems, and the mechanism to insure their implementation.

4. Receivership

The to-date successful receivership of Chelsea, Mass. has been offered as a paradigm for restructuring the District Government. There are, however, few parallels between Chelsea's situation and the District's.

The notion of a Federal receivership as a political and financial solution for a Federal enclave is essentially without precedent. Hence, the term "receivership" in this context connotes little more than the complete dissolution of home rule, with the replacement of local government by an individual with sweeping authority.

Receivership is without precedent in the District's history. The Committee believes that such a draconian measure is not warranted at this time, and that it would be counterproductive. Testimony of those individuals associated with successful municipal rehabilitation revealed that effective, lasting reform must begin with new approaches to municipal operations. But the Committee believes that these reforms will only develop and endure if the D.C. Government is a responsible partner in its own inevitable, albeit painful, restructuring.

Committee Chairman William F. Clinger, Jr. stated however during Committee consideration of the bill that, "nobody should doubt the resolve of this Committee to take any steps necessary if District Government officials do not cooperate with the financial control board established by this legislation."

5. Retrocession of the District of Columbia to the State of Maryland

In 1846, the State of Virginia requested retrocession from the District for the portion of Alexandria County (presently Arlington County and much of the city of Alexandria) it had ceded on the grounds that the part of The City on its side of the Potomac was imposing an economic burden while the rest of the District was thriving. Congress granted the retrocession after a referendum on the matter passed in the affected area and after approval of the Virginia legislature. Hence, the District of Columbia today includes only territory that was once part of Maryland.

Some have suggested that the District's financial problems could be alleviated by receding all but a de minimis reserved Federal enclave back to the State of Maryland. Legislation has been introduced in the 104th Congress to effectuate this partial retrocession. The question of retrocession of the District to Maryland has been considered in the past, usually in connection with the issue of voting representation. The practical, legal, and Constitutional obstacles to such a move are substantial. The argument is made that Maryland must formally accept retrocession, at the least, as Virginia did in 1846. Moreover, one or more amendments to the Constitution may be necessary to effect a retrocession. First, the repeal of the Twenty-third Amendment allowing appointment by the District of electors to participate in the Electoral College. Second, it has been argued that Congress may not divest itself of responsibility for any portion of the District, in accordance with the Constitutional mandate to Congress of exclusive jurisdiction at Article 1, § 8, clause 17.

Given these political and legal obstacles, any process leading to a prospective retrocession would be cumbersome and lengthy. Most important, retrocession merely shifts jurisdiction over the District's problems; it offers no ready framework for introducing urgently needed fiscal and administrative reform. Finally, retrocession is ultimately a consensual political act for which no consensus is now apparent. Compared to a financial control authority, which can develop and implement expansive solutions, relying on retrocession seems unrealistic—and likely to divert attention from more immediate, productive approaches.

C. EXPERIENCE WITH FINANCIAL CONTROL BOARDS IN OTHER CITIES

Financial control boards have been created by State legislatures to oversee the financial recovery of several large U.S. cities since the mid-1970s. To illustrate the range of experience with financial control boards and provide a context for evaluating the situation in the District of Columbia, this section reviews five such occurrences:

A. Chicago School District—the Chicago School Finance Authority;

B. Cleveland—the Financial Planning and Supervision Commission;

C. New York City—including both the New York State Financial Control Board and the New York State Municipal Assistance Corporation for the City of New York (popularly known as MAC or "Big Mac");

D. Philadelphia—the Pennsylvania Intergovernmental Cooperation Authority (PICA); and

E. Yonkers—the New York State Emergency Financial Control Board for the City of Yonkers.

The discussion focuses on six aspects of financial control boards:

1. summary of the crisis that necessitated the establishment of the board;
2. duration of the board;
3. board composition and appointment authority;
4. staffing;
5. enforcement authority, mechanisms, and penalties; and
6. effectiveness and advantages of the financial control board in placing the jurisdiction on a sound financial basis along with its concomitant limitations.

1. Summary of instigating crisis

a. City loses access to the bond market

Among the five locales examined, the event or circumstance that most often led to the establishment of a FCB was the city (or school district) losing its access to the municipal bond market. That is, the city was no longer able to borrow money on its own in the private capital markets. In most cases this transpired as the financial market decided that the city was no longer creditworthy.

In his study of New York City, political scientist Robert W. Bailey distinguishes this type of "financial crisis" (referring to borrowing and cash flow) from a "fiscal crisis" (the imbalance between expenditures and revenues) or an "economic crisis" (the deterioration of the employment and tax base). Bailey also refers to the "politics of creditor intervention" as a distinguishing feature of a financial crisis for a city. The point is that underlying economic and fiscal fundamentals of the city, in this case New York, may not have changed much in nature, they may have been exacerbated. What did change was the decision of creditors to no longer underwrite New York's dependence on borrowing to finance operating deficits and with unrealistic revenue or expenditure estimates.

b. Situation deemed an emergency; underlying problem of several years' duration; little opportunity for the FCB to intervene preventively

It is considered highly unusual for a state to intervene in the affairs of its subjurisdictions. Intervention is typically reserved for situations that can be classified as emergencies or disasters. In all five of the cases examined, the state waited until the crisis in the bond market occurred before taking steps to intervene by establishing a FCB. In retrospect, manifestations of the underlying problem were evident for three to ten years before the crisis erupted. Because they were established after the crisis had already occurred, the financial control boards did not have the opportunity to engage in "preventive intervention."

Ohio adopted legislation in 1979 specifying the financial distress conditions under which the State could step into the affairs of any municipality. This laid the groundwork for subsequent intervention in Cleveland in 1980. In all of the other cases, the state adopted emergency legislation particular to the city in distress.

c. New entity created by the State to issue bonds on behalf of the city; the Financial Control Board may be part of that borrowing entity, or separate

For the city to regain access to the credit markets, in three cases examined, a new borrowing entity was established, distinct from the jurisdiction in financial distress. The new borrowing authority was a creation of the state government. In two cases, the borrowing agency itself exercised the functions of a FCB (the Pennsylvania Intergovernmental Cooperation Authority and the Chicago School Finance Authority). In another case, the borrowing agency worked in conjunction with a separate FCB (New York's Municipal Assistance Corporation as borrowing authority worked with the New York State Financial Control Board).

The creation of a special borrowing authority has been a way to circumvent debt and tax limits previously imposed on the city by the state. It effectively increased the amount of permissible borrowing for the city. It also avoided the need for local voter approval of bond issues.

No separate borrowing authority was set up for the City of Yonkers or Cleveland. In the case of Yonkers' first crisis (1975–78), it was able to reenter the bond market once the emergency FCB was established and the New York State Comptroller was empowered as fiscal agent of the city. In Yonkers' second crisis (1984), New York State loaned Yonkers the money through the State Insurance Fund. In the case of Cleveland, the local banks which normally financed Cleveland's operating and capital needs agreed to lend the money once the city agreed to certain budget requirements.

d. New borrowing entity has a segregated revenue source, dedicated to servicing its debt

The paramount concern of the FCB has generally been establishing the credit worthiness of the new borrowing authority. To that end, a revenue source was often designated to pay the interest and principal on the debt issued by the new borrowing authority. This may be either a new (or increased) tax, or an old revenue source

(including state aid) that would otherwise have gone into the general revenues of the city. Importantly, the money to service the debt was kept separate from other funds of the city in distress. The money collected from the dedicated source was deposited into a special account, often maintained by the state, or by a private bank named as trustee. The debt issued by the new authority was explicitly not the responsibility of either the city or the state.

e. The city's debt is restructured, from short to long-term

A common component of a financial rescue plan has been to convert short-term into long-term borrowing to save the city money in the interim. This debt restructuring may require special permission from the state under the terms of the financial rescue agreement.

It is generally considered fiscally imprudent to use long-term debt to finance current operating deficits. Long-term debt is usually reserved to pay for capital investment projects which provide benefits over numerous future years. In the special case of a city in fiscal distress, exceptions were sometimes made to "buy time" to get the city's finances back in order. Because the repayment of principal is stretched out over more years, the annual carrying costs of a long-term bond could be lower than for a short-term note of similar principal amount, and more so if long-term rates were lower than short-term rates. (Cumulative total interest costs, however, are likely to be higher with a longer payback period.)

f. Reasons motivating the State to get involved

Two main types of concerns have motivated and been used to justify state intervention into the affairs of their cities. One was the fear that the city's poor credit rating would spill over to the state itself or to other subjurisdictions and agencies. This could lower the credit rating and thereby raise the interest rate that those entities would have to pay on their own borrowings. In the worst case, access to the bond market might be denied for them as well.

The other was the state's responsibility for the health and welfare of the citizens of both the distressed jurisdiction and others in the state. Negative economic ramifications from the distressed jurisdiction could hurt the economic well-being of other parts of the State.

g. Reasons motivating the Federal Government to get involved

The Federal Government became involved with New York City because the magnitude of the city's borrowing needs threatened to swamp the nationwide municipal bond market. This is not the reason for Federal concern in the case of the District of Columbia. The Federal Government's concern for the District stems from its ultimate responsibility for the health and welfare of the residents of the District (and, by their interconnectedness, neighboring jurisdictions) and its role as lender of last resort to the District.

The Federal role in the New York City fiscal crisis of the 1970s has two parts, sometimes referred to as New York I and New York II.

New York I.—In December 1975, President Ford signed into law the New York City Seasonal Financing Act of 1975 (P.L. 94–143). This provided for Federal short-term loans (up to one year) to the

city in an aggregate outstanding amount not to exceed $2.3 billion. The loans were to be repaid by the last day of the fiscal year in which they were issued, and they were. The Federal Government was in essence providing the tax and revenue anticipation loans for the duration of the initial three-year financial plan. The authority to make loans under this act expired on June 30, 1978.

New York.—On August 8, 1978, President Carter signed into law the New York City Loan Guarantee Act of 1978 (P.L. 95–339). Unlike the short-term loans under the 1975 law, the 1978 extension authorized guarantees for the principal and interest on long-term loans. The total amount of guaranteed debt that New York City could issue was limited to $1.65 billion, allocated over four fiscal years: $750 million for fiscal year 1979, $250 million for fiscal year 1980, $325 million for fiscal year 1981, and $325 million for fiscal year 1982.

The loan guarantees could last for as long as fifteen years and would be available only for bonds sold to city or state pension funds. The guarantees formed an important part of a $4.5 billion financing package consisting of funds from both public and private sources.

In both phases the Federal Government relied on the New York State Financial Control Board and the special deputy State comptroller as the oversight authority. No separate Federal oversight apparatus was established.

2. Duration of Control Board

A FCB is intended to be temporary—to exist only so long as the city is considered to be in financial emergency or, at most, as long as debt issued under the FCB's authority remains outstanding. Experience caution, however, that an expected involvement of three years can turn into 10, 20, or more years.

In his testimony before the Subcommittee on the District of Columbia, New York City Mayor Rudolph W. Giuliani expressed his belief that a limit should be placed on the lifespan of a FCB from the inception. The Mayor said, "* * * a financial control board should have a beginning and an end. Once the city has regained fiscal discipline, the financial control board can become just another layer of bureaucratic oversight—and it can itself become a political tool. It should have a strict sunset period and be disbanded as soon as possible so a city can quickly gain self-sufficiency." He suggested a lifespan of one to three years. Mr. Giuliani, who became Mayor of New York in January 1993, confronts a FCB that has been in existence since 1975, and on stand-by authority since mid-1986 when the conditions for truncating the FCB's powers were met.

In contrast, Ohio Governor George V. Voinovich (formerly mayor of Cleveland) said, "I chose to keep the Commission intact as long as I could, because it provided a buffer between me [as mayor] and our city council." Although Cleveland emerged from bankruptcy 13 months after the Financial Planning and Supervision Commission was established in 1980, the Commission remained in place for another 6 years, until all of the issued bonds were paid off in 1987.

a. Actual experience

In terms of duration, the FCBs examined fall into three groups: short-term (three to seven years); long-term (10 or more years); and interrupted-term (terminated or suspended once but later reimposed).

Short term.—Cleveland's FCB was in existence for seven years, from 1980 to 1987. Philadelphia's, the newest FCB, established in June 1991, has now been in place for three and one-half years; the city administration hopes that the board can be terminated within 2 years.

Long term.—For New York City, the Municipal Assistance Corporation, established in 1975, remains in existence 20 years later, albeit with reduced duties. The New York State Financial Control Board, also established in 1975, had most of its powers expire 11 years later, in 1986, but remains on standby authority.

Interrupted term.—In the cases of both Yonkers and the Chicago School District, the powers of the FCBs were suspended when the jurisdictions in question achieved a balanced budget for the number of years specified by the governing legislation, only to be reinstated a number of years later when the city failed to submit a balanced budget. The first Yonkers FCB board existed for three years, from 1975 to 1978, when it was terminated; the FCB was reinstated in 1984 and remains in existence as of February 1995. The Chicago School Finance Authority can be characterized as both long-term and interrupted-term. First established in 1980, it remains in existence in 1995, 15 years later. For the period from 1988 to 1993, however, while it continued to monitor, its review and approval authority with respect to the school district's financial affairs were significantly reduced; the Authority was given added duties related to implementing the State's educational reform plan (these school reform duties were later repealed, effective June 30, 1994). But in September 1993, when the school board failed to adopt a balanced budget, the financial powers of the School Finance Authority were reinstated and enhanced. Thus, its two terms of active involvement were 1980–88 and September 1993-present.

b. General provisions for expiration of FCB

The conditions that will permit a FCB to expire are typically set forth in the enabling legislation. The expiration date of the board has often been set as 6 months or 1 year after the end of the "emergency period" or after all the liabilities (bonds and notes issued or loans incurred) have been fully paid and discharged.

The end of the emergency period is defined as the city meeting one or more financial conditions. One condition is that the city's budget has been in balance for a specified number of years. The requirement was 1 fiscal year in the 1975 Yonkers legislation, revised to three fiscal years in the 1984 Yonkers legislation, and six successive years of balanced budgets in the case of the Chicago School Finance authority. Another condition is that the city has presented a multi-year prospective financial plan with operating and capital budgets in balance. The number of years required in the financial plan ranged from two for the Chicago school board (recently reduced from three years), to three for New York City, four for Yonkers (replacing the initial requirement of only one

year), and five for Philadelphia. The Ohio law did not specify a number of years.

Some statutes also require that all bonds and notes or other loans involved in the rescue are fully paid for and discharged or otherwise provided for before the FCB can be fully dismantled (Chicago School Finance Authority, Philadelphia, New York MAC, New York FCB, and Yonkers 1984). These same statutes, however, may provide that, although some bonds might still be outstanding, the FCB's powers are to be scaled back to stand-by monitoring authority if the city has achieved a balanced budget for a specified number of years and is projected to continue to have a balanced budget for a specified number of future years.

The maximum maturity period of the bonds issued becomes particularly relevant in those cases where the liabilities must be fully discharged before the FCB can expire. (The maximum term of the bonds is not typically specified in the enabling legislation; it appears to be left to the discretion of the borrowing authority.) In the case of the Chicago School Finance Authority's 1994A series, the maximum maturity was 15 years. In Philadelphia, the maximum maturity of any PICA bonds issued was 30 years. New York's MAC issued bonds with maturities up to 30 years.

In some cases a "no-later-than" termination year is specified in the enabling legislation. For New York's Financial Control Board and MAC, it was 2008. (This corresponded to expecting the emergency period to end in 1978, plus a 30 year maximum maturity of MAC bonds.)

3. Board composition and appointment authority

The FCBs examined had more differences in composition than features in common.

a. Features in common

The number of voting members of a FCB board has always been odd: five for Chicago and Philadelphia; seven for Cleveland, Yonkers, and the New York FCB; and nine for New York's MAC.

The members of the FCB have typically served without compensation but were entitled to reimbursement for actual and necessary expenses.

Most members of the FCB have been appointees rather than publicly elected officials. All of the FCBs have had appointed members. In addition, four FCBs have had ex-officio members, but many of those people hold appointed—rather than elected—State or local positions. The ex-officio member of a FCB most likely to be an elected official has been the city mayor (Cleveland, New York FCB, and Yonkers). None of the members of the MAC board is permitted to be an employee of a Federal, State, or local government. In Ohio, the appointed members are not to have held public office for five years prior to their appointment, or to become a candidate while serving as a member of the commission.

Most but not all of the financial control boards have been required to have one or more ex-officio members with budgetary expertise. This may be the State comptroller, treasurer, or secretary of the budget, and the city comptroller or director of finance.

b. Differences among FCBs

The FCB composition differed among the five cities examined in several aspects of political interest:

Whether the membership of the FCB was determined largely by the state versus whether the city had significant representation; relatedly, what offices the ex-officio members of the board held (whether state or city offices);

How the chairman was determined (whether the chairman is beholden primarily to the state governor or was selected by the board itself);

Whether there were also non-voting members and who appointed those non-voting members;

Whether city employees were represented; and

Whether the minority parties in the state and the city were represented.

On the Cleveland and Chicago FCBs, approximately half of the appointment authority was shared by the State with the city. Of five directors in Chicago, two are appointed by the Governor with the approval of the mayor, two are appointed by the mayor with the approval of the governor; the chairman is appointed jointly by the mayor and governor. Of seven commission members in Cleveland, the three appointed by the Governor and approved by the Senate came from a list of five submitted by the mayor and chairman of the city council. Of the four ex-officio members, two were from the State and two from the city. The Cleveland Commission elected its chairman and vice chairman from among its own members.

At the other extreme, the Philadelphia board is almost entirely appointed by State executive and legislative officials. The only representative of the city is ex-officio, the City Director of Finance. Of the five appointed voting members, one is appointed by the Governor, and one each by the majority and minority leadership of the State House and Senate. The members of the board select officers from among themselves. It is customary, however, that the member appointed by the Governor becomes chairman.

In the three New York State cases, the State, particularly the Governor, maintains strong control. But the city is guaranteed some representation. For the New York City FCB, of the three members appointed by the Governor with the advice and consent of the Senate, two must be residents of or have their principal place of business in New York City. Two of the four ex-officio members are from the city: the Mayor and the Comptroller. The State Governor, an ex-officio member, is designated by law as chairman.

For New York's MAC, of the nine members appointed by the Governor, four are appointed upon written recommendation of the mayor. The Governor designates the chairman of MAC. Under the law governing the Yonkers Financial Control Board, the secretary of state—a State official appointed by the Governor and an ex-officio member of the board—is designated as chairman. The four appointed members are all appointed by the Governor with the advice and consent of the State Senate. The only voting member representing the city is ex-officio, the mayor of Yonkers.

There are no non-voting members in the cases of Chicago, Cleveland, and New York's MAC. Two members of Philadelphia's FCB

are non-voting, but they are ex-officio (the State secretary of the budget and the city director of finance).

The two financial control boards created by New York State allow for a large number of nonvoting members: nine for New York City (compared with seven voting) and six for Yonkers (compared with seven voting). Exactly which State or city official may appoint a non-voting member is specified in the legislation. The non-voting members provide for representation of the minority as well as majority parties of the New York State House and Senate. In addition, in the case of New York City, both the minority and majority parties of the city council are represented. In the case of Yonkers, the county executive of Westchester may appoint a representative and the Board may designate a representative for Yonkers city employees.

In Ohio, a person named serves for the life of the commission. The term for the Chicago School Finance Authority is three years, and for MAC is four years. In Philadelphia, the member's term is at the pleasure of, or at most coterminous with, the appointing authority's. A member of the New York City FCB serves at the discretion of the Governor.

In the case of New York City, the role of a single individual, Felix Rohatyn, chairman of MAC, was of paramount importance in convincing the various parties to work toward a solution. Mr. Rohatyn, coming professionally from the investment banking community, had then and still maintains an extremely high level of credibility in the financial markets.

It is considered important that the individuals serving on a board be qualified in terms of expertise and be committed to the endeavor. It is also considered important that board members be effective both in convincing the city to reform its financial practices as well as in representing the city's interests before the State legislature, executive agencies, and other officials in a position to aid the city. Several of the statutes specify that the appointed (non ex-officio) members of the control board should have their residency, office, or principal place of professional or business activity situated within the municipality.

A number of witnesses at the hearings held by the subcommittee on the District of Columbia emphasized the importance of participation by members from the private business sector who volunteered their time and expertise to serve on the board. Former New York State Governor Hugh L. Carey, who served as the chairman of the financial control board for New York City, compared these private citizen members of the board to Harry Truman's "Dollar-a-Year men" in the 40's and 50's, who were called upon to design the peacetime conversion of the United States after World War II. Mr. Carey described the NYSFCB as a "consensus board to help the city." He also emphasized that the effort was bipartisan. He pointed out that the original control board and the original Federal involvement came about while Gerald Ford, a Republican, was in the White House, and the mayor and governor in New York were Democrats.

Ohio Governor George V. Voinovich, who served as mayor of Cleveland during the time of the Financial Planning and Supervision Commission, said "We insisted that the Commissions mem-

bership include local stakeholders, and not be completely controlled by the state." Local stakeholders included business and civic leaders of Cleveland.

The question of whether the city's mayor should serve on the FCB was specifically addressed at the hearings. A distinction was made between whether the FCB is a "control board" or an "oversight board." Former New York Governor Carey emphasized the importance of having the mayor "at the table" when the big decisions about the city's future are being decided by a control board. This does not require that the mayor be a voting member, but at least a nonvoting member of the control board. In contrast, Ronald G. Henry, the executive director of the Philadelphia Intergovernmental Cooperation authority from 1991 to 1994, expressed the belief that it would have been counterproductive to have the mayor serve on an oversight board.

4. Staffing

The in-house staffs of oversight boards have typically been quite small—six positions (in Philadelphia and Yonkers) or fewer, including secretarial and administrative support staff. The largest, the New York Financial Control Board, had a staff of 25 in 1976, its first full year of operation, and 27 in 1986, the year when many of its powers expired.

Each FCB typically had had an executive director, a deputy executive director who may also be a financial analyst, a financial analyst, and two administrative assistants or support staff. In addition, there has typically been a general counsel (legal advisor), who may be either in-house staff or on outside contract.

Each FCB has usually contracted with outside accountants and auditors to review the financial accounts of the city in question, and with outside financial advisors (underwriters) and bond counsel to manage bond issuance by the oversight board. Substantial powers were delegated to the outside accountants in some cases. This was particularly true under the Ohio law's provisions concerning the "financial supervisor"—the CPA firm to be retained by the financial planning and supervision commission for the city in distress.

When the Chicago School Finance Authority (CFSA) had its financial powers reinstated and enhanced in 1993, the new position of inspector general was created to investigate allegations of waste, fraud, and financial mismanagement by employees of or contractors with the CFSA. The CFSA also has a corporate secretary, but no financial analyst.

Some FCBs were authorized to request the loan of staff from the State or the local government. Some were also authorized to request that the city (or school district, in the case of Chicago) provide the control board with office space.

5. Powers of successful financial control boards

In all the cases examined, the new borrowing authority and the FCB have been intended as temporary, not permanent institutions. The goal has been for the city to reestablish its financial viability within a reasonable number of years (specifically: to be able to independently reenter the bond market). The base of the problem,

however, has been a city's inability to obtain sufficient revenue sources or to adequately control spending on its own. Consequently, in exchange for receiving temporary fiscal relief from the new borrowing authority, the city typically has given up some independence in shaping its own budget.

There are several main ways in which FCBs have contributed to removing the obstacles cities were facing in trying to balance their budgets. They have:

Provided city officials with the fortitude to cut expenditures;

Persuaded the city employee unions to accept wage freezes, staff cuts, and increased flexibility in work rules;

Overridden local citizens' resistance to raising local taxes;

Convinced the State to loosen its restrictions on the city's ability to levy taxes; and

Obtained permission from the State to restructure the city's debt obligations from short to long term, and relax conditions related to tax and revenue anticipation notes.

An important overall design question has been whether it was necessary or helpful for the FCB to manage the city's budget in detail in order to accomplish the necessary discipline. Or, was it sufficient for an oversight board to set aggregate requirements, such as requiring a balanced budget and limiting the amount that the city could borrow. Most of the control boards reviewed here have focused on macromanaging by setting aggregate spending limits, determined by the estimated revenue available.

To be successful, the oversight sanctions have had to be sufficiently punitive to motivate the city government to restore financial order so that oversight is no longer necessary. The powers actually exercised by FCBs have varied according to the local situation, most importantly the degree of cooperation and responsiveness from city officials and labor unions.

In terms of attracting the attention of the city to the gravity of the situation, two of the most important powers for an oversight board seem to have been:

The authority to enable the city to borrow or to prevent it from borrowing; relatedly, the authority to determine the amount of debt the city may issue; and

The authority to prevent the jurisdiction from spending any money whatsoever if it is not operating under "an approved financial plan," that is, a balanced budget plan approved by the board as required under the enabling law; the Chicago School Finance Authority prevented the opening of the schools when the Chicago school district did not have a balanced budget and multi-year financial plan approved by the Authority.

In terms of guiding the city toward reformed behavior, some of the most important powers for an oversight board seem to have been:

Authority to review the city's revenue estimates; if the board does not approve the city's estimates, the board makes its own revenue estimates; the approved revenue estimates set the aggregate limit on permissible spending;

Authority to review the city's budget, requiring quarterly or, if the situation is more serious, monthly reporting by the city to the oversight board;

Authority to require the city to improve its accounting practices, normally by adopting Generally Accounting Principles (GAAP); and

Authority to require the city to submit to the board for its review and approval a multi-year financial plan, with the current year and each future year in balance; the multi-year horizon pressured the cities to take a more serious long-run approach to stabilizing the financial operations and programs.

In terms of forcing the city to reform its behavior, some of the most important powers for an oversight board seem to have been:

Power of the purse strings; authority to take over control of the city's budget, as "fiscal agent," collecting all revenues and making all disbursements; (New York State Financial Control Boards for New York City and Yonkers and the State Comptroller);

Ability to withhold State grant monies and excess monies from borrowing activity from the city, if the city is not in compliance with the financial plan (Philadelphia's PICA);

Power to override old contracts, negotiate or disapprove new contracts, and extract concessions from contractors;

Authority to review and approve or disapprove collective bargaining agreements with the city workers' unions, achieve bargaining agreements with no automatic cost-of-living increases (or at least a wage freeze as in New York City and Yonkers), and secure agreements that increase the flexibility in union work rules;

Authority to order cuts in the number of staff;

Authority to order indefinite postponements or cancellations of popular capital improvement projects like libraries (New York City and Yonkers); and

Authority to levy higher taxes on the city's existing tax bases, without voter approval.

In terms of obtaining help for the city from additional revenue sources, some of the most important powers for an oversight board seem to have been:

Authority to request for increased state aid;

Authority to ask the state to approve new non-property tax revenue sources for the city;

Forcing the city to hold a referendum on increasing a local tax; and

Convincing the state legislative to adjust the rules concerning the city's issuance of long-term debt as well as the conditions applying to short-term tax and revenue anticipation notes.

In terms of protecting the bondholders, important powers and actions have been:

Identifying a specific revenue source dedicated to servicing the debt;

Increasing the rate of an existing local tax (sales, personal income, or real property) if necessary; and

Depositing the earmarked revenue into a separate account, maintained by the State or a private bank designated as trustee.

At the hearings held by the Subcommittee on the District of Columbia, Members of Congress asked the witnesses how much power they thought the FCB should have. New York Mayor Rudolph Giuliani expressed his belief that the mayor and city council should continue making the decisions so that they would be in shape to take back control. Mr. Giuliani did not favor granting the FCB independent borrowing authority. He stated that the FCB should work with the mayor and city council to achieve financial stability for the city.

David Cohen, chief of staff to Mayor Edward Rendell of Philadelphia, viewed the mission of the Philadelphia Intergovernmental Cooperation Authority (PICA) as one of oversight rather than control. He felt that the FCB should not try to impose its own solution on elected officials, but rather function as a forum from which to encourage the elected officials to make the difficult decisions. For that indirect influence to be convincing, he said, the FCB needs to an enforcement mechanism and the will to implement it if necessary. Ronald Henry, former executive director of PICA, proposed that, in order for the financial situation to improve, local officials have to reach the point where they realize that serious changes are needed. In order to pressure local officials to make changes, he suggested that restrictions accompany any Federal leading to the District of Columbia in response to the current crisis.

6. Effectiveness

All of the FCBs examined can, at a minimum, be credited with accomplishing a temporary improvement in the financial situation of the city or school district for which they were responsible. But none can be credited with achieving a permanent solution. Witness the fact that FCBs have been reimposed on Yonkers and the Chicago School Board; New York City again faces a huge budget deficit; the city of Cleveland faces financial woes and, by a judge's order, the Cleveland School District was placed under the control of the Ohio State Superintendent of Schools in March 1995; and the long-term future of Philadelphia's finances remains open to doubt.

While they may not have achieved permanent financial recovery, the cities probably could not have accomplish as much without a FCB. Even so, it is not clear how much credit should go to specific actions taken by the FCB—nor how much blame for failure. What is perceived to be the effectivness—or lack of effectiveness—of the FCB, may have been influenced greatly by related factors.

In some cases, the very presence of a FCB and its accompanying powers may have served as a sufficient motivation to spur city officials into undertaking corrective actions on their own, even if the board itself did not take direct actions.

One oversight institution on its own may not be enough. In the case of Yonkers, New York, the creation of the State Financial Control Board was not sufficient to restore investor confidence. In addition, the State comptroller had to be appointed as fiscal agent before Yonkers could reenter the bond market. Similarly, in the case of New York City, the creation of the Municipal Assistance Corporation was not enough. The New York State Financial Control Board had to be added before investor confidence was sufficiently

restored. And, for a period, New York City also needed Federal loans and loan guarantees.

In the cases of New York and Chicago, in particular, the FCBs effectiveness was augmented by research or advocacy provided by watchdog groups to both the oversight board and the city council or school board.

The same state legislature which created the FCB can undercut long-term solutions by continuing to limit the city's ability to levy non-property taxes, mandating certain types of spending (e.g., for specific school programs), and setting local matching requirements for welfare, Medicaid, and other programs. The state legislature may create the FCB and permit additional borrowing, but not address the underlying structural and fiscal problems facing the city. State laws may severely circumscribe a city's authority to tax. States like Illinois and Ohio have been hesitant to grant authorization for levying local non-property taxes without approval by local referenda. Being limited to property taxes and state aid for financing is a particular problem for school districts.

The financial problems facing cities have sometimes been exacerbated by mandates imposed by the Federal or State government, or by court order. Cities may have little control over the amount of State or Federal aid they receive or the mandated local percentage matching requirement for certain expenditure functions. In New York State, local governments are responsible for 25 percent of Medicaid and AFDC costs. Cities were under other outside pressures during the 1980s, namely court-ordered desegregation of schools and, in the case of Yonkers in particular, desegragation of housing. While protesting the housing court orders, Yonkers incurred substantial fines, exacerbating the financial distress. Chicago was under the pressure of a school education reform effort enacted by the State of Illinois in 1988 which mandated many changes in the delivery system.

The FCB may represent an additional expense for the jurisdiction in distress. The expenses of the Chicago School Finance Authority are paid from the general State school aid that would otherwise be payable to the Chicago Board of Education for school purposes. In Philadelphia, the expenses of PICA are to be paid by the city. In contrast, in Ohio, expenses of the Financial Planning and Supervision Commission for a city are "* * * payable solely from appropriations made by the general assembly."

City officials tend to resent micromanagement of city affairs by a FCB, more than macromanagement. City officials would typically prefer that the FCB set the total spending limit but let the city decide specifically where to cut expenditures. However, in cases where city officials face intransigence in securing agreement to budget cuts from city employees or program divisions within the city bureaucracy, the officials may find the presence of a FCB useful in providing them needed additional bargaining power. In such cases, micromanagement by the control board might be regarded as helpful. Micromanagement may also be more favorably received by the city if the control board and the city are dominated by the same political party. Under the New York State law, the Financial Control Board was prohibited from setting expense priorities for the

city; MAC, however, is known to have put conditions on the city's use of surplus debt service funds.

The finances of a city are influenced by the business cycle and shifting voter attitudes toward taxation and spending. These in turn influence the ability of the city to raise its own revenues and to receive assistance from higher levels of government, particularly the State. A State is more likely to offer assistance to its cities when the State itself is in better financial shape.

The ability to achieve financial reform may be thwarted by conflicts within a city's own political structure, or between the city and the FCB. If the major and city council are in serious disagreement, it appears more difficult to make progress. If city officials have not agreed to the need for reform and if they have an antagonistic relationship with the control board, it is more difficult to make progress.

In the other cities examined, the mayor in office at the time of the financial crisis was replaced at the end of his term. The financial control board was thus able to work with a new mayor who was generally more committed to budget reform than his predecessor.

In Cleveland and Yonkers, the term of the mayor at the time was two years. (Subsequently, in both cities, the term has been increased to four years in an effort to strengthen the role of the mayor.) In Cleveland, the controversial Mayor, Dennis Kucinich, and the city council disagreed on how to solve the fiscal dilemma, and the city defaulted on $15.5 million short-term notes in December 1978. As he explained at the hearings held by the D.C. Subcommittee, George V. Voinovich was Lieutenant Governor of Ohio in 1979 when he was recruited to return to Cleveland and run for mayor, in an effort to turn around the city's financial situation. He was elected and became mayor in November 1979. Unlike Kucinich, who had resisted State intervention, Voinovich welcomed the intervention of the State of Ohio which declared a financial emergency and established the Financial Planning and Supervision Commission in January 1980.

Yonkers was placed under an Emergency Financial Control Board from 1975 through 1978. A control board was reimposed in 1984. Although the city met one sunset requirement of 3 years of balanced budgets in fiscal years 1992–94, the control board remains in existence. Henry J. Spallone, the mayor during 1990 and 1991, was focused on fighting the Federal court housing desegregation order. In 1991 his administration submitted a 4-year financial plan that was not in balance, in violation of the law governing the State-imposed FCB. In 1990, Yonkers' voters approved a change to a "strong-mayor" form of government, effective in 1992. The position of city manager was abolished. Three-way controversies among the city manager, mayor, and city council were judged to have hindered efforts to deal effectively with the budget. The mayor's term was increased from 2 to 4 years and the mayor was given enhanced power over the budget and political appointments, previously vested in the city manager. The current mayor, Terrence Zaleski, elected in 1991, is the first to serve under the new rules. Part of Yonkers' recent difficulties in obtaining the required certification of its budget by the State comptroller stems from political differences be-

tween the Republican city council and the Democratic mayor which each propose their own version of the city budget and between the Republican council and the State Control Board appointed by the previous Democratic Governor of New York, Mario Cuomo. The newly elected Republican Governor George Pataki has not yet appointed new members to the Financial Control Board.

In Philadelphia, Mayor Wilson Goode was in the third year of a four-year term in June 1991 when the city reached its debt limit and the Pennsylvania Intergovernmental Cooperation Authority was established. In November 1992, Philadelphians elected a new mayor, Edward Rendell, who was committed to bringing the city under better managerial control. Philadelphia achieved a small general fund surplus in fiscal years 1993 and 1994.

In New York City, Abraham Beame was in the second year of his 4-year term as mayor when the New York City fiscal crisis erupted in the summer and fall of 1975. While Mayor Beame remained in office until the end of his term, budgetary power was effectively transferred to the deputy State comptroller for the City of New York and the Emergency Financial Control Board chaired by Governor Hugh Carey. The authority of the Control Board during the 1975–78 emergency period has been described as "effective receivership over the city's budget and spending decisions." Edward Koch was elected mayor in November 1977.

In Chicago, the school's superintendent and the School Board president at the time that the School Board's bond ratings were lowered in November 1979 both resigned before the School Finance Authority was established in 1980.

The Committee finds that the foregoing discussion provides an ample foundation for the consideration and enactment of H.R. 1345.

IV. Explanation of the Bill

Section 1. Short Title; Table of Contents.—Subsection (a) establishes the short title, and subsection (b) sets forth the table of contents.

Section 2. Findings; Purpose.—Subsection (a) provides that the Congress finds that: financial problems and management inefficiencies of the D.C. Government have led to a deterioration of services and a migration of residents and businesses out of the District; these problems must be resolved over a multi-year period; Congress must act to restore the District's ability to borrow from private capital markets; and failure to act could adversely effect the efficient operation of the Federal government.

This legislation is a display of Congress's commitment to the District of Columbia. Strong action is being taken to assure the fiscal health of the District of Columbia in both the short and the long-term. Existing holders of District of Columbia debt should feel confidence in the future from this legislation.

Subsection (b) provides that the purposes of this bill are to address and cure the fiscal, financial, management, and economic problems of the District of Columbia government. It also addresses the need to enhance the District's standing and access in the credit and capital markets.

The District is the only city in the United States which funds state, county and municipal functions. The District pays the state, county and municipal portions of many costly federal programs. Medicaid is a prominent example. Very few cities pay for Medicaid costs and many states have sought relief from these costs. One in four District residents benefit from Medicaid. Another example is the prison system. Cities generally fund lockups but states fund prisons. In the course of writing this bill, the Treasury and the investment services indicated that the District's position would be strengthened by some indication that Congress was willing to consider funding some of the District's state and county responsibilities. A hearing has been held by the Subcommittee on the future of the Lorton prison facility and another has been scheduled. The Congress has indicated the need for the District to take substantial initiative on its own problems before federal relief will be considered. The Committee hopes that the imposition of this Authority will move the District decisively in that direction.

Subsection (c) Establishes as rules of construction that nothing in this Act relieves any existing obligation to repay borrowed funds, or limits the constitutional authority of the Congress over the District.

TITLE I—ESTABLISHMENT AND ORGANIZATION OF AUTHORITY

Section 101. District of Columbia Financial Responsibility and Management Assistance Authority.—Subsection (a) prescribes that the Authority is established under Congress' plenary power of exclusive legislation concerning the District of Columbia. While the Authority is established as part of the District of Columbia government, it is the Committee's strong intent that the Authority shall function and operate in an independent oversight capacity.

Subsection (b) provides that the Authority's five members are to be appointed by the President, in consultation with the chairs of the House and Senate Appropriations Committees, the House Government Reform and Oversight and Senate Governmental Affairs Committees, and the Delegate from the District of Columbia, for an initial term of three years. The President shall designate one member as the chair.

Subsection (c) provides that members of the Authority must have knowledge and expertise in finance, management and the organization or operation of business or government. The members must not provide goods or services to the District Government; not be an officer or employee of the District government; and during the most recent taxable year have paid personal income or business taxes to the District government.

Subsection (d) provides there shall be no compensation for service, but allows reimbursement for reasonable and necessary expenses.

Subsection (e) provides that the Authority shall adopt by-laws, rules, and procedures governing its activities and will be subject to District of Columbia rules and regulations as it considers appropriate. The Committee specifically recommends that the District of Columbia government procurement, personnel, and contracting rules not be adopted by the Authority. The Committee further rec-

ommends that the Authority maximize its independence from the District government.

Section 102. Executive Director and Staff of Authority.—Provides that the Authority shall have an Executive Director appointed by the chair with the consent of the Authority. The Executive Director may appoint such staff as necessary with the approval of the chair. The Committee intends that the professional staff be held to the minimum level necessary to accomplish the Authority's duties. The Authority budget must be appropriated by Congress which intends to review each item carefully. Provides that civil service laws on competitive appointments, classification, and pay shall not apply to the Executive Director and staff. Upon request of the chair, the head of any Federal agency may detail personnel to assist the Authority. The Committee hopes that both the District government and the Authority utilize federal detailees for their expertise in specific areas of need in the District government.

Section 103. Powers of Authority.—Provides for holding hearings and obtaining data from Federal and DC agencies.

Subsection (e) provides subpoena power and for application to U.S. Courts for orders to enforce subpoenas.

Subsection (f) provides that upon request, GSA may provide administrative support services on a reimbursable basis.

Subsection (g) provides that the Executive Director may enter into contracts.

Subsection (h) provides that the Authority may seek judicial enforcement of its authority to carry out its functions.

Section 104. Exemption From Liability for Claims.—Exempts Authority and its members from liability for any obligation or claim against DC resulting from actions taken under this Act.

Section 105. Treatment of Actions Arising from Act.—Provides that any action taken against the Authority or arising out of this Act shall be brought in federal court and receive expedited consideration.

Section 106. Funding for Operation of Authority.—Subsection (a) provides that the Authority shall submit a proposed budget for each fiscal year to the President for inclusion in the annual budget of the District government not later than May 1st, but for FY 1996, not later than July 15, 1995. No amount may be obligated or expended by the Authority unless it has been appropriated by Congress.

Subsection (b) provides that soon after the appointment of its members, the Authority shall submit to the Mayor and President a description of the Authority's anticipated expenditures for FY 1995, and a request for reprogramming of funds previously appropriated to the District government. While the Committee is sensitive to the District government's concern on this matter, it is imperative that the Authority be able to utilize already appropriated funds as start-up funding. Once the Authority is operating and the expected borrowing is underway, the Authority will be funded completely from interest earned on funds in its escrow accounts.

Subsection (c) points to sections 204(b)(1)(A) and 213(b)(3) for provisions describing sources of additional funds available for the authority's operations.

Section 107. Suspension of Activities.—12 months after the financial obligations of the Authority are discharged, it shall suspend activity and the terms of its members shall expire, but this does not apply in a control year. The President may reactivate the Authority upon being notified by the chairs of the house and Senate appropriation committees that the proper conditions exist and appoint new members if a control period is initiated any time after a suspension of activity has occurred.

Section 108. Application of Laws of District of Columbia to Authority.—The Committee intends that the laws of the District shall automatically apply to the Authority only as listed here and that otherwise, as listed in subsection 101(e) above, only insofar as the Authority chooses. Neither the Mayor or the Council may exercise control or supervision over the Authority, nor may they enact any law or rule with respect to it. Subsection (d) provides that in any action brought by or on behalf of the Authority, it shall be represented by such counsel as it may select, but in no case by the Corporation Counsel of the District of Columbia.

TITLE II—RESPONSIBILITIES OF AUTHORITY

Subtitle A—Establishment and enforcement of financial plan for district government

Section 201. Development of Financial Plan and Budget for District of Columbia.—Provides that for each fiscal year of a control period, the Mayor shall develop and submit a financial plan to the Authority. The plan shall cover the applicable fiscal year and the next three fiscal years, and shall contain specified information and also meet standards described in subsection (c). The Committee expects the Authority to set the format of the financial plan and to set up schedules and guidelines for the District government. The Committee further expects that considerable interaction between the Authority and the District government will enhance the District government's ability to design an appropriate plan and to meet the schedule necessary to comply with other provisions of the legislation.

Subsection (d) repeals offsets against the Federal Payment provided for in section 138(c) of the FY 1995 Appropriations Act. The Committee notes that this provision affects the Appropriations Committee's language contained in the FY 1996 District of Columbia Appropriations Act. The penalties imposed in that Act were designed to deal with a situation that has now been overtaken by events and the creation of this Authority addresses the long-term problem that the Appropriations Committee was concerned with. The Committee appreciates the indulgence of the Appropriations Committee in this emergency situation.

Section 202. Process for Submission and Approval of Financial Plan and Annual District Budget.—Subsection (a) provides that a financial plan and budget should be submitted to the Authority and the Council by February 1 preceding a fiscal year of a control period.

Subsection (b) provides that the Authority shall promptly review the financial plan and budget.

Subsection (c) provides that if the financial plan and budget is approved by the Authority, the Authority shall certify this to the Mayor, Council, President, and Congress.

If the Authority fails to give notice of its action on the financial plan within 30 days, it shall be deemed approved. It shall provide the Mayor, Council, President, and Congress with an explanation for its failure to provide notice.

Not later than 30 days after receiving notice of the Mayor's financial plan and budget or revised plan being approved or, if both the Mayor's preliminary and revised plan have been rejected, a plan recommended by the Authority, the Council shall by Act adopt the financial plan and budget of the District government for the fiscal year and submit such financial plan and budget to the Authority.

If the Authority determines that the financial plan and budget for the fiscal year submitted by the Council meets requirements under section 201, it shall approve the financial plan and budget and provide the Mayor, Council, President, and Congress with certification of its approval. The Council shall submit the financial plan and budget to the Mayor, the President and Congress.

If the Authority determines that the financial plan and budget does not meet the requirements of section 201, it shall disapprove the financial plan and budget and provide the above parties with reasons and any recommendations for revisions.

If the Authority fails to give notice of its action on the financial plan and budget within 15 days after receipt from the Council, they shall be deemed approved, and the Authority shall provide the Mayor, Council, President, and Congress with an explanation for its failure to provide notice.

Not later than 15 days after receiving notice from the Authority that the financial plan and budget is disapproved, the Council shall submit a revised financial plan and budget to the Mayor and the Authority. If the revised financial plan and budget is approved, the Authority shall notify the above parties of such, and the Council shall then submit the revised financial plan and budget to the Mayor for transmission to the President and Congress.

If the revised financial plan and budget is disapproved, the Authority shall notify the parties and provide them reasons for such disapproval, and shall submit a recommended financial plan and budget to the Mayor, Council, President, and Congress. The Counsil shall submit the disapproved revised financial plan and budget to the Mayor for transmission to the President and Congress.

If the Authority fails to give notice of its action on the revised financial plan and budget within 15 days, it shall be deemed approved. The Authority shall provide an explanation for its failure to give notice.

Not later than June 15 preceding each fiscal year which is a control year, the Authority shall: provide Congress with notice certifying its approval of the Council's initial financial plan and budget; provide notice certifying approval of the Council's revised financial plan and budget; or submit to Congress a recommended financial plan and budget for the District government.

Subsection (d) provides that if the financial plan and budget is disapproved by the Authority, it shall provide the Mayor and Council the reasons for such disapproval and recommendations for revisions.

Not more than 15 days later, the Mayor shall submit to the Authority and the Council a revised financial plan and budget. If the Authority approves the revised financial plan and budget, it shall certify same to the Mayor, Council, President, and Congress, and the Mayor shall submit the revised financial plan and budget to the Council.

If the Authority disapproves the Mayor's revised financial plan and budget, it shall provide the above parties with a statement containing the reasons for such disapproval and recommended a financial plan and budget which it shall submit to the Mayor and Council. In addition, the Mayor shall submit the revised financial plan and budget disapproved by the Authority to the Council.

If the Authority fails to give notice of its action on the revised financial plan within 15 days of receipt, it shall be deemed approved. The Authority shall provide the Mayor, Council, President, and Congress with an explanation for its failure to provide notice.

Not later than 30 days after receiving the Mayor's approved revised financial plan and budget, or the financial plan and budget recommended by the Authority, the Council shall by Act adopt the financial plan and budget of the District government for the fiscal year and submit such financial plan and budget to the Mayor and the Authority.

The financial plan and budget submitted by the Council shall be reviewed by the Authority and revised by the Council in the same manner as provided in paragraphs (3), (4), and (5) of subsection (c) above.

The Committee understands the complicated nature of the budget process prescribed in this Act, however, every effort has been taken to remain within the parameters of the Home Rule Act while retaining adequate time for Congress to act on the necessary appropriations bill. The Committee insisted that the Mayor and Council have two turns at every stage of the budget process and was forced to compress the veto provisions of the Home Rule Act in order to maintain the necessary timeline. Otherwise, the process may have been easier or cleaner, but more violence would have been done to existing District government procedures.

Subsection (e) permits the Mayor to submit to the Authority proposed revisions to the financial plan and budget for a control year at any time during the year.

Subsection (f) amends section 603 of the Charter to permit the District to submit an unbalanced budget for a fiscal year which is consistent with the financial plan for that year. This subsection also sets forth an expedited veto provision during a control year.

Subsection (g) amends D.C. Code sec. 31–103, and section 452 of the Charter to permit the Mayor and Council to specify the purposes and amounts of expenditures within the annual budget for the Board of Education during a control year. The Committee understands the sensitive policy issues involved in this provision, however, the School Board budget is a significant portion of total District spending and its fiscal and management practices have

been called into question by numerous sources. The Committee fully intends that the Authority will carefully examine the operations of the School Board and include it in the necessary actions to solve the District's budget, fiscal, and management problems.

Subsection (h) amends section 422(3) of the Charter (which pertains to the District's merit personnel system for pre-1980 employees) to provide that nothing shall prevent the District from separating an officer or employee subject to such system "in the implementation of a financial plan" approved pursuant to this Act. The Committee intends to waive the current "super" status of pre-1980 employees just as was done in 1991, during the last fiscal crisis. The Committee fully expects that this waiver will be more forcefully and completely utilized on this occasion than was done in 1991.

Section 203. Review of Activities of District Government to Ensure Compliance with Approved Plan and Budget.—Subsection (a) provides that each Act passed by the Council and approved by the Mayor (or allowed to take effect without the Mayor's signature) during a control period shall be submitted to the Authority for review to determine whether it is consistent with the financial plan and budget.

If the Act is approved by the Authority, it shall notify the Council and the Council shall submit the Act to Congress for review pursuant to section 602(c)(1) of the Charter.

If the Authority determines that an Act is significantly inconsistent with the financial plan and budget, it shall notify the Council and provide reasons, and may provide recommendations for modifications.

The Authority shall have no authority to approve or disapprove emergency legislation. The Council may not submit any act to the Congress which has been found by the Authority to be significantly inconsistent with the applicable financial plan and budget.

If the Authority failed to notify the Council of its action within seven days of receipt, the Act shall be deemed approved. At its option, the Authority may take an additional seven days if it so notifies the Mayor and Council within the first 7 days.

At the request of the Council, the Authority may conduct preliminary review of proposed legislation to determine its consistency with the financial plan and budget.

It is the Committee's intent by this provision that proper care will be taken by the Council to understand and plan for the fiscal implications over several years of new legislative action. This would include legislation reducing expenditures as well as legislation increasing expenditures.

The Committee expects the Authority to set up a procedure to quickly determine whether legislation has a fiscal impact or not and to expedite certification of non-fiscal matters. Particularly because of the Congressional review requirement, the Committee intends that the Authority will act to minimize unnecessary delay in implementing Council acts. The Committee explicitly states that the Authority is not to review legislation on a policy basis except as that policy affects or contains fiscal implications and impacts.

Subsection (b) provides that during a control year, any labor contract, or other type of contract or lease the Authority may specify, which the Mayor proposes to enter into must be submitted to the

Authority for prior approval. The proposed contract or lease may not be entered into unless the Authority determines that it is consistent with the financial plan and budget for the fiscal year.

The Committee anticipates that the Authority will inject itself into the normal contracting process of the District government only to the extent necessary to ensure excellence in that procedure. The Committee insists that the Authority have the power necessary to accomplish the purposes of the legislation. If the Authority determines that it should look at significant numbers of District contracts then it has the power to do so. As the District government's performance improves it is anticipated that the Authority will be able to reduce its burden in this area.

The Authority may require the Mayor to submit for its review any other contract or lease entered into during a control year which is executed after the Authority has approved the financial plan and budget for the year. If the Authority determines it is not consistent with the financial plan and budget, the Mayor shall take such actions as are within the Mayor's powers to revise the contract or lease, or shall submit to the Authority a proposed revision to the financial plan and budget so that the contract or lease will be consistent.

The Authority may also require the Mayor to submit for its review any proposal to renew, extend, or modify a contract or lease in effect during FY 1995 to determine if it is consistent with the budget for that year approved under the FY 1995 Appropriations Act.

It is vitally important to begin to make substantial reductions in spending as soon as possible. The District government should not hesitate to move decisively on contracting and all other spending areas. "Waiting for the Authority" is not a reasonable approach for either the District executive or legislative branch to adopt at this time.

In the case of a contract which is subject to the approval by the Council, the Mayor shall submit such contract to the Authority only after the Council has approved the contract.

Subsection (c) provides that if the Mayor submits a reprogramming request to the Council during a control year, it must also be submitted to the Authority for review. The Council may not adopt a reprogramming until the Authority has provided the Council with its analysis of the reprogramming's effect on the financial plan and budget.

This legislation amends the current budget process to require that all reprogramming be approved by the Council and that any increased spending in one area be offset with real reductions in another. The Council must be confident that the proposed offsets are adequate and that no overall increase in spending authority will be created. Therefore, the Authority must analyze the proposal so that the Council can have approved "scoring" before it acts.

Section 204. Restrictions on Borrowing by the District During Control Year.—Subsection (a) provides that the District government may not borrow money (including funds from the Treasury) during a control year unless the Authority certifies that the receipt of funds through such borrowing and the repayment of obligations incurred through such borrowing are consistent with the financial

plan and budget for the year. If the borrowing is found to be inconsistent with the financial plan and budget, the Mayor may submit to the Authority a proposed revision to the financial plan and budget so that the borrowing will be consistent.

During the 45 days following the appointment of the Authority's members, the District government may borrow from the Treasury without prior approval of the Authority. During the portion of FY 1995 which follows the above 45-day period, the District government may borrow from the Treasury if the Authority finds that the borrowing is necessary to meet the District's needs and that the District is making progress toward meeting its responsibilities under this Act.

Subsection (b) provides that, beginning with FY 1996, any funds borrowed from the Treasury during a control year shall be deposited in an escrow account held by the Authority which shall expend a portion of the funds for its operations during the year in which the funds are borrowed, and allocate the remainder of such funds to the Mayor as it considers appropriate, consistent with the financial plan and budget for the year, and any withholding of funds pursuant to this Act.

Subsection (c) amends Title VI of the District of Columbia Revenue Act of 1939 (D.C. Code 47–3401) by striking all after the heading and inserting the following:

> Sec. 601. Transitional Provision for Short-Term Advances.—Subsection (a) provides that the Secretary of the Treasury shall advance funds from time to time, out of money in the Treasury not otherwise appropriated, for the assistance of the District government in meeting general expenditures, as authorized by Congress. Advances shall be made subject to certain conditions, but no later than September 30, 1995. The District must demonstrate it is unable to obtain credit in the public credit markets. The Secretary must determine that there is reasonable assurance of reimbursement for the advance from the amount authorized to be appropriated for the Federal Payment. Each advance shall be in an amount designated by the Mayor, and shall, if for the purpose of meeting general expenditures, be subject to limits set by the bill. Any advance made before October 1, 1995, shall mature not later than October 1, 1995. The funds advanced shall be deposited with the District government unless the Authority requests that the Secretary deposit these funds with the Attorney.
>
> Subsection (b) provides that advances made after October 1, 1995 are permitted, but are subject to similar conditions, though later deadlines. The aggregate maximum amount outstanding under this subsection for FY 1996 is the amount authorized to be appropriated as the annual Federal Payment for FY 1996.
>
> Section 602. Short-term Advances for Seasonal Cash Flow Management.—Subsection (a) provides that the Secretary of the Treasury may advance funds to the District government for the purpose of meeting its general expendi-

tures, as authorized by Congress, at times of seasonal cash-flow deficiencies.

Subsection (b) applies the same conditions as set forth in Section 601 above.

Subsection (c) provides that the amount of all advances under this section shall not be greater than 100% of the amount authorized for the Federal Payment for the following fiscal year.

Section (d) provides that the latest maturity date of an advance under this subsection shall be not later than 11 months after the advance was made.

Subsection (g) provides that advances made under this section shall deposited by the Secretary with the Authority.

Section 603. Security for Advances.—The Secretary may require such security for these advances as the Secretary deems appropriate.

Section 604. Reimbursement to the Treasury.—With certain exceptions, the District government shall repay the advances made out of taxes and revenue collections. If on any date when a reimbursement payment is due to the Treasury, the District fails to make reimbursement, the Secretary shall withhold the amount due from the annual Federal Payment, or if this is not sufficient to obtain full reimbursement, the Secretary shall withhold from each grant, entitlement, loan or other payment to the District, not dedicated to making entitlement or benefit payments to individuals, an amount necessary to fully reimburse the Treasury for the payment not made. If this is not sufficient, the Secretary shall attach any and all revenues of the District and apply them toward reimbursement.

Section 605. Definitions. Various terms are defined for the purposes of the amendment made by subsection (c) of section 204 of this Act.

Subsection (d) provides that any funds allocated by the Authority to the Mayor from funds in the Authority's account shall only be expended in accordance with the terms and conditions set by the authority.

Subsection (e) provides that for the purposes of title VI of the District of Columbia Revenue Act of 1939, amounts expended for the operation of the Authority shall be considered amounts expended for the support of the District government.

Section 205. Deposit of Annual Federal Payment With Authority.—Provides that during a control year, the Secretary shall deposit the annual Federal Payment with the Authority which shall allocate the funds to the Mayor in accordance with such terms and conditions as it considers appropriate to implement the financial plan for the year.

Section 206. Effect of Finding of Non-Compliance with Plan.—Subsection (a) provides that not later than 30 days after each quarter, the Mayor shall submit reports to the Authority describing the actual revenues obtained, expenditures made, and cash flows during the quarter.

Subsection (b) provides that if the Authority determines based on information it may obtain that the revenues or expenditures of the district during a control period are at variance with the financial plan and budget for the year, the Authority shall require the Mayor to provide additional information to explain the inconsistency.

Subsection (c) provides that if, after receipt of an explanation from the Mayor, the Authority shall notify the President, Secretary of the Treasury, and congress of the variance, unless it finds the Mayor's explanation reasonable or the Mayor proposes remedial action which the Authority finds appropriate and consistent with the financial plan and budget, and the Mayor agrees to submit such reports as the Authority may require.

Subsection (d) provides that if a variance is certified to exist, the Authority may withhold any funds deposited with it under section 204(b) or 205 which would otherwise be expended on behalf of the District. In addition, the Secretary of the Treasury may withhold any funds otherwise payable to the District under such Federal programs (other than entitlement programs) as the Authority may specify.

Section 207. Recommendations on Financial Stability and Management Responsibility.—The Committee expects that some of the most important work of the Authority will be in working with the District government and designing recommendations to improve the operation of the District government whether that is in an area of direct financial impact or one of indirect impact by improving the efficiency of District employees or redesigning the District's government structure. The Committee urges both the District government and the Authority to take this section seriously and to strive to work together to improve the District government as the necessary changes are made.

Subsection (a) provides that the Authority may at any time submit recommendations to the Mayor, Council, President, and Congress, on action the District or Federal governments may take to ensure compliance with the financial plan or to otherwise promote the financial stability, management responsibility, and service delivery efficiency of the District. A nonexclusive list of eight areas of recommendations is presented.

Subsection (b) provides that not later than 90 days after receiving a recommendation from the Authority submitted under subsection (a), that Mayor and council shall notify the Authority, President, and Congress whether the District government will adopt the recommendation. If so, the Mayor shall provide a written plan to implement the recommendation. If not, the Mayor and Council shall provide explanations for the refusal to adopt the recommendation.

Subsection (c) authorizes the Authority to take such action as it deems appropriate, with respect to any recommendation it has made to the District government which the Mayor or Council has indicated will not be adopted. Under subsection (b), the Authority must be notified of this decision within 90 days of the recommendation's submission. If the District government fails to make the required notification, the Authority may treat such failure as an indication that the recommendation will not be adopted. Also, if the

District government does notify the Authority that it will adopt the recommendation, and then fails to do so to the satisfaction of the Authority, the Authority may take appropriate action under subsection (c).

In the aforementioned instances, the Authority, after consulting with the chairmen of the House Committee on Government Reform and Oversight and the Senate Committee on Governmental Affairs, may take any action to implement its recommendation which the Mayor or Council has the authority to take. This includes, but is not limited to, structural reforms, personnel actions, and the enactment of local ordinances (with the same review by Congress as if enacted by the Council).

Section 208. Special Rules for Fiscal Year 1996.—Subsection (a) provides that not later than 45 days after the appointments of its members, the Authority shall review both the proposed FY 1996 budget and the multi-year plan which the District submits to Congress pursuant to the sections 446 and 443 of the Charter. The Authority shall submit any recommendations for modifications to such financial plan and budget to the Mayor, Council, President, and Congress.

Not later than 15 days after receiving such recommendations, the Council, in consultation with the Mayor, shall adopt a revised budget and submit this "transition budget" to the Authority, President, and Congress.

Not later than 15 days after it receives this "transition budget" from the Council, the Authority shall submit a report to the Council, President, and Congress containing its analysis and any recommendations for revisions.

Subsection (b) provides that the Mayor shall submit a financial plan and budget for FY 1996 to the Authority as soon as practicable after enactment of this Act. In accordance with the procedures applicable under section 202 of this Act, the Council shall adopt the financial plan and budget for FY 1996 prior to the submission to the Authority of the FY 1997 financial plan by the Mayor. Upon adoption of the FY 1996 financial plan and budget by the Council, it shall be submitted to Congress as a supplemental budget request for FY 1996. Until the Congress enacts the financial plan and budget for FY 1996, the transition budget (as enacted by Congress) shall serve as the financial plan for FY 1996.

Subsection (c) provides that during each month of FY 1996 that precedes the adoption of the financial plan for that year, the Authority shall determine whether the Mayor is making appropriate progress in developing the financial plan and budget. If it finds that the Mayor is not, it shall certify same to the President and Congress. Such a certification may be cancelled if progress is found. At any time such a certification is in effect, the Authority may withhold funds from the Mayor.

Section 209. Control Periods Described.—Subsection (a) provides that a control period is initiated whenever: (1) the Mayor borrows from the Treasury; (2) the District government fails to provide sufficient revenue to a debt service reserve fund of the Authority; (3) The District government defaults on any loans, bonds or other borrowing; (4) the District fails to meet payroll; (6) the existence of a cash deficit at the end of any quarter in excess of the difference be-

tween the estimated revenues and the estimated expenditures of the District during the remainder of the fiscal year together with the first six months of the succeeding fiscal year; (7) the failure of the District to make required payments relating to pensions and benefits of former and current employees; (8) or the failure to make required payments to any entity established under an interstate compact to which the District is a signatory.

Events that would trigger reactivation of a control period under this section are modeled on the New York board legislation. The provision contemplates a state of financial affairs in the District that it is expected would not recur after the control period. Only if the District were substantially headed in the direction it now finds itself would the triggers apply. The standards for the provisions are important, however. They provide an objective, non-political and automatic reactivation of the Authority without the need for congressional intervention. Some of the triggers are designed to alert the Authority in time to prevent the serious financial condition the District finds itself in today. Others, such as the need to borrow from the Treasury, assure that the Authority would be up and running in time to accomplish the District's needs.

Subsection (b) provides that a control period terminates when the Authority certifies that the District has adequate access to both short-term and long-term credit markets at reasonable rates to meet its borrowing needs, and for four consecutive years the District's expenditures did not exceed its revenues.

Subsection (c) provides that a control period exists upon enactment of this Act.

Subtitle B—Issuance of bonds

The Authority is set up under Congress's constitutional power over the District of Columbia as part and its government. Although the Authority is separate and apart from the District government for functional purposes, the Committee expects that the Authority will receive the same tax-exempt municipal bond status as the District government already enjoys.

Section 211. Authority to Issue Bonds.—Provides that the Authority may, at the request of the Mayor and pursuant to an act of the Council, issue bonds, notes, or other obligations to borrow funds for the use of the District government, in such amounts as the Authority considers appropriate. Any funds obtained through such borrowing shall be deposited with the Authority, which shall disburse such funds to the District at such times and in such amounts as it considers appropriate, consistent with the specified purposes of such funds and the financial plan and budget.

It is not the intent of this Act to limit or impede the authority of independently constituted agencies or instrumentalities with dedicated revenue streams (such as the Washington Convention Center Authority and the Housing Finance Agency) to borrow funds at the open market for their stated purposes.

The Committee believes that the proposed new sports arena will be of fiscal and economic benefit to the District and, in addition, can be the cornerstone for highly beneficial new business development in the downtown area. The Committee favors the actions which have been taken and are being taken by the District to bring

the arena project to fruition at the earliest practicable date. Accordingly, the Committee supports the District's current efforts to finance the one-time costs of its obligations under the agreement with a new Arena Tax and bank loans supported thereby, and it is the intent of the Committee that the Authority will do nothing to oppose these efforts.

Section 212. Pledge of Security Interest in Revenues of District Government.—Provides that the Authority may pledge or grant a security interest in District revenues (including payments from the Federal government) to individuals or entities purchasing bonds, notes, or other obligations issued by it. The Authority may direct the Mayor to pledge or direct taxes or other revenues upon their collection to the Authority for this purpose.

Section 213. Establishment of Debt Service Reserve Fund.—The Authority shall establish a debt service reserve fund, consisting of such funds as the Authority may make available, to be used for the payment of principal and interest on bonds secured in whole or part by such fund. The Authority shall establish a minimum reserve fund requirement for this fund, and may not withdraw funds below the minimum requirement.

Section 214. Other Requirements for Issuance of Bonds.—The Authority may not issue bonds, notes, or other obligations, secured in whole or part by its debt service reserve fund if it would cause the amount in the fund to fall below the minimum reserve amount set by the Authority. Any amounts provided to the District government through the issuance of bonds, notes or other obligations, shall be taken into account in determining whether the District has reached its debt limit.

Section 215. No Full Faith and Credit of the United States.—Provides that the full faith and credit of the United States is not pledged for the payment of any principal of or interest on any bond, note, or other obligation issued by the Authority. The United States is not liable for any such payments.

Subtitle C—Other powers of authority

Section 221. Duties of Authority During Year Other than Control Year.—Subsection (a) provides that during the period beginning upon the termination of a control period and ending with the suspension of its activities, the Authority shall conduct the following activities: (1) review budgets adopted by the Council; (2) prior to enactment of the budget by the Congress, prepare a report analyzing it and submit it to the Mayor, Council, President, and Congress; (3) monitor the financial status of the District government and submit reports to the Mayor, Council, President, and Congress; and, (4) carry out responsibilities with respect to outstanding bonds, notes, and other obligations of the of the Authority.

Section 222. General Assistance in Achieving Financial Stability and Management Efficiency.—Provides that the Authority may undertake cooperative efforts to assist the District government in achieving financial stability and management efficiency, such as maintaining sound budgetary practices, avoiding interruptions in services, improving the delivery of services and the efficiency of management and supervision, and making recommendations to the President for transmission to the Congress on changes to this Act,

or other Federal laws, or other actions of the Federal Government, which would assist the District government in complying with an approved financial plan and budget.

Section 223. Obtaining Reports.—The authority may require the Mayor to submit reports on any financial or operational matter it desires.

Section 224. Reports and Comments.—Subsection (a) provides that the Authority shall submit an annual report to Congress on the progress made by the District in meeting the objectives of this Act during the fiscal year.

Subsection (b) provides that the Mayor shall also submit any report required to be submitted pursuant to section 456 of the Charter to the Authority for review. The Authority shall submit a report to Congress analyzing the completeness and accuracy of such reports.

Subsection (c) provides that at anytime during a control year, the Authority may submit a report on any action taken by the District government which it determines will adversely affect its ability to comply with the financial plan or will have an adverse impact on the best interests of the District.

Subsection (d) provides that at any time during the control period, the Authority may submit a report to the Mayor, Council, the President, and Congress on the effect of laws enacted [or proposed to be enacted] by Congress on the financial stability and management efficiency, financial plan and budget for the year, and on the District in general. Any such reports shall be available to the public.

TITLE III—MISCELLANEOUS PROVISIONS

Section 301. Other District Budget Reforms.—Subsection (a) provides that all funds, including grant funds, shall be included in the budget request of the District government.

The Committee strongly believes that the District of Columbia budget process has been seriously flawed and has contributed to the current distress of the District. For this reason, it is necessary to insist that the District of Columbia adopt a budget process where all funds are appropriated. In this fashion, the Council and the citizens of the District can easily understand the budget and can effectively deal with its entirety rather than continue to deal with it piecemeal as is now the case.

Subsection (b) provides for restrictions on the reprogramming of funds. Any reprogramming request which the Mayor submits to the Council which provides for additional expenditures must be offset by reductions in another area.

Subsection (c) provides that the Mayor shall submit to the Council a proposed supplemental or deficiency budget recommendation if the Council, by resolution requests.

Subsection (d) provides that the Council shall submit an estimate of costs with each Act transmitted for review which covers each of the first years the new law is in effect.

Subsection (e) provides for the reauthorization of the Federal Payment through FY 1999.

The Committee would have preferred not to authorize additional expenditures in this legislation. As the process came together to

provide adequate and certain support to the District while imposing the Authority into the governmental process it became apparent that the lack of an authorized Federal payment for the District after FY1996 was a significant obstacle. Specifically, the Treasury would not be allowed to secure its loans to the District in a fashion that the Congressional Budget Office would not "score" for budget accounting purposes if there were no authorized payment in future years. Therefore, the Committee reluctantly has reauthorized the current Federal payment through 1999.

Section 302. Establishment of Chief Financial Officer of District of Columbia.—Subsection (a) amends the Charter to add a new section 424 establishing an Office of the Chief Financial Officer which shall be headed by the Chief Financial Officer (CFO) of the District of Columbia. The Office shall include the Office of the Treasurer, Controller, Office of the Budget, Office of Financial Information Services, and Department of Finance and Revenue. The Treasurer is to be appointed by the CFO.

The subsection further provides that the CFO shall be appointed by the Mayor with the advice and consent of the Council, except that during a control period the Mayor shall consult with the Authority prior to nominating a candidate, the Council shall only review the nominee and the appointment shall be subject to confirmation by the Authority. The CFO shall be subject to firing for cause by the Mayor, except that during a control year, the Mayor may not remove the CFO without the consent of the Authority or the Authority may remove the Chief Financial Officer for cause. The CFO shall be paid at a rate determined by the Mayor, not to exceed Executive Level IV. The Committee expects the Mayor to recognize the vital role that the CFO will play in the implementation of this legislation and will compensate that person at the highest possible level.

The subsection further provides that during a control year, the CFO shall: prepare the financial plans; prepare the budgets; assure that all financial information presented by the Mayor is consistent with the requirements of this Act; implement appropriate procedures and systems to ensure that budgeting, accounting, and personnel control systems are synchronized; prepare estimates of revenues which shall be binding on the Mayor and Council; supervise financial transactions; maintain systems of accounting; assume responsibility for the assessment of all property and for the levy and collection of all taxes; maintain custody of all public funds; maintain custody of all invested funds; apportioning the total of all appropriated funds so as to prevent a deficiency; certify all contracts as to the availability of funds; approve the payment of all bills and payrolls; and perform internal audits of accounts and operations.

The subsection further provides that at all times, the CFO shall: supervise the Treasurer; administer all borrowing programs; administer the cash management program; administer the payroll and retirement systems; and prepare appropriate annual, quarterly, and monthly financial reports. This legislation in no way changes the functioning of the Retirement Board or its fiduciary responsibility for those funds under its control.

Finally, the subsection provides that at all times the Treasurer shall assist the CFO in reporting revenues received, and perform such other functions as assigned by the CFO.

Subsection (b) provides that the Mayor may not delegate any functions assigned to the CFO, without regard to whether such functions are assigned during a control year of any other year.

Subsection (c) provides that D.C. Law 3–318 (D.C. Code 47–314 et seq.) is repealed.

Section 303. Revisions to Powers and Duties of Inspector General of District of Columbia.—Subsection (a) establishes the Office of Inspector General, to be headed by an Inspector General (IG) appointed by the Mayor with the advice and consent of the Council except that in a control year the Mayor shall consult with the Authority prior to nominating a candidate, the Council will have a limited review, and the Authority must confirm the appointment. The IG serves for a term of six years. The IG shall be paid at a rate determined by the Mayor, except that it shall not exceed Executive Level IV.

The IG shall prepare and submit to the Mayor annual estimates of the expenditures and appropriations necessary for the operation of the Office for the year for inclusion in the District's annual budget. The Mayor shall forward the IG's estimates to the Council without revision but subject to recommendations. The Council may comment and make recommendations concerning the estimates, but shall have no authority to revise them.

Upon receipt of the Federal Payment, the Mayor shall deposit a portion of the Payment equal to the estimated amount necessary for the IG's Office into a dedicated fund within the District government. Such amount shall be paid to the IG by the Mayor in such installments and at such times as the IG requires.

Thirty days before the beginning of a fiscal year, the IG shall prepare a plan for audits to be conducted. The IG shall contract with an independent auditor to audit the financial statement and report.

The IG shall have subpoena power to obtain testimony and the production of evidence relating to a matter under investigation.

The IG shall report to the Authority, the Mayor and the Council during a control period. When not in a control period, the IG shall report to the Mayor and Council. The IG's reports shall be available to the public.

Section 304. Council Approval of Certain Contracts.—Provides that no contract involving expenditures in excess of $1,000,000 during a 12 month period may be made unless the Mayor submits the contract to the Council for its approval and the Council approves the contract. The contract shall be deemed approved by the Council if no member of the Council introduces a disapproval resolution within 10 days, or the Council does not disapprove the contract within 45 days of submission.

V. Roll Call Votes

In compliance with clause 2(l)(2)(B) of rule XI of the House of Representatives, the Committee sets forth the record of the following roll call votes taken with respect to H.R. 1345:

COMMITTEE ON GOVERNMENT REFORM & OVERSIGHT, 104TH CONGRESS, ROLL CALL

Date: March 30, 1995.
Final Passage of H.R. 1345.
Offered By: Mr. Davis.

Name	Aye	Nay	Present	Name	Aye	Nay	Present
Mr. Clinger	X			Mrs. Collins—IL	X		
Mr. Gilman	X			Mr. Waxman			
Mr. Burton	X			Mr. Lantos			
Mrs. Morella	X			Mr. Wise	X		
Mr. Shays	X			Mr. Owens	X		
Mr. Schiff	X			Mr. Towns	X		
Ms. Ros-Lehtinen				Mr. Spratt	X		
Mr. Zeliff	X			Ms. Slaughter			
Mr. McHugh	X			Mr. Kanjorski	X		
Mr. Horn	X			Mr. Condit	X		
Mr. Mica	X			Mr. Peterson	X		
Mr. Blute	X			Mr. Sanders	X		
Mr. Davis	X			Mrs. Thurman	X		
Mr. McIntosh	X			Mrs. Maloney	X		
Mr. Fox	X			Mr. Barrett	X		
Mr. Tate	X			Mr. Taylor	X		
Mr. Chrysler	X			Ms. Collins—MI	X		
Mr. Gutknecht	X			Ms. Norton	X		
Mr. Souder	X			Mr. Moran	X		
Mr. Martini	X			Mr. Green	X		
Mr. Scarborough	X			Mrs. Meek	X		
Mr. Shadegg	X			Mr. Mascara	X		
Mr. Flanagan	X			Mr. Fattah			
Mr. Bass	X						
Mr. LaTourette	X						
Mr. Sanford	X						
Mr. Ehrlich	X						

Totals: 45 Ayes.

VI. Cost Estimate of the Congressional Budget Office

In compliance with clause 2(l)(3)(b) of rule XI of the House of Representatives, the Committee sets forth, with respect to H.R. 1345, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 30, 1995.

Hon. William F. Clinger, Jr.,
Chairman, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 1345, the District of Columbia Financial Responsibility and Management Assistance Act of 1995. H.R. 1345 was ordered reported by the House Committee on Government Reform and Oversight on March 30, 1995.

Based on information provided by the U.S. Department of the Treasury, CBO estimates that enactment of this bill would have little or no net impact on the federal budget over the next five years.

However, because the bill could affect the cost of mandatory direct loans, pay-as-you-go procedures would apply.

PURPOSE OF THE BILL

To assist the District of Columbia in addressing its financial problems, H.R. 1345 would (1) establish a new entity, the District of Columbia Financial Responsibility and Management Assistance Authority, to advise the District and oversee its financial activities and (2) provide the District with additional access to short- and long-term debt financing.

Responsibilities of the Authority.—The Authority would consist of five members appointed by the President in consultation with the Congress. During control periods (which are defined by section 209 of the legislation), the new Authority would review and approve annual financial plans and budgets submitted by the District. The financial plans would be required to move the District's budget into balance by 1999. In order to ensure that the actions of the District are consistent with the approved plan, the bill would require the Authority to (1) review District-passed legislation before it is submitted to the Congress, (2) approve or disapprove leases or contracts (including collective bargaining agreements) that the Mayor proposes to execute, (3) comment on budget reprogramming requests, (4) review the District's performance quarterly and report any variances between budgeted and actual transactions, and (5) approve all borrowing by the District, whether from the U.S. Treasury or in the private market. In addition, the Authority would control access to the annual federal payment to the District as well as any funds advanced to the District by the Treasury.

Credit Financing.—The bill would provide the District with two sources of borrowed funds, advances to the District from the U.S. Treasury and borrowing by the Authority in the private market.

Section 204 of the bill would amend section 47–3401 of the D.C. Code, relating to the authority of the District government to borrow from the U.S. Treasury. Under the bill, if the District is unable to obtain credit from commercial sources, it may requisition advances (subject to specified conditions and limits) in order to meet general expenditures as authorized by Congress. Transitional borrowing during fiscal years 1995 and 1996 would have to be repaid by specified dates and would be limited to the amount authorized for appropriation to the District (the annual federal payment) for the following year. For other years, Treasury funds could only be used for short-term cash-flow deficiencies (up to a maximum of 150 percent of the amount authorized for the annual federal payment for the following year) and would have to be repaid within 11 months. In all years, the Secretary of the Treasury would be required to charge interest on amounts borrowed and would be authorized to withhold from the annual federal payment or from certain federal grants any amounts needed to reimburse the Treasury if the District fails to repay its obligations. Any amounts borrowed would be deposited by the Secretary in an escrow account held by the Authority, which would have control over the timing, amount, and purpose of all withdrawals.

Section 211 of the bill would permit the Authority to issue bonds or other obligations in order to obtain funds needed by the District. Any amounts borrowed by the Authority would be deposited in an escrow account and allocated to the District as the Authority finds appropriate. The Authority would require the District to transfer to a reserve fund for debt service sufficient taxes or other revenues to redeem the Authority's outstanding debt.

IMPACT ON THE FEDERAL BUDGET

Under Article I, Section 8, of the Constitution, the Congress has the power to "exercise exclusive legislation" over the District of Columbia. Nonetheless, the local receipts and expenditures of the District of Columbia have been excluded from the Federal budget since 1968, in accordance with the recommendation of the President's Commission on Budget Concepts. Because the proposed Authority would be created as part of the federal government's responsibility for governing the District of Columbia, the Authority's financial transactions would not be reflected in the federal budget.

H.R. 1345 would affect federal spending to the extent that it increased or decreased the expected subsidy cost to the U.S. Treasury of borrowing by the District of Columbia. Although the amount of borrowing could be considerably higher under this bill than under existing authority, the change in the federal government's subsidy cost would be minimal. The advances made under this bill would be subject to very little risk because of provisions that (1) allow the Authority to control the amount and use of Treasury advances, (2) tie the amount of the maximum outstanding debt to the authorized annual federal payment, and (3) authorize the Treasury to withhold the federal payment as well as certain federal grants if the District misses a repayment. In addition, the bill would require the Treasury to charge interest on advances, whereas current law does not permit interest to be charged.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis and Rachel A. Robertson.

Sincerely,

JAMES L. BLUM,
(For June E. O'Neill, Director).

VII. INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the House of Representatives, the Committee estimates that H.R. 1345 will have no significant inflationary impact on prices and costs in the national economy.

VIII. COMPLIANCE WITH RULE XI

Findings and recommendations by the Committee on Government Reform and Oversight pursuant to clause 2(l)(3)(D) of rule XI of the House of Representatives are incorporated into the descriptive portions of this report.

IX. Budget Analysis and Projections

This Act reauthorizes the annual Federal payment to the District of Columbia at an annual rate of $660 million.

X. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

THE DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT

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TITLE I—SHORT TITLE, PURPOSES, AND DEFINITIONS

* * * * * * *

DEFINITIONS

SEC. 103. For the purposes of this Act—

(1) * * *

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[(10) The term "District revenues" means all funds derived from taxes, fees, charges, and miscellaneous receipts, including all annual Federal payments to the District authorized by law, and from the sale of bonds.]

(10) The term "District revenues" means all funds derived from taxes, fees, charges, miscellaneous receipts, the annual Federal payment to the District authorized under title V, grants and other forms of financial assistance, or the sale of bonds,

notes, or other obligations, and any funds administered by the District government under cost sharing arrangements.

* * * * * * *

[(14) The term "resources" means revenues, balances, revolving funds, funds realized from borrowing, and the District share of Federal grant programs.

[(15) The term "budget" means the entire request for appropriations and loan or spending authority for all activities of all agencies of the District financed from all existing or proposed resources and shall include both operating and capital expenditures.]

(14) The term "resources" means revenues, balances, enterprise or other revolving funds, and funds realized from borrowing.

(15) The term "budget" means the entire request for appropriations or loan or spending authority for all activities of all departments or agencies of the District of Columbia financed from all existing, proposed or anticipated resources, and shall include both operating and capital expenditures.

* * * * * * *

TITLE IV—THE DISTRICT CHARTER

PART A—THE COUNCIL

Subpart 1—Creation of the Council

* * * * * * *

POWERS OF THE COUNCIL

SEC. 404. (a) * * *

* * * * * * *

(f) In the case of any budget act adopted by the Council pursuant to section 446 of this Act and submitted to the Mayor in accordance with subsection (e) of this section, the Mayor shall have power to disapprove any items or provisions, or both, of such act and approve the remainder. In any case in which the Mayor so disapproves of any item or provision, he shall append to the act when he signs it a statement of the item or provision which he disapproves, and shall, within such ten-day period, return a copy of the act and statement with his objections to the Council. If, within thirty calendar days after any such item or provision so disapproved has been timely returned by the Mayor to the Council, two-thirds of the members of the Council present and voting vote to reenact any such item or provision, such item or provision so reenacted shall be transmitted by the Chairman to the President of the United States. In any case in which the Mayor fails to timely return any such item or provision so disapproved to the Council, the Mayor shall be deemed to have approved such item or provision not returned, and such item or provision not returned shall be transmitted by the Council to the President of the United States. *In the case of any budget act for a fiscal year which is a control year (as defined in section 305(4) of the District of Columbia Finan-*

cial Responsibility and Management Assistance Act of 1995), this subsection shall apply as if the reference in the second sentence to "ten-day period" were a reference to "five-day period" and the reference in the third sentence to "thirty calendar days" were a reference to "5 calendar days".

* * * * * * *

PART B—THE MAYOR

* * * * * * *

POWERS AND DUTIES

SEC. 422. The executive power of the District shall be vested in the Mayor who shall be the chief executive officer of the District government. In addition, except as otherwise provided in this Act, all functions granted to or vested in the Commissioner of the District of Columbia, as established under reorganization Plan Numbered 3 of 1967, shall be carried out by the Mayor in accordance with this Act. The Mayor shall be responsible for the proper execution of all laws relating to the District, and for the proper administration of the affairs of the District coming under his jurisdiction or control, including but not limited to the following powers, duties, and functions:

(1) * * *

* * * * * * *

(3) The Mayor shall administer the personnel functions of the District covering employees of all District departments, boards, commissions, offices and agencies, except as otherwise provided by this Act. Personnel legislation enacted by Congress prior to or after the effective date of this section, including, without limitation, legislation relating to appointments, promotions, discipline, separations, pay, unemployment compensation, health, disability and death benefits, leave, retirement, insurance, and veterans' preference applicable to employees of the District government as set forth in section 714(c), shall continue to be applicable until such time as the Council shall, pursuant to this section, provide for coverage under a District government merit system. The District government merit system shall be established by act of the Council. The system may provide for continued participation in all or part of the Federal Civil Service System and shall provide for persons employed by the District government immediately preceding the effective date of such system personnel benefits, including but not limited to pay, tenure, leave, residence, retirement, health and life insurance, and employee disability and death benefits, all at least equal to those provided by legislation enacted by Congress, or regulation adopted pursuant thereto, and applicable to such officers and employees immediately prior to the effective date of the system established pursuant to this Act, except that nothing in this Act shall prohibit the District from separating an officer or employee subject to such system [pursuant to procedures established by the Council for the separation of officers and employees whose positions are determined to be excess positions if the separation of such officer or employee is carried out during the 18-month period that begins on

the date of the enactment of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 Emergency Amendment Act of 1991] *in the implementation of a financial plan and budget for the District government approved under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995*. The District government merit system shall take effect not earlier than one year nor later than five years after the effective date of this section.

* * * * * * *

(6) The Mayor may delegate any of his functions (other than the function of approving or disapproving acts passed by the Council or the function of approving contracts between the District and the Federal Government under section 731) to any officer, employee, or agency of the executive office of the Mayor, or to any director of an executive department who may, with the approval of the Mayor, make a further delegation of all or a part of such functions to subordinates under his jurisdiction. *Nothing in the previous sentence may be construed to permit the Mayor to delegate any functions assigned to the Chief Financial Officer of the District of Columbia under section 424, without regard to whether such functions are assigned to the Chief Financial Officer under such section during a control year (as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995) or during any other year.*

* * * * * * *

CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

SEC. 424. (a) ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—There is hereby established within the executive branch of the government of the District of Columbia an Office of the Chief Financial Officer of the District of Columbia (hereafter referred to as the "Office"), which shall be headed by the Chief Financial Officer of the District of Columbia (hereafter referred to as the "Chief Financial Officer").

(2) OFFICE OF THE TREASURER.—The Office shall include the Office of the Treasurer, which shall be headed by the Treasurer of the District of Columbia, who shall be appointed by the Chief Financial Officer and subject to the Chief Financial Officer's direction and control.

(3) TRANSFER OF OTHER OFFICES.—Effective with the appointment of the first Chief Financial Officer under subsection (b), the functions and personnel of the following offices are transferred to the Office:

(A) The Controller of the District of Columbia.

(B) The Office of the Budget.

(C) The Office of Financial Information Services.

(D) The Department of Finance and Revenue.

(4) SERVICE OF HEADS OF OTHER OFFICES.—

(A) OFFICE HEADS APPOINTED BY MAYOR.—With respect to the head of the Office of the Budget and the head of the Department of Finance and Revenue—

(i) the Mayor shall appoint such individuals with the advice and consent of the Council, subject to the approval of the Authority during a control year; and

(ii) during a control year, the Authority may remove such individuals from office for cause, after consultation with the Mayor.

(B) OFFICE HEADS APPOINTED BY CHIEF FINANCIAL OFFICER.—With respect to the Controller of the District of Columbia and the head of the Office of Financial Information Services—

(i) the Chief Financial Officer shall appoint such individuals subject to the approval of the Mayor; and

(ii) the Chief Financial Officer may remove such individuals from office for cause, after consultation with the Mayor.

(b) APPOINTMENT.—

(1) IN GENERAL.—

(A) CONTROL YEAR.—During a control year, the Chief Financial Officer shall be appointed by the Mayor as follows:

(i) Prior to the appointment of the Chief Financial Officer, the Authority may submit recommendations for the appointment to the Mayor.

(ii) In consultation with the Authority and the Council, the Mayor shall nominate an individual for appointment and notify the Council of the nomination.

(iii) After the expiration of the 7-day period which begins on the date the Mayor notifies the Council of the nomination under clause (ii), the Mayor shall notify the Authority of the nomination.

(iv) The nomination shall be effective subject to approval by a majority vote of the Authority.

(B) OTHER YEARS.—During a year other than a control year, the Chief Financial Officer shall be appointed by the Mayor with the advice and consent of the Council. Prior to appointment, the Authority may submit recommendations for the appointment.

(2) REMOVAL.—

(A) CONTROL YEAR.—During a control year, the Chief Financial Officer may be removed for cause by the Authority or by the Mayor with the approval of the Authority.

(B) OTHER YEARS.—During a year other than a control year, the Chief Financial Officer shall serve at the pleasure of the Mayor, except that the Chief Financial Officer may only be removed for cause.

(3) SALARY.—The Chief Financial Officer shall be paid at an annual rate determined by the Mayor, except that such rate may not exceed the rate of basic pay payable for level IV of the Executive Schedule.

(c) FUNCTIONS DURING CONTROL YEAR.—During a control year, the Chief Financial Officer shall have the following duties:

(1) Preparing the financial plan and budget for the use of the Mayor for purposes of subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(2) Preparing the budgets of the District of Columbia for the year for the use of the Mayor for purposes of part D.

(3) Assuring that all financial information presented by the Mayor is presented in a manner, and is otherwise consistent with, the requirements of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(4) Implementing appropriate procedures and instituting such programs, systems, and personnel policies within the Officer's authority, to ensure that budget, accounting and personnel control systems and structures are synchronized for budgeting and control purposes on a continuing basis.

(5) With the approval of the Authority, preparing and submitting to the Mayor and the Council—

(A) annual estimates of all revenues of the District of Columbia (without regard to the source of such revenues), including proposed revenues, which shall be binding on the Mayor and the Council for purposes of preparing and submitting the budget of the District government for the year under part D, except that the Mayor and the Council may prepare the budget based on estimates of revenues which are lower than those prepared by the Chief Financial Officer; and

(B) quarterly re-estimates of the revenues of the District of Columbia during the year.

(6) Supervising and assuming responsibility for financial transactions to ensure adequate control of revenues and resources, and to ensure that appropriations are not exceeded.

(7) Maintaining systems of accounting and internal control designed to provide—

(A) full disclosure of the financial impact of the activities of the District government;

(B) adequate financial information needed by the District government for management purposes;

(C) effective control over, and accountability for, all funds, property, and other assets of the District of Columbia; and

(D) reliable accounting results to serve as the basis for preparing and supporting agency budget requests and controlling the execution of the budget.

(8) Submitting to the Council a financial statement of the District government, containing such details and at such times as the Council may specify.

(9) Supervising and assuming responsibility for the assessment of all property subject to assessment and special assessments within the corporate limits of the District of Columbia for taxation, preparing tax maps, and providing such notice of taxes and special assessments (as may be required by law).

(10) Supervising and assuming responsibility for the levying and collection of all taxes, special assessments, licensing fees, and other revenues of the District of Columbia (as may be required by law), and receiving all amounts paid to the District of Columbia from any source (including the Authority).

(11) Maintaining custody of all public funds belonging to or under the control of the District government (or any department

or agency of the District government), and depositing all amounts paid in such depositories and under such terms and conditions as may be designated by the Council or the Authority.

(12) Maintaining custody of all investment and invested funds of the District government or in possession of the District government in a fiduciary capacity, and maintaining the safekeeping of all bonds and notes of the District government and the receipt and delivery of District government bonds and notes for transfer, registration, or exchange.

(13) Apportioning the total of all appropriations and funds made available during the year for obligation so as to prevent obligation or expenditure in a manner which would result in a deficiency or a need for supplemental appropriations during the year, and (with respect to appropriations and funds available for an indefinite period and all authorizations to create obligations by contract in advance of appropriations) apportioning the total of such appropriations, funds, or authorizations in the most effective and economical manner.

(14) Certifying all contracts prior to execution as to the availability of funds to meet the obligations expected to be incurred by the District government under such contracts during the year.

(15) Prescribing the forms of receipts, vouchers, bills, and claims to be used by all agencies, offices, and instrumentalities of the District government.

(16) Certifying and approving prior to payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government, and determining the regularity, legality, and correctness of such bills, invoices, payrolls, claims, demands, or charges.

(17) In coordination with the Inspector General of the District of Columbia, performing internal audits of accounts and operations and records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the departments and agencies of the District government.

(d) FUNCTIONS DURING ALL YEARS.—At all times, the Chief Financial Officer shall have the following duties:

(1) Exercising responsibility for the administration and supervision of the District of Columbia Treasurer (except that the Chief Financial Officer may delegate any portion of such responsibility as the Chief Financial Officer considers appropriate and consistent with efficiency).

(2) Administering all borrowing programs of the District government for the issuance of long-term and short-term indebtedness.

(3) Administering the cash management program of the District government, including the investment of surplus funds in governmental and non-governmental interest-bearing securities and accounts.

(4) Administering the centralized District government payroll and retirement systems.

(5) Governing the accounting policies and systems applicable to the District government.

(6) Preparing appropriate annual, quarterly, and monthly financial reports of the accounting and financial operations of the District government.

(7) Not later than 120 days after the end of each fiscal year (beginning with fiscal year 1995), preparing the complete financial statement and report on the activities of the District government for such fiscal year, for the use of the Mayor under section 448(a)(4) of the District of Columbia Self-Government and Governmental Reorganization Act.

(e) FUNCTIONS OF TREASURER.—At all times, the Treasurer shall have the following duties:

(1) Assisting the Chief Financial Officer in reporting revenues received by the District government, including submitting annual and quarterly reports concerning the cash position of the District government not later than 60 days after the last day of the quarter (or year) involved. Such reports shall include:

(A) Comparative reports of revenue and other receipts by source, including tax, nontax, and Federal revenues, grants and reimbursements, capital program loans, and advances. Each source shall be broken down into specific components.

(B) Statements of the cash flow of the District government for the preceding quarter or year, including receipts, disbursements, net changes in cash inclusive of the beginning balance, cash and investment, and the ending balance, inclusive of cash and investment. Such statements shall reflect the actual, planned, better or worse dollar amounts and the percentage change with respect to the current quarter, year-to-date, and fiscal year.

(C) Quarterly cash flow forecast for the quarter or year involved, reflecting receipts, disbursements, net change in cash inclusive of the beginning balance, cash and investment, and the ending balance, inclusive of cash and investment with respect to the actual dollar amounts for the quarter or year, and projected dollar amounts for each of the 3 succeeding quarters.

(D) Monthly reports reflecting a detailed summary analysis of all District of Columbia government investments, including, but not limited to—

(i) the total of long-term and short-term investments;

(ii) a detailed summary analysis of investments by type and amount, including purchases, sales (maturities), and interest;

(iii) an analysis of investment portfolio mix by type and amount, including liquidity, quality/risk of each security, and similar information;

(iv) an analysis of investment strategy, including near-term strategic plans and projects of investment activity, as well as forecasts of future investment strategies based on anticipated market conditions, and similar information;

(v) an analysis of cash utilization, including—

(I) comparisons of budgeted percentages of total cash to be invested with actual percentages of cash invested and the dollar amounts;

(II) comparisons of the next return on invested cash expressed in percentages (yield) with comparable market indicators and established District of Columbia government yield objectives; and

(III) comparisons of estimated dollar return against actual dollar yield.

(E) Monthly reports reflecting a detailed summary analysis of long-term and short-term borrowings inclusive of debt as authorized by section 603, in the current fiscal year and the amount of debt for each succeeding fiscal year not to exceed 5 years. All such reports shall reflect—

(i) the amount of debt outstanding by type of instrument;

(ii) the amount of authorized and unissued debt, including availability of short-term lines of credit, United States Treasury borrowings, and similar information;

(iii) a maturity schedule of the debt;

(iv) the rate of interest payable upon the debt; and

(v) the amount of debt service requirements and related debt service reserves.

(2) Such other functions assigned to the Chief Financial Officer under subsection (c) or subsection (d) as the Chief Financial Officer may delegate.

(f) DEFINITIONS.—In this section—

(1) the term "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995;

(2) the term "control year" has the meaning given such term under section 305(4) of such Act; and

(3) the term "District government" has the meaning given such term under section 305(5) of such Act.

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PART D—DISTRICT BUDGET AND FINANCIAL MANAGEMENT

Subpart 1—Budget and Financial Management

* * * * * * *

SUBMISSION OF ANNUAL BUDGET

SEC. 442. (a) * * *

* * * * * * *

(e) The Mayor shall prepare and submit to the Council a proposed supplemental or deficiency budget recommendation under subsection (c) if the Council by resolution requests the Mayor to submit such a recommendation.

* * * * * * *

ENACTMENT OF APPROPRIATIONS BY CONGRESS

SEC. 446. The Council, within fifty calendar days after receipt of the budget proposal from the Mayor, and after public hearing, shall by act adopt the annual budget for the District of Columbia government. Any supplements thereto shall also be adopted by act by the Council after public hearing. Such budget so adopted shall be submitted by the Mayor to the President for transmission by him to the Congress. Except as provided in section 467(d), section 471(c), section 472(d)(2), section 483(d), and subsections (f) and (g)(3) of section 490, no amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by Act of Congress, and then only according to such Act. Notwithstanding any other provision of this Act, the Mayor shall not transmit any annual budget or amendments or supplements thereto, to the President of the United States until the completion of the budget procedures contained in this Act. *After the adoption of the annual budget for a fiscal year (beginning with the annual budget for fiscal year 1995), the Mayor may submit to the Council, and the Council may approve, a request for reprogramming of amounts in the budget, but only if any additional expenditures provided under such request for an activity are offset by reductions in expenditures for another activity.*

* * * * * * *

[CONTRACTS EXTENDING BEYOND ONE YEAR] *SPECIAL RULES REGARDING CERTAIN CONTRACTS*

SEC. 451. [No contract] *(a) CONTRACTS EXTENDING BEYOND ONE YEAR.—No contract* involving expenditures out of an appropriation which is available for more than one year shall be made for a period of more than five years unless, with respect to a particular contract, the Council, by a two-thirds vote of its members present and voting, authorizes the extension of such period for such contract. Such contracts shall be made pursuant to criteria established by act of the Council.

(b) CONTRACTS EXCEEDING CERTAIN AMOUNT.—

(1) IN GENERAL.—No contract involving expenditures in excess of $1,000,000 during a 12-month period may be made unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council).

(2) DEEMED APPROVAL.—For purposes of paragraph (1), the Council shall be deemed to approve a contract if—

(A) during the 10-day period beginning on the date the Mayor submits the contract to the Council, no member of the Council introduces a resolution approving or disapproving the contract; or

(B) during the 45-calendar day period beginning on the date the Mayor submits the contract to the Council, the Council does not disapprove the contract.

ANNUAL BUDGET FOR THE BOARD OF EDUCATION

SEC. 452. With respect to the annual budget for the Board of Education in the District of Columbia, the Mayor and the Council may establish the maximum amount of funds which will be allocated to the Board, but may not specify the purposes for which such funds may be expended or the amount of such funds which may be expended for the various programs under the jurisdiction of the Board of Education. *This section shall not apply with respect to the annual budget for any fiscal year which is a control year (as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995).*

REDUCTIONS IN BUDGETS OF INDEPENDENT AGENCIES

SEC. 453. (a) * * *

* * * * * * *

(c) Subsection (a) shall not apply to amounts appropriated or otherwise made available to the District of Columbia courts or the Council**[.]**, *or to the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.*

Subpart 2—Audits and Accountability Requirements

* * * * * * *

PERFORMANCE AND FINANCIAL ACCOUNTABILITY

SEC. 456. (a) * * *

* * * * * * *

(e) SUBMISSION OF REPORTS TO DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY.—In the case of any report submitted by the Mayor under this section for a fiscal year (or any quarter of a fiscal year) which is a control year under the District of Columbia Financial Responsibility and Management Assistance Act of 1995, the Mayor shall submit the report to the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of such Act in addition to any other individual to whom the Mayor is required to submit the report under this section.

* * * * * * *

TITLE V—FEDERAL PAYMENT

* * * * * * *

FEDERAL PAYMENT FORMULA

SEC. 503. (a) * * *

* * * * * * *

(c) There is authorized to be appropriated as the annual Federal payment to the District of Columbia for **[**fiscal year 1996**]** *each of the fiscal years 1996, 1997, 1998, and 1999* $660,000,000.

TITLE VI—RESERVATION OF CONGRESSIONAL AUTHORITY

* * * * * * *

LIMITATIONS ON THE COUNCIL

SEC. 602. (a) The Council shall have no authority to pass any act contrary to the provisions of this Act except as specifically provided in this Act, or to—

(1) * * *

* * * * * * *

(8) enact any act or regulation relating to the United States District Court for the District of Columbia or any other court of the United States in the District other than the District courts, or relating to the duties or powers of the United States attorney or the United States Marshal for the District of Columbia; **[**or**]**

(9) enact any act, resolution, or rule with respect to any provision of title 23 of the District of Columbia Code (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 of the District of Columbia Code (relating to crimes and treatment of prisoners), or with respect to any criminal offense pertaining to articles subject to regulation under chapter 32 of title 22 of the District of Columbia Code, during the forty-eight full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office**[**.**]***; or*

(10) enact any act, resolution, or rule with respect to the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(c)(1) * * *

* * * * * * *

(3) The Council shall submit with each Act transmitted under this subsection an estimate of the costs which will be incurred by the District of Columbia as a result of the enactment of the Act in each of the first 4 fiscal years for which the Act is in effect, together with a statement of the basis for such estimate.

BUDGET PROCESS; LIMITATIONS ON BORROWING AND SPENDING

SEC. 603. (a) * * *

* * * * * * *

(c) **[**The Council**]** *Except as provided in subsection (f), the Council* shall not approve any budget which would result in expenditures being made by the District Government, during any fiscal year, in excess of all resources which the Mayor estimates will be available from all funds available to the District for such fiscal year. The budget shall identify any tax increases which shall be required in order to balance the budget as submitted. The Council shall be required to adopt such tax increases to the extent its budget is approved. For the purposes of this section, the Council shall use a Federal payment amount not to exceed the amount author-

ized by Congress. In determining whether any such budget would result in expenditures so being made in excess of such resources, amounts included in the budget estimates of the District of Columbia courts in excess of the recommendation of the Council shall not be applicable.

(d) [The Mayor] *Except as provided in subsection (f), the Mayor* shall not forward to the President for submission to Congress a budget which is not balanced according to the provision of subsection 603(c).

* * * * * * *

(f) In the case of a fiscal year which is a control year (as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995)—

(1) subsection (c) (other than the fourth sentence) and subsection (d) shall not apply; and

(2) the Council may not approve, and the Mayor may not forward to the President, any budget which is not consistent with the financial plan and budget established for the fiscal year under subtitle A of title II of such Act.

* * * * * * *

SECTION 138 OF THE DISTRICT OF COLUMBIA APPROPRIATIONS, FISCAL YEAR 1995

SPENDING REDUCTIONS

SEC. 138. (a) * * *

* * * * * * *

[(c) ENFORCEMENT.—

[(1) PLACEMENT IN ESCROW OF PORTION OF ANNUAL FEDERAL PAYMENT.—Upon receipt of the annual Federal payment for fiscal year 1996 authorized by sections 502(a) or 503 of the District of Columbia Self-Government and Governmental Reorganization Act or made pursuant to any other provision of law authorizing a Federal payment to the general fund of the District of Columbia for fiscal year 1996, the Mayor of the District of Columbia shall place in escrow—

[(A) 10 percent of the Federal payment, for purposes of enforcement of subsection (a); and

[(B) an additional 10 percent of the Federal payment, for purposes of enforcement of subsection (b)(1).

[(2) AVAILABILITY OF ESCROWED AMOUNTS.—No portion of the funds placed in escrow under paragraph (1) of this subsection shall be available for use by the government of the District of Columbia until the Mayor submits to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate two reports, each certified by an independent public accountant, on (A) the spending reductions required by subsection (a) of this section, and (B) the disbursements, net payables, and receipts covered by paragraph (1) of

subsection (b) of this section. In no event shall the reports required by this paragraph be submitted later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1995.

[(3) AMOUNT OF ESCROWED FUNDS AVAILABLE.—Fifteen days after submitting the reports required by paragraph (2), the funds placed in escrow under paragraph (1) shall be available for use by the government of the District of Columbia only if—

[(A) the Mayor pays to the Treasury of the United States the sum of—

[(i) the amount (if any) by which the actual reduction implemented under subsection (a) fails to achieve the reduction made by paragraph (1) of such subsection; and

[(ii) the amount (if any) by which the disbursements and net payables described in subsection (b)(1) exceed the receipts described in such subsection; and

[(B) such payment is made by the Mayor within such fifteen-day period from the escrowed funds or, if such escrowed funds are insufficient, from other funds available to the government of the District.

[(d)] *(c)* VIOLATION REPORTS.—Not later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1995, the Mayor, Deputy Mayor for Financial Management, and Controller shall jointly submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate a separate report on each fund described in paragraphs (2) and (3) of subsection (b) of this section that violated the limitation applicable to the fund. Each report shall contain, but not be limited to—

(1) * * *

* * * * * * *

[(e)] *(d)* DEFINITIONS.—For purposes of this section—

(1) * * *

* * * * * * *

DISTRICT OF COLUMBIA CODE

Part I.

Government of District

* * * * * * *

TITLE 1. ADMINISTRATION

* * * * * * *

CHAPTER 11A. PROCUREMENT

* * * * * * *

Subchapter II. Procurement Organization

§ 1–1182.8. Creation and duties of Office of the Inspector General.

(a)[(1) There is created within the executive branch of the District government the Office of the Inspector General. The office shall be headed by an Inspector General who shall be appointed by the Mayor with the advice and consent of the Council, without regard to party affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial management analysis, public administration, or investigations. The Inspector General shall be a lawyer admitted to practice in the District of Columbia. The Inspector General shall serve for a term of 4 years, but in no event shall that term extend for more than 3 months beyond the term of the Mayor who appointed him or her. The Inspector General shall be subject to removal for cause only.

[(2) All existing positions, funding, powers, duties, functions, and other resources presently assigned to the Office of the Inspector General, established pursuant to Mayor's Order 79–7, dated January 7, 1979, are transferred to, and shall constitute the office created by this subsection.] *(1)(A) There is created within the executive branch of the government of the District of Columbia the Office of the Inspector General. The Office shall be headed by an Inspector General appointed pursuant to subparagraph (B), who shall serve for a term of 6 years and shall be subject to removal only for cause by the Mayor (with the approval of the District of Columbia Financial Responsibility and Management Assistance Authority in a control year) or (in the case of a control year) by the Authority. The Inspector General may be reappointed for additional terms.*

(B) During a control year, the Inspector General shall be appointed by the Mayor as follows:

(i) Prior to the appointment of the Inspector General, the Authority may submit recommendations for the appointment to the Mayor.

(ii) In consultation with the Authority and the Council, the Mayor shall nominate an individual for appointment and notify the Council of the nomination.

(iii) After the expiration of the 7-day period which begins on the date the Mayor notifies the Council of the nomination under clause (ii), the Mayor shall notify the Authority of the nomination.

(iv) The nomination shall be effective subject to approval by a majority vote of the Authority.

(C) During a year which is not a control year, the Inspector General shall be appointed by the Mayor with the advice and consent of the Council. Prior to appointment, the Authority may submit recommendations for the appointment.

(D) The Inspector General shall be appointed without regard to party affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial management analysis, public administration, or investigations.

(E) The Inspector General shall be paid at an annual rate determined by the Mayor, except that such rate may not exceed the rate of basic pay payable for level IV of the Executive Schedule.

(2) the annual budget for the Office shall be adopted as follows:

(A) The Inspector General shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act for the year, annual estimates of the expenditures and appropriations necessary for the operation of the Office for the year. All such estimates shall be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to sections 446 and 603(c) of such Act, without revision but subject to recommendations. Notwithstanding any other provision of such Act, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates.

(B) Upon receipt of the annual Federal payment for the District of Columbia authorized under title V of the District of Columbia Self-Government and Governmental Reorganization Act, the Mayor shall deposit a portion of the payment (equal to the estimate of necessary appropriations described in subparagraph (A)) into a dedicated fund within the government of the District of Columbia.

(C) Amounts deposited in the dedicated fund described in subparagraph (B) shall be available solely for the operation of the Office, and shall be paid to the Inspector General by the Mayor (acting through the Chief Financial Officer of the District of Columbia) in such installments and at such times as the Inspector General requires.

(3) The Inspector General shall:

(A) * * *

(B) Act as liaison representative for the Mayor for all external audits of the District government [executive branch];

* * * * * * *

(E) Annually conduct an operational audit of all procurement activities carried out pursuant to this chapter in accordance with regulations and guidelines prescribed by the Mayor and issued in accordance with § 1–1182.5 [and]

(F) Forward to the Mayor and the appropriate authority any evidence of criminal wrongdoing, that is discovered as a result of any investigation or audit conducted by the office[.]*;*

(G) Pursuant to a contract described in paragraph (4), provide certifications under section 602(b)(5) of title VI of the District of Columbia Revenue Act of 1939;

(H) Pursuant to a contract described in paragraph (4), audit the complete financial statement and report on the activities of the District government for such fiscal year, for the use of the Mayor under section 448(a)(4) of the District of Columbia Self-Government and Governmental Reorganization Act; and

(I) Not later than 30 days before the beginning of each fiscal year (beginning with fiscal year 1996) and in consultation with the Mayor, the Council, and the Authority, establish an annual plan for audits to be conducted under this paragraph during

the fiscal year under which the Inspector General shall report only those variances which are in an amount equal to or greater than $1,000,000 or 1 percent of the applicable annual budget for the program in which the variance is found (whichever is lesser).

(4) The Inspector General shall enter into a contract with an auditor who is not an officer or employee of the Office to audit the financial statement and report described in paragraph (3)(G) for a fiscal year, except that the financial statement and report may not be audited by the same auditor (or an auditor employed by or affiliated with the same auditor) for more than 3 consecutive fiscal years.

(b) In determining the procedures to be followed and the extent of the examinations of invoices, documents, and records, the Inspector General shall give due regard to the provisions of this chapter, as well as generally accepted *accounting and* procurement principles, practices, and procedures, including, but not limited to, federal and District government case law, decisions of the U.S. Comptroller General, and decisions of federal contract appeals boards.

(c)(1) The Inspector General shall have access to all books, accounts, records, reports, findings [relating to contracts and procurement], and all other papers, things, or property belonging to or in use by any department or agency under the direct supervision of the Mayor necessary to facilitate the Inspector General's work.

(2)(A) The Inspector General may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Inspector General.

(B) If a person refuses to obey a subpoena issued under subparagraph (A), the Inspector General may apply to the Superior Court of the District of Columbia for an order requiring that person to appear before he Inspector General to give testimony, produce evidence, or both, relating to the matter under investigation. Any failure to obey the order of the court may be punished by the Superior court as civil contempt.

(d)(1) The Inspector General shall compile for submission to [the Mayor and the Council], *the Authority (or, with respect to a fiscal year which is not a control year, the Mayor and the council)* at least once every fiscal year, a report setting forth the scope of the Inspector General's operational audit, and a summary of all findings and determinations made as a result of the findings.

(2) Included in the report shall be any comments and information necessary to keep [the Mayor] *the Authority, the Mayor,* and the Council informed of the adequacy and effectiveness of procurement operations, the integrity of the procurement process, and adherence to the provisions of this chapter.

* * * * * * *

(4) The Inspector General shall make each report submitted under this subsection available to the public, except to the extent that the report contains information determined by the Inspector General to be privileged:

(e) The Inspector General may undertake reviews and investigations, and make determinations or render opinions as requested by [the Director] *the Authority.* Any reports generated as a result of

the requests shall be automatically transmitted to the Council within 10 days of publication.

(f) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal or District criminal law.

(g) In this section—

(1) the term "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia financial Responsibility and Management Assistance Act of 1995;

(2) the term "control year" has the meaning given such term under section 305(4) of such Act; and

(3) the term "District government" has the meaning given such term under section 305(5) of such Act.

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Part V.

General Statutes

TITLE 31. EDUCATION AND CULTURAL INSTITUTIONS

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Chapter 1. Board of Education

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§ 31–103. Annual estimates.

The Board of Education shall annually, on or before the 21st day of December, transmit to the Mayor of the District of Columbia an estimate in detail of the amount of money required for the public schools for the ensuing year, and said Mayor shall transmit the same in his annual estimate of appropriations for the District of Columbia, with such recommendations as he may deem proper**[**.**]**, *except that in the case of a year which is a control year (as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995), the Mayor shall transmit the same together with the Mayor's own request for the amount of money required for the public schools for the year.*

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TITLE 47. TAXATION AND FISCAL AFFAIRS

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CHAPTER 3. BUDGET AND FINANCIAL MANAGEMENT: BORROWING; DEPOSIT OF FUNDS

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Subchapter I. Budget and Financial Management

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[§ 47–314. Office of Financial Management established.

[(a) *Established.*—There is established in the Executive Office of the Mayor, under the direction and control of the City Administrator, the Office of Financial Management, to be headed by an Assistant City Administrator for Financial Management. The Office of Financial Management shall include the Office of the Treasurer which shall be headed by a District of Columbia Treasurer (hereafter referred to as the "Treasurer") who shall be subject to the direction and control of the Assistant City Administrator for Financial Management.

[(b) *Purposes.*—(1) The purpose of the Office of Financial Management is to assist the Mayor and the City Administrator in the performance of the financial management functions of the District of Columbia.

[(2) The purpose of the Office of the Treasurer is to be responsible for the functions of collection of District of Columbia funds, cash management, disbursement, and the investment of surplus funds. All such District of Columbia government functions shall be centralized within the Office of Financial Management under the control of the Treasurer.

[§ 47–315. Duties and responsibilities of Assistant City Administrator for Financial Management and Treasurer.

[(a) The Assistant City Administrator for Financial Management shall be responsible for the administration and supervision of the Office of Financial Management, and may delegate and redelegate such powers as are warranted in the interest of efficiency and good administration, and shall:

[(1) Administer all borrowing programs for the issuance of long-term and short-term indebtedness;

[(2) Administer the cash management program of the District of Columbia government including the investment of surplus funds in governmental and non-governmental interest-bearing securities and accounts;

[(3) Administer the centralized District of Columbia government payroll and retirement system;

[(4) Govern the accounting policies and systems applying to District of Columbia government agencies and certain other agencies specified in the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, § 1–201 et seq.); and

[(5) Prepare appropriate annual, quarterly, and monthly financial reports of accounting and financial operations of the District of Columbia government.

[(b) The Treasurer shall be subject to the administrative control of the Assistant City Administrator for Financial Management. The Treasurer shall:

[(1) Be responsible for the administration and supervision of the Office of the Treasurer;

[(2) Oversee and be responsible for the collection and deposit of all taxes, license and permit fees, fines and forfeitures, refunds, and other fees, charges, and miscellaneous revenues as required by the District of Columbia government, from the public, the federal government or from any court, agency, or instrumentality of the District of Columbia government. Such collection and deposit function includes all activities occurring from the time receipts are initially received by the District of Columbia government until they are deposited in such depositories as may be designated by law. Receipts include any coins, other cash, checks, or other method of payment which pass into the custody of the District of Columbia government. The Treasurer shall also specify operation procedures and standards to be used for all collection points, including the staffing with employees of the Office of the Treasurer of any collection point which uses automated cashiering terminals;

[(3) Have custody of all public funds belonging to or under the control of the District of Columbia government or its agencies and deposit all funds in such depositories as may be designated by law;

[(4) Administer all District of Columbia government imprest funds;

[(5) Perform all other functions previously delegated to the D.C. Treasurer, except accounts receivable processing, functions relating to the receipt and processing of tax documents, the preparation of tax documents for data processing, the billing of delinquent tax accounts, and the enforcement of collection of delinquent taxes; and

[(6) Be responsible for assisting the Assistant City Administrator for Financial Management in reporting revenues received by the Treasurer to the Mayor including, but not limited to, annual and quarterly reports concerning the cash position of the District of Columbia government. The annual report shall be included as a part of the annual financial report of the District of Columbia government as required by § 47–310(a)(4). The Mayor shall provide the reports required by this paragraph to the Council of the District of Columbia. The quarterly reports shall be submitted not later than the 60th day after the quarter for which such report is being submitted. The 1st such quarterly report shall be submitted for the 1st quarter of fiscal year 1981. The monthly reports shall be submitted not later than the 20th day after the month for which such report is being submitted. The 1st such monthly report shall be submitted for the 1st month of fiscal year 1981. The reports required by this paragraph shall include:

[(A) Quarterly comparative reports of revenue and other receipts by source including, but not limited to, tax, nontax, and federal revenues, grants and reimbursements, capital program loans, and advances. Each source shall be broken down into specific components;

[(B) Quarterly statements of the cash flow including receipts, disbursements, net change in cash inclusive of the beginning balance, cash and investments, and the ending balance, inclusive of cash and investments. Such state-

ments shall reflect the actual, planned, better or worse dollar amounts and the percentage change with respect to the current quarter, year-to-date, and fiscal year;

[(C) Quarterly cash flow forecast reflecting receipts, disbursements, net change in cash inclusive of the beginning balance cash and investments, and the ending balance, inclusive of cash and investments with respect to the actual dollar amounts for the quarter for which the report is being submitted, and projected dollar amounts for each of the next succeeding 3 quarters;

[(D) Monthly reports reflecting a detailed summary analysis of all District of Columbia government investments including, but not limited to:

[(i) The total of long-term and short-term investments;

[(ii) A detailed summary analysis of investments by type and amount, including purchases, sales (maturities), and interest;

[(iii) An analysis of investment portfolio mix by type and amount including liquidity, quality/risk of each security, and similar information;

[(iv) An analysis of investment strategy, including near-term strategic plans and projects of investment activity, as well as forecasts of future investment strategies based on anticipated market conditions, and similar information;

[(v) An analysis of cash utilization, including:

[1. Comparisons of budgeted percentages of total cash to be invested with actual percentages of cash invested and the dollar amounts;

[2. Comparisons of the next return on invested cash expressed in percentages (yield) with comparable market indicators and established District of Columbia government yield objectives; and

[3. Comparisons of estimated dollar return against actual dollar yield; and

[(E) Monthly reports reflecting a detailed summary analysis of long-term and short-term borrowings inclusive of debt as authorized by § 47–313, in the current fiscal year and the amount of debt for each succeeding fiscal year not to exceed 5 years. All such reports shall reflect:

[(i) The amount of debt outstanding by type of instrument;

[(ii) The amount of authorized and unissued debt, including availability of short-term lines of credit, United States Treasury borrowings, and similar information;

[(iii) A maturity schedule of the debt;

[(iv) The rate of interest payable upon the debt; and

[(v) The amount of debt service requirements and related debt service reserves.

[§ 47–316. Transfer of powers, duties and functions to Treasurer

[The following powers and duties and functions are transferred to the District of Columbia Treasurer:

[(1) Those duties and functions of the Director of the Department of Finance and Revenue as established in Commissioner's Order No. 69–96, March 7, 1969 and as set forth in:

[(A) Organization Order No. 3 of 1967, Amendment No. 1, December 13, 1967, Part IV.C2 (e) (entitled Treasury Division), including:

[(i) Collecting revenues of the District of Columbia, accounting for and distributing all collections into appropriate revenue accounts, and depositing collections;

[(ii) Making and being accountable for disbursements in accordance with applicable law and regulations, in cash or by checks, based on vouchers and payrolls duly certified by a designated certifying officer;

[(iii) Being responsible for all balances in accounts held pursuant to the District of Columbia Depository Act of 1977 (D.C. Code § 47–341 et seq.);

[(iv) Dispensing and accounting for tax stamps;

[(v) Being responsible for the custody of trust fund securities;

[(B) Mayor's Order No. 78–62, March 16, 1978, Part I.B. relating to the implementation of the District of Columbia Depository Act of 1977 (D.C. Code, § 47–341 et seq.) and concerning the following functions:

[(i) Demand deposits, pursuant to § 47–343(c);

[(ii) Evaluation criteria, pursuant to § 47–344;

[(iii) Limitation restrictions on amounts of public funds on deposit, pursuant to § 47–345;

[(iv) Collateral requirements upon deposit of public funds, pursuant to § 47–346;

[(v) Public disclosure relative to demand deposits, pursuant to § 47–347;

[(vi) Termination of depositories pursuant to § 47–348; and

[(vii) Powers of the mayor relative to the making and enforcement of necessary regulations and the inspection and reproduction of depository compliance, pursuant to § 47–349; and

[(C) Mayor's Order No. 79–73, April 19, 1979, concerning the following activities:

[(i) Functional and procedural authority over all collection and deposit points;

[(ii) Authority to approve the establishment of new collection points and to consolidate, abolish, or otherwise modify the overall configuration of collection points;

[(iii) Authority to specify operating procedures and standards to be used for all collections and collection points; and

[(iv) Authority to establish the mode of collections, for example, lock box, mail, over-the-counter, and other methods after discussions and in collaboration with the agency involved;

[(2) Those duties and functions of the Director of the Department of Transportation, relating to the payment and collection of parking fines and penalties pursuant to the District of Columbia Traffic Adjudication Act of 1977 (D.C. Code § 40–601 et seq.), including:

[(A) Approval of the use of credit cards for payment of fines and penalties, pursuant to § 40–605 (b);

[(B) Collection of fines, penalties, and fees, pursuant to §§ 40–616 and 40–626;

[(3) Any other functions which are now delegated to, or vested in, the D.C. Treasurer through the Director of the Department of Finance and Revenue, except those functions relating to the processing of tax documents, the preparation of tax documents for data processing, and the billing of delinquent taxes, which shall remain delegated to the Director of the Department of Finance and Revenue.

[§ 47–317. Transfer of resources to Office.

[All positions, including the position of D.C. Treasurer, property, records and unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the functions assigned by § 47–316 are transferred to the Office of Financial Management. These resources include those currently in the Department of Finance and Revenue, including the District of Columbia Treasurer, and the Department of Transportation, which are currently available and which relate to the functions assigned by § 47–316. Excluded from transfer are existing positions and other resources of the Accounts Receivable and Processing Division of the Department of Finance and Revenue.]

* * * * * * *

Subchapter IV. Reprogramming Policy

[§ 47–364. Council approval of non-offsetting budget modifications; exclusions.

[(a) Absent any determination by the Mayor pursuant to § 47–312 (a) that appropriations or funds are not available for payment of District of Columbia government obligations and therefore an apportionment of all appropriations and funds available with respect to a particular fiscal year is necessary under § 47–310 (a) (9), the Mayor shall submit to the Council, for approval, any nonoffsetting budget modifications which may occur subsequent to the initial budget transmittal establishing the gross-obligation budget. The Council shall consider requests for approval under this section in the same manner as provided in § 47–363 (e). All such determinations made by the Mayor pursuant to § 47–310 (a) (9) shall be submitted to the Council in writing at least 10 days in advance of the implementation of any non-offsetting budget modification.

[(b) The District of Columbia Board of Education, the District of Columbia courts, the Board of Trustees of the University of the

District of Columbia, and the D.C. General Hospital Commission shall be excluded from the provisions of this section.]

* * * * * * *

TITLE VI—ADVANCEMENT OF MONEY BY TREASURY

[The Secretary of the Treasury, notwithstanding the provisions of the District of Columbia Appropriation Act, approved June 29, 1922, is authorized and directed to advance, on the requisition of the Mayor of the District of Columbia, made in the manner now prescribed by law, out of any money in the Treasury of the United States not otherwise appropriated, such sums as may be necessary, from time to time, to meet the general expenses of said District, as authorized by Congress, and such amounts so advanced shall be reimbursed by the said Mayor to the Treasury out of taxes and revenue collected for the support of the government of the said District of Columbia.]

SEC. 601. TRANSITIONAL PROVISION FOR SHORT-TERM ADVANCES.

(a) TRANSITIONAL SHORT-TERM ADVANCES MADE BEFORE OCTOBER 1, 1995.—

(1) IN GENERAL.—If the conditions in paragraph (2) are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the purpose of assisting the District government in meeting its general expenditures, as authorized by Congress.

(2) CONDITIONS TO MAKING ANY TRANSITIONAL SHORT-TERM ADVANCE BEFORE OCTOBER 1, 1995.—The Secretary shall make an advance under this subsection if the following conditions are satisfied:

(A) the Mayor delivers to the Secretary a requisition for an advance under this section;

(B) as of the date on which the requisitioned advance is to be made, the Authority has not approved a financial plan and budget for the District government as meeting the requirements of the District of Columbia Financial Responsibility and Management Assistance Act of 1995;

(C) the date on which the requisitioned advance is to be made is not later than September 30, 1995;

(D) the District government has delivered to the Secretary—

(i) a schedule setting forth the anticipated timing and amounts of requisitions for advances under this subsection; and

(ii) evidence demonstrating to the satisfaction of the Secretary that the District government is effectively unable to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms to meet the District government's financing needs;

(E) the Secretary determines that there is reasonable assurance of reimbursement for the advance from the amount authorized to be appropriated as the annual Federal pay-

ment to the District of Columbia under title V of the District of Columbia Self-Government and Governmental Reorganization Act for the fiscal year ending September 30, 1996; and

(F) except during the 45-day period beginning on the date of the appointment of the members of the Authority, the Authority makes the findings described in section 204(a)(4)(B) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) AMOUNT OF ANY TRANSITIONAL SHORT-TERM ADVANCE MADE BEFORE OCTOBER 1, 1995.—

(A) IN GENERAL.—Except as provided in subparagraph (C), if the conditions described in subparagraph (B) are satisfied, each advance made under this subsection shall be in the amount designated by the Mayor in the Mayor's requisition for such advance (subject to the approval of the Authority), except that—

(i) the total amount requisitioned under this subsection during the 30-day period which begins on the date of the first requisition made under this subsection may not exceed 33⅓ percent of the fiscal year 1995 limit;

(ii) the total amount requisitioned under this subsection during the 60-day period which begins on the date of the first requisition made under this subsection may not exceed 66⅔ percent of the fiscal year 1995 limit; and

(iii) the total amount requisitioned under this subsection after the expiration of 90-day period which begins on the date of the first requisition made under this subsection may not exceed 100 percent of the fiscal year 1995 limit.

(B) CONDITIONS APPLICABLE TO DESIGNATED AMOUNT.—Subparagraph (A) applies if the Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in paragraph (1).

(C) AGGREGATE MAXIMUM AMOUNT OUTSTANDING.—The sum of the anticipated principal and interest requirements of all advances made under this subsection may not be greater than the fiscal year 1995 limit.

(D) FISCAL YEAR 1995 LIMIT DESCRIBED.—In this paragraph, the "fiscal year 1995 limit" means the amount authorized to be appropriated to the District of Columbia as the annual Federal payment to the District of Columbia under title V of the District of Columbia Self-Government and Governmental Reorganization Act for the fiscal year ending September 30, 1995.

(4) MATURITY OF ANY TRANSITIONAL SHORT-TERM ADVANCE MADE BEFORE OCTOBER 1, 1995.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each advance made under this subsection shall mature on the date designated by the Mayor in the Mayor's requisition for such advance.

(B) LATEST PERMISSIBLE MATURITY DATE.—Notwithstanding subparagraph (A), the maturity date for any advance made under this subsection shall not be later than October 1, 1995.

(5) INTEREST RATE.—Each advance made under this subsection shall bear interest at an annual rate equal to the rate determined by the Secretary at the time that the Secretary makes such advance taking into consideration the prevailing yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advance, plus ⅛ of 1 percent.

(6) DEPOSIT OF ADVANCES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each advance made under this subsection for the account of the District government shall be deposited by the Secretary into such account as is designated by the Mayor in the Mayor's requisition for such advance.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if (in accordance with section 204(b)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995) the Authority delivers a letter requesting the Secretary to deposit all advances made under this subsection for the account of the District government in an escrow account held by the Authority, each advance made under this subsection for the account of the District government after the date of such letter shall be deposited by the Secretary into the escrow account specified by the Authority in such letter.

(b) TRANSITIONAL SHORT-TERM ADVANCES MADE ON OR AFTER OCTOBER 1, 1995 AND BEFORE FEBRUARY 1, 1996.—

(1) IN GENERAL.—If the conditions in paragraph (2) are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the same purpose as advances are made under subsection (a).

(2) TERMS AND CONDITIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), paragraphs (2), (4), and (5) of subsection (a) (other than subparagraph (F) of paragraph (2)) shall apply to any advance made under this subsection.

(B) EXCEPTIONS.—

(i) NEW CONDITIONS PRECEDENT TO MAKING ADVANCES.—The conditions described in subsection (a)(2) shall apply with respect to making advances on or after October 1, 1995, in the same manner as such conditions apply with respect to making advances before October 1, 1995, except that—

(I) subparagraph (C) (relating to the last day on which advances may be made) shall be applied as if the reference to "October 1, 1995" were a reference to "February 1, 1996";

(II) subparagraph (E) (relating to the Secretary's determination of reasonable assurance of reimbursement from the annual Federal payment ap-

propriated to the District government) shall be applied as if the reference to "September 30, 1996" were a reference to "September 30, 1997";

(III) the Secretary may not make an advance under this subsection unless all advances made under subsection (a) are fully reimbursed by withholding from the annual Federal payment appropriated to the District for the fiscal year ending September 30, 1996, under title V of the District of Columbia Self-Government and Governmental Reorganization Act, and applying toward reimbursement for such advances an amount equal to the amount needed to fully reimburse the Treasury for such advances; and

(IV) the Secretary may not make an advance under this subsection unless the Authority has provided the Secretary with the prior certification described in section 204(a)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(ii) NEW LATEST PERMISSIBLE MATURITY DATE.—The provisions of subsection (a)(4) shall apply with respect to the maturity of advances made after October 1, 1995, in the same manner as such provisions apply with respect to the maturity of advances made before October 1, 1995, except that subparagraph (B) of such subsection (relating to the latest permissible maturity date) shall apply as if the reference to "October 1, 1995" were a reference to "October 1, 1996".

(iii) AGGREGATE MAXIMUM AMOUNT OUTSTANDING.—The sum of the anticipated principal and interest requirements of all advances made under this subsection may not be greater than the fiscal year 1996 limit.

(C) NEW MAXIMUM AMOUNT OUTSTANDING.—

(i) IN GENERAL.—Except as provided in clause (iii), if the conditions described in clause (ii) are satisfied, each advance made under this subsection shall be in the amount designated by the Mayor in the Mayor's requisition for such advance (subject to the approval of the Authority).

(ii) CONDITIONS APPLICABLE TO DESIGNATED AMOUNT.— Clause (i) applies if the Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in paragraph (1).

(iii) AGGREGATE MAXIMUM AMOUNT OUTSTANDING.—The sum of the anticipated principal and interest requirements of all advances made under this paragraph may not be greater than 60 percent of the fiscal year 1996 limit.

(D) DEPOSIT OF ADVANCES.—As provided in section 204(b) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, each advance made under this subsection for the account of the District

shall be deposited by the Secretary into an escrow account held by the Authority.

(E) FISCAL YEAR 1996 LIMIT DESCRIBED.—In this paragraph, the "fiscal year 1996 limit" means the amount authorized to be appropriated to the District of Columbia as the annual Federal payment to the District of Columbia under title V of the District of Columbia Self-Government and Governmental Reorganization Act for the fiscal year ending September 30, 1996.

(c) TRANSITIONAL SHORT-TERM ADVANCES MADE ON OR AFTER FEBRUARY 1, 1996 AND BEFORE OCTOBER 1, 1996.—

(1) IN GENERAL.—If the conditions in paragraph (2) are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the same purpose as advances are made under subsection (a).

(2) TERMS AND CONDITIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b)(2) shall apply to any advance made under this subsection.

(B) EXCEPTIONS.—The conditions applicable under subsection (b)(2) shall apply with respect to making advances on or after February 1, 1996, and before October 1, 1996, in the same manner as such conditions apply to making advances under such subsection, except that—

(i) in applying subparagraph (C) of subsection (a)(2) (as described in subsection (b)(2)(B)(i)(I)), the reference to "October 1, 1995" shall be deemed to be a reference to "September 30, 1996";

(ii) subparagraph (C)(iii) of subsection (b)(2) shall apply as if the reference to "60 percent" were a reference to "40 percent"; and

(iii) no advance may be made unless the Secretary has been provided the certifications and information described in paragraphs (3) through (6) of section 602(b).

SEC. 602. SHORT-TERM ADVANCES FOR SEASONAL CASH-FLOW MANAGEMENT.

(a) IN GENERAL.—If the conditions in subsection (b) are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the purpose of assisting the District government in meeting its general expenditures, as authorized by Congress, at times of seasonal cash-flow deficiencies.

(b) CONDITIONS TO MAKING ANY SHORT-TERM ADVANCE.—The Secretary shall make an advance under this section if—

(1) the Mayor delivers to the Secretary a requisition for an advance under this section;

(2) the date on which the requisitioned advance is to be made is in a control period;

(3) the Authority certifies to the Secretary that—

(A) the District government has prepared and submitted a financial plan and budget for the District government;

(B) there is an approved financial plan and budget in effect under the District of Columbia Financial Responsibility and Management Assistance Act of 1995 for the fiscal year for which the requisition is to be made;

(C) at the time of the Mayor's requisition for an advance, the District government is in compliance with the financial plan and budget;

(D) both the receipt of funds from such advance and the reimbursement of Treasury for such advance are consistent with the financial plan and budget for the year; and

(E) such advance will not adversely affect the financial stability of the District government;

(4) the Authority certifies to the Secretary, at the time of the Mayor's requisition for an advance, the District government is effectively unable to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms to meet the District government's financing needs;

(5) the Inspector General of the District of Columbia certifies to the Secretary the information described in paragraph (3) by providing the Secretary with a certification conducted by an outside auditor under a contract entered into pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985;

(6) the Secretary receives such additional certifications and opinions relating to the financial position of the District government as the Secretary determines to be appropriate from such other Federal agencies and instrumentalities as the Secretary determines to be appropriate; and

(7) the Secretary determines that there is reasonable assurance of reimbursement for the advance from the amount authorized to be appropriated as the annual Federal payment to the District of Columbia under title V of the District of Columbia Self-Government and Governmental Reorganization Act for the fiscal year following the fiscal year in which such advance is made.

(c) AMOUNT OF ANY SHORT-TERM ADVANCE.—

(1) IN GENERAL.—Except as provided in paragraph (3), if the conditions in paragraph (2) are satisfied, each advance made under this section shall be in the amount designated by the Mayor in the Mayor's requisition for such advance.

(2) CONDITIONS APPLICABLE TO DESIGNATED AMOUNT.—Paragraph (1) applies if—

(A) the Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in subsection (a); and

(B) the Authority—

(i) concurs in the Mayor's determination under subparagraph (A); and

(ii) determines that the reimbursement obligation of the District government for an advance made under this section in the amount designated in the Mayor's requisition is consistent with the financial plan for the year.

(3) MAXIMUM AMOUNT OUTSTANDING.—Notwithstanding paragraph (1), the unpaid principal balance of all advances made under this section in any fiscal year of the District government shall not at any time be greater than 150 percent of the amount authorized under title V of the District of Columbia Self-Government and Governmental Reorganization Act for appropriation as the Federal payment to the District government for the fiscal year following the fiscal year in which the advance is made.

(d) MATURITY OF ANY SHORT-TERM ADVANCE.—

(1) IN GENERAL.—Except as provided in paragraph (3), if the condition in paragraph (2) is satisfied, each advance made under this section shall mature on the date designated by the Mayor in the Mayor's requisition for such advance.

(2) CONDITION APPLICABLE TO DESIGNATED MATURITY.—Paragraph (1) applies if the Authority determines that the reimbursement obligation of the District government for an advance made under this section having the maturity date designated in the Mayor's requisition is consistent with the financial plan for the year.

(3) LATEST PERMISSIBLE MATURITY DATE.—Notwithstanding paragraph (1), the maturity date for any advance made under this section shall not be later than 11 months after the date on which such advance is made.

(e) INTEREST RATE.—Each advance made under this section shall bear interest at an annual rate equal to a rate determined by the Secretary at the time that the Secretary makes such advance taking into consideration the prevailing yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advance, plus ⅛ of 1 percent.

(f) 10 BUSINESS-DAY ZERO BALANCE REQUIREMENT.—After the expiration of the 12-month period beginning on the date on which the first advance is made under this section, the Secretary shall not make any new advance under this section unless the District government has—

(1) reduced to zero at the same time the principal balance of all advances made under this section at least once during the previous 12-month period; and

(2) not requisitioned any advance to be made under this section in any of the 10 business days following such reduction.

(g) DEPOSIT OF ADVANCES.—As provided in section 204(b) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, advances made under this section for the account of the District government shall be deposited by the Secretary into an escrow account held by the Authority.

SEC. 603. SECURITY FOR ADVANCES.

(a) IN GENERAL.—The Secretary shall require the District government to provide such security for any advance made under this title as the Secretary determines to be appropriate.

(b) AUTHORITY TO REQUIRE SPECIFIC SECURITY.—As security for any advance made under this title, the Secretary may require the District government to—

(1) pledge to the Secretary specific taxes and revenue of the District government, if such pledging does not cause the District government to violate existing laws or contracts; and

(2) establish a debt service reserve fund pledged to the Secretary.

SEC. 604. REIMBURSEMENT TO THE TREASURY.

(a) REIMBURSEMENT AMOUNT.—

(1) IN GENERAL.—Except as provided in paragraph (2), on any date on which a reimbursement payment is due to the Treasury under the terms of any advance made under this title, the District shall pay to the Treasury the amount of such reimbursement payment out of taxes and revenue collected for the support of the District government.

(2) EXCEPTIONS FOR TRANSITIONAL ADVANCES.—

(A) ADVANCES MADE BEFORE OCTOBER 1, 1995.—

(i) FINANCIAL PLAN AND BUDGET APPROVED.—If the Authority approves a financial plan for the District government before October 1, 1995, the District government may use the proceeds of any advance made under section 602 to discharge its obligation to reimburse the Treasury for any advance made under section 601(a).

(ii) FINANCIAL PLAN AND BUDGET NOT APPROVED.—If the Authority has not approved a financial plan and budget for the District government by October 1, 1995, the annual Federal payment appropriated to the District government for the fiscal year ending September 30, 1996, shall be withheld and applied to discharge the District government's obligation to reimburse the Treasury for any advance made under section 601(a).

(B) ADVANCES MADE ON OR AFTER OCTOBER 1, 1995.—

(i) FINANCIAL PLAN AND BUDGET APPROVED.—If the Authority approves a financial plan and budget for the District government during fiscal year 1996, the District may use the proceeds of any advance made under section 602 to discharge its obligation to reimburse the Treasury for any advance made under section 601(b).

(ii) FINANCIAL PLAN AND BUDGET NOT APPROVED.—If the Authority has not approved a financial plan and budget for the District government by October 1, 1996, the annual Federal payment appropriated to the District government for the fiscal year ending September 30, 1997, shall be withheld and applied to discharge the District government's obligation to reimburse the Treasury for any advance made under section 601(b).

(b) REMEDIES FOR FAILURE TO REIMBURSE.—If, on any date on which a reimbursement payment is due to the Treasury under the terms of any advance made under this title, the District government does not make such reimbursement payment, the Secretary shall take the actions listed in this subsection.

(1) WITHHOLD ANNUAL FEDERAL PAYMENT.—Notwithstanding any other law, before turning over to the Authority (on behalf of the District government under section 205 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995) any annual Federal payment appropriated to the

District government for any fiscal year under title V of the District of Columbia Self-Government and Governmental Reorganization Act, the Secretary shall withhold from such annual Federal payment, and apply toward reimbursement for the payment not made, an amount equal to the amount needed to fully reimburse the Treasury for the payment not made.

(2) WITHHOLD OTHER FEDERAL PAYMENTS.—If, after the Secretary takes the action described in paragraph (1), the Treasury is not fully reimbursed, the Secretary shall withhold from each grant, entitlement, loan, or other payment to the District government by the Federal Government not dedicated to making entitlement or benefit payments to individuals, and apply toward reimbursement for the payment not made, an amount that, when added to the amount withheld from each other such grant, entitlement, loan, or other payment, will be equal to the amount needed to fully reimburse the Treasury for the payment not made.

(3) ATTACH AVAILABLE DISTRICT REVENUES.—If, after the Secretary takes the actions described in paragraphs (1) and (2), the Treasury is not fully reimbursed, the Secretary shall attach any and all revenues of the District government which the Secretary may lawfully attach, and apply toward reimbursement for the payment not made, an amount equal to the amount needed to fully reimburse the Treasury for the payment not made.

(4) TAKE OTHER ACTIONS.—If, after the Secretary takes the actions described in paragraphs (1) through (3), the Treasury is not fully reimbursed, the Secretary shall take any and all other actions permitted by law to recover from the District government the amount needed to fully reimburse the Treasury for the payment not made.

SEC. 605. DEFINITIONS.

For purposes of this title—

(1) the term "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995;

(2) the term "control period" has the meaning given such term under section 305(4) of such Act;

(3) the term "District government" has the meaning given such term under section 305(5) of such Act;

(4) the term "financial plan and budget" has the meaning given such term under section 305(6) of such Act; and

(5) the term "Secretary" means the Secretary of the Treasury.

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XI. COMMITTEE RECOMMENDATIONS

On March 30, 1995, a quorum being present, the Committee ordered the bill favorably reported.

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